

**CHAPTER 3C**  
**UNSAFE BUILDINGS - PUBLIC NUISANCE**

<b>§3C-101.</b>	<b>Unsafe buildings; Public Nuisance Declared</b>
<b>§3C-102.</b>	<b>Declaration of Unsafe Buildings</b>
<b>§3C-103.</b>	<b>Standards for Repair; Vacation, or Demolition</b>
<b>§3C-104.</b>	<b>Hearings on Unsafe Buildings</b>
<b>§3C-105</b>	<b>Recordation; liability of Transferee</b>
<b>§3C-106.</b>	<b>Sealing of Buildings</b>
<b>§3C-107.</b>	<b>Emergencies</b>
<b>§3C-108.</b>	<b>Right of Entry</b>
<b>§3C-109.</b>	<b>Service</b>
<b>§3C-110.</b>	<b>Violations and Penalties</b>
<b>§3C-111.</b>	<b>Civil Enforcement</b>
<b>§3C-112.</b>	<b>Severability.</b>

**(Ord 7-2005)**

**Section 3C-101. Unsafe Buildings; Public Nuisance Declared.**

- a. **Definitions of Unsafe Building.** All buildings or structures, or parts thereof, which may have any or all of the following defects shall be deemed unsafe buildings:
- i. Those which have been damaged by fire, wind, storm, or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the public;
  - ii. Those which have become or are so dilapidated, decayed, damaged, unsanitary, unsafe, or vermin- or rodent-infested that it creates a hazard to the health, safety, or general welfare of the occupants or the public;
  - iii. Those having light, air, sanitary, plumbing or heating facilities or other essential equipment which are inadequate to protect the health, safety or general welfare of the occupants or the public;
  - iv. Those having inadequate facilities for egress in case of fire or panic or which are dangerous to life, health, property or the safety of its occupants by not providing minimum protection from fire;
  - v. Those which are structurally unsound, dangerous, or of such faulty construction or unstable foundation that they are likely to partially or completely collapse, or which have parts thereof which are so attached that they may fall and injure members of this or their property;

- vi. Those which are vacant, abandoned or are blighting or deteriorating factors in the neighborhood or which because of their general condition are unsafe, unsanitary, or otherwise dangerous to the health, safety or general welfare of the public.
- b. **Unsafe Building a Public Nuisance.** All unsafe buildings are hereby declared to be public nuisances, and shall be repaired as provided in this Code or the City shall initiate condemnation and demolition under applicable law.

**Section 3C-102. Declaration of Unsafe Buildings as Public Nuisances.**

**A. Notice and Declaration of Unsafe Buildings as Public Nuisances.**

- 1. Whenever the Code Enforcement Officer determines that a building in the City is unsafe and a public nuisance, as defined in Section 3C-101, the Code Enforcement Officer shall give written notice and a correction order to the owner and/or to all other persons having an interest in the property, as shown by the property tax records of the City, of any building found by him or her to be an unsafe building and a public nuisance.
- 2. The notice and correction order provided for in paragraph (1) of this section shall:
  - a. Specify the particulars which make the building or part of it an unsafe building;
  - b. Describe with reasonable accuracy the unsafe building and its location;
  - c. Describe in general terms the corrective action which, if taken, will effect compliance with the Chapter.
  - d. Establish a reasonable time to do or have done the work or act required by the notice and correction order.
  - e. Advise of the potential penalties for violation of this Chapter as set forth in Section 3C-110, and of the right to appeal the notice and correction order as set forth in Section 3B-104 H.
- 3. An owner served with a notice and correction order shall correct the violation of this Chapter within the time specified in the notice and correction order.

**B. Reinspection; Report to Director.**

1. Following the expiration of the period of time provided in paragraph A.2.d of this Section, the code Enforcement Officer shall reinspect the unsafe building described in the notice and correction order.
2. When, after a reinspection, the Code Enforcement Officer determines that the violation specified in the notice and correction order has not been corrected or has only been partially corrected, the Code Enforcement Officer shall report such noncompliance to the Director and take any other action authorized by this Chapter to ensure compliance with or prevent violation of its provisions.

**Section 3C-103. Standards for Repair, Vacation, or Demolition.**

The following standards shall be followed in substance in ordering or initiating the repair, demolition, vacating, and placarding and securing of any unsafe building:

**A. Repair.**

1. If the unsafe building can be reasonably repaired so that it will no longer be in violation of the terms of this Chapter, it shall be ordered to be repaired.
2. The owner of an unsafe building that has been ordered to be repaired shall be given notice of the required repairs and a reasonable time to make the repairs.

**B. Demolition.**

1. In any case where an unsafe building is substantially damaged or decayed or deteriorated from its original value or structure, the building cannot reasonably be repaired so that it will no longer be in violation of the terms of this Chapter, and the building is not architecturally significant, condemnation and demolition will be initiated under applicable law. Determination of architectural significance shall be based on the level of contributing resource according to the listing for the National Register nomination. If level of contributing resource classification is A, B, or C, it shall be deemed significant. If it is deemed significant and if the cost of reasonable repair does not exceed twenty-five percent (25%) of the estimated market value of the property, condemnation and demolition will not be initiated.
2. In all cases where an unsafe building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of the City or provision of County or

State law, condemnation and demolition will be initiated.

**C. Vacating and Placarding.**

1. If an unsafe building or part of it is in such condition as to make it dangerous to life, property or public safety, the building or part of it shall be ordered to be placarded and vacated.
2. The owner and any occupants of any unsafe building that has been ordered to be vacated shall be given notice to vacate immediately or within a specified time and a warning placard of appropriate size shall be posted at each entrance to such a building.
  - a. The warning placard shall include language similar to the following: ***THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CITY OF MOUNT RAINIER.*** The placard also shall include the Chapter and Section of the Code under which it is issued; an order that the building when vacated must remain vacant until the provisions of the order are complied with and the order to vacate is withdrawn; the date that the placard is posted; and a statement of the penalty for defacing or removing the placard. The warning placard shall remain posted until the required repairs are made or demolition is completed.
  - b. No person shall deface or remove any warning placard after it has been posted until the required repairs or demolition have been completed.
  - c. No person shall remain in or enter any unsafe building which has been so posted except for the purpose of making the required repairs or of demolishing the same.
3. Any person occupying an unsafe building or part of one which has been ordered to be vacated shall vacate the building or part of it in accordance with the terms of the warning placard and order to vacate.
4. A person shall not occupy and an owner shall not permit a person to occupy an unsafe building or part of it which has been posted with a warning placard and ordered to be vacated until the Code Enforcement Officer approves the re-occupancy and removes the warning placard.
5. Once the unsafe building is vacant, the owner shall secure and board all

windows and doors that are accessible from the ground, from an adjacent structure, or by the reasonably foreseeable use of a ladder, table or other device, and must keep them secured against unauthorized entry. All such sealing of buildings shall be conducted in conformance with Section 3C-106.

6. Upon the failure of an owner or occupant of an unsafe building which has been ordered to be vacated to vacate the building or part of it or the failure of an owner to properly secure or seal the unsafe building, the City may cause the building to be vacated or secured through appropriate court action, or by contract or arrangement with private persons. The costs thereof, including reasonable attorney's fees, shall be paid by the owner. The City shall send the owner a bill for the costs by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the costs shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assignments, and other liens on real property or collected as provided for in Section 3C-109

#### **Section 3C-104. Hearings on Unsafe Buildings.**

##### **A. Notice of Appeal and Hearing.**

1. A person aggrieved by a notice and correction order requiring the repair, demolition, vacating, placarding or securing of an unsafe building issued under Section 3B-106 may file with the Mayor and City Council a written notice of appeal specifying the reasons for contesting the notice or order.
2. The notice of appeal shall be filed within the earlier of either ten (10) calendar days after the notice or order has been served on the person or within the time specified for correction of the violation in a notice and correction order issued under Section 3C-102.
3. Upon receipt of a properly filed notice of appeal, the City shall give written notice to the owner, occupant, and all other persons having an interest in the property as shown by the property tax records of the City, as the case may require, in the manner provided by Section 3C-102 to appear before the Mayor and City Council on a date and at a time and place specified to show cause why the unsafe building should not be repaired, demolished, vacated or secured in accordance with the statement of particulars set forth in the notice and correction order provided for in Section 3C-102 or in such other

notice or order which is being appealed.

4. The Mayor and City Council shall hold a hearing within one (1) month of the date of receipt of the notice of appeal or report of noncompliance and hear such testimony as the Code Enforcement Officer, owner, occupant, and any other person having interest in the property shall offer relative to the unsafe building.
5. Following the hearing, the Mayor and City Council shall:
  - a. Make written findings from the testimony offered pursuant to paragraph 4 as to whether or not the building in question is an unsafe building.
  - b. Issue a final order based upon the findings of fact made pursuant to paragraph (a) affirming, modifying, or revoking the notice and correction order or such other notice or order which is the subject of the appeal and, if applicable, commanding the owner, occupant, and all other persons having an interest in the property to repair, demolish, vacate or secure any building found to be an unsafe building.
  - c. The Mayor and City Council may grant a variance from the provisions of this Chapter whenever it finds that:
    - i. There is practical difficulty or unnecessary hardship connected with the performance of an act required by this Chapter;
    - ii. Strict adherence to this Chapter would be arbitrary; and
    - iii. A variance is consistent with the public health, safety, and welfare.
6. If the Mayor and City Council fail to hold a hearing within one (1) month of the date of receipt of the notice of appeal or fail to make written findings of fact and issue a final order within one (1) month after the date of the hearing, then the original notice or order shall be treated as a final order of the Mayor and City Council for the purposes of paragraph 7 of this Section, provided that, with the written consent of the person who filed the notice of appeal, the time period for the Mayor and City Council to hold a hearing or to make findings of fact and issue a final order may be extended for up to

two (2) additional months.

7. Any person aggrieved by a final order of the Mayor and City Council issued under this section may file a petition for judicial review with the Clerk of the Circuit Court of Prince George's County. The procedures for an appeal from a final order of the Mayor and City Council shall be governed by Title 7, Chapter 200 (Judicial Review of Administrative Agency Decisions) of the Maryland Rules, as amended.

#### **Section 3C-105. Recordation; Liability of Transferee.**

- A. The Director may cause a final order issued under Section 3C-104 to be recorded among the Land Records of Prince George's County.
- B. A transferee, successor, or assignee of the unsafe building described in a recorded final order shall be considered to have notice of the continuing existence of the violations and is subject to the penalties and procedures provided by this Chapter to the same degree as was the transferor, predecessor, or assignor.
- C. On determining that there has been compliance with a recorded final order issued under this Chapter, the Director shall cause a notice of compliance to be recorded among the land records of the County. The notice of compliance shall recite the liber and folio land record reference of the recorded final order.

#### **Section 3C-106. Sealing of Buildings.**

- A. **Sealing From Interior.** It shall be unlawful within the City for any person or entity to board up or seal the windows, doors, or openings of any vacant building or structure in such a manner that it is visible from the exterior of the building, without first having obtained a permit from the Director pursuant to Subsection C below. It shall further be unlawful for any person or entity having any interest in said property by way of lease, deed, mortgage, deed of trust or otherwise to allow such boarding or sealing or to suffer it to remain after due notice.
- B. **Responsibility of Owner.** It shall be the responsibility of the owner of the property to remove all unsanitary or flammable material and to board up all windows and doors after a building has been properly determined to be unfit for human use, if such boarding up is determined by the Director to be necessary for reasons of health or safety and not in violation of the provisions of this

Subsection.

- C. **Permit Required For All Sealing From Exterior.** It shall be the burden of an applicant to show the necessity of sealing the structure from the outside. The approval or disapproval shall be in writing. The Director shall consider the following factors in approving or disapproving an application for a permit for boarding up or sealing a building:
1. The extent of the boarding up and/or sealing that is required;
  2. The hardship which the applicant will suffer from rejection of this application;
  3. The visibility of the boarding or sealing;
  4. The impact of sealing the structure on the safety and welfare of the immediate neighborhood and of the City; and
  5. The practicality of sealing the structure by drawing shades or window coverings from the inside.
- D. **Expiration Date of Permit.** Each permit shall expire (6) months from the date of its issuance. The Director may renew such permit only after a review of the facts in light of the above criteria.
- E. **Standards For Sealing.** Any boarding or sealing of any windows, door frames or other openings shall be done as follows:
1. The material for boarding or sealing shall be plain wooden material and it shall be of one piece whenever possible;
  2. Sealing or boarding material must be in a size at least as large (but no larger) than the opening which it covers; and
  3. Material that will be exposed to the elements shall be made to be weather resistant; and
  4. All materials shall be applied in such a manner as to be as unobtrusive as possible.
- F. **Bond or Other Security.** The applicant shall be required to post a bond, cash

or other security to ensure maintenance both of the boarding and sealing of the property so as to ensure the lawn is mowed, the grounds are taken care of, and all debris is removed. A bond shall be set in only such amount as to ensure that this work shall be accomplished during the permit period.

- G. **Sealing in Emergency.** In case of fire, storm damage, or any other emergency, a building may be boarded up or sealed immediately according to the previous specification of this Chapter; provided, however, that the permit shall be applied for within ten (10) calendar days of the emergency boarding or sealing.
- H. **Notice That Permit Required.** If a structure is boarded up or sealed without obtaining a permit, the Director or his/her designee shall notify the owner or owners, tenant or tenants, or person or persons in possession of the real estate in writing to remove the sealing material within ten (10) calendar days after the date of such notice and upon failure to remove the boarding or sealing within the time specified, the City shall have the right to remove all illegal boards and sealing material from all openings visible from any public right-of-way and to remove unsanitary or flammable waste materials and to do such exterior maintenance as is necessary. The cost of these actions shall be paid by the owner. The City shall send the owner a bill for the costs of such work by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens or real property or collected as provided for in Section 3C-111.

#### Section 3C-107. Emergencies.

- A. **Emergency Action.** Whenever in the judgment of the Director an emergency exists which requires immediate action to protect the health, safety, or welfare, an order may be issued without notice, conference or hearing, directing the owner, occupant, or agent of the building to take such action as is appropriate to correct or abate the emergency.
- B. **Vacating Buildings.** When in the opinion of the Director there is a clear and present danger to the health or safety of the occupants of an unsafe building the Director is authorized and empowered to order and require the occupants to vacate the same forthwith. The Director shall cause to be posted at each entrance to such building a warning placard, in accordance with Section 3C-103, and it shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the

same.

- C. **Temporary Safeguards.** When in the opinion of the Director there exist grossly unsanitary conditions or an immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, property or public safety, he/she shall cause the necessary work to be done to render such building or structure or part thereof temporarily safe, whether or not the notice and correction order and any other procedures set forth in this Chapter have been followed.
- D. **Closing Streets.** When necessary for the public safety, the Director may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe buildings, and prohibit the same from being used.
- E. **Emergency Repairs.** For the purpose of this section, the Director shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- F. **Costs of Emergency Repairs.** All costs incurred in the performance of emergency work shall be paid by the owner of the real property upon which the building stands or did stand. The City shall send the owner a bill for the costs of such emergency repair, vacation, or demolition by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens on real property or collected as provided for in Section 3C-111.

#### **Section 3C-108. Right of Entry.**

- A. The Director, Code Enforcement Officer, and police or their designated representatives, upon exhibiting the proper credentials or proof of identity on request, shall have the right to enter any building in the City at any reasonable hour or at such other times as may be necessary in an emergency that immediately endangers life, property or public safety for the purpose of performing duties under this Chapter or enforcing the provisions thereof.
- B. Police, fire, health and other departments having authority in the City shall render necessary assistance in the enforcement of this Chapter when requested to do so by the Director Incorporated.

- C. **BOCA Property Maintenance Code** shall mean Building Officials and Code Administration International, Incorporated, Property Maintenance Code, as amended from time to time.
- D. **City** shall mean the City of Mount Rainier, Maryland.
- E. **Director** shall mean the Director of Public Works of the City or his or her designated representative.
- F. **Vacant** shall mean (1) empty or (2) not occupied on a regular and habitual basis by the owner, tenant, agent of the owner, or other person having permission of the owner to occupy the building or (3) not used by the owner, tenant, agent of the owner, or other person having permission of the owner on a regular and habitual basis for the usual and customary purposes for which a building is designed and lawfully permitted or (4) partially occupied as defined in Section 3B-104.

#### **Section 3C-109. Service.**

- A. Any notices or orders provided for in this Chapter shall be in writing and served upon the owner, occupant, and all other persons having an interest in the property as shown by the property tax records of the City, as the case may require. Unless a different manner of service is specified in this Chapter, a notice or order is properly served if:
  - 1. A copy is personally delivered which shall mean delivering a copy to the individual personally or leaving a copy at the individual's residence or usual place of abode with some individual of suitable age and discretion then residing therein or in the case of a corporation or a partnership or other unincorporated association, by delivering a copy to an officer, a managing or general partner or agent, or to any other agent authorized by appointment or by law to receive service; or
  - 2. A copy is sent by certified mail, return receipt requested, to the last known address of the owner, occupant or other persons having an interest in the property.
- B. If, after reasonable effort, service cannot be made on the owner, occupant or other persons having an interest in the property by personal delivery or certified mail, then service of the notice or order may be made by regular mail to the last known address of the owner, occupant or other persons having an interest in the property as shown by the property tax records of the City, as the case may

require, plus posting of the notice or order in a conspicuous place on or near the unsafe building to which it relates. Such mailing and posting shall be deemed adequate service.

1. In the case of personal delivery, “reasonable effort” means two good faith efforts on separate days to serve the notice or order; and
  2. In the case of certified mail, “reasonable effort” means return by the United States Postal Service of the properly addressed and stamped envelope containing the notice or order which was mailed by certified mail, or the return receipt thereof, marked as unclaimed, refused, addressee unknown, or other indicators of non-delivery.
- C. The notice or order also may be posted in a conspicuous place on or near the building or property to which it relates.

#### **Section 3C-110. Violations and Penalties.**

- A. **Failure To Comply With Notice or Order.** The failure of any owner of any unsafe building to comply with any notice or order issued under this Chapter shall be a municipal infraction as provided in Chapter 16 of the Mount Rainier Code. Each 30-day period such failure to comply continues beyond the date fixed for compliance shall be deemed a separate offense. The penalties shall be \$100 for the first offense, \$200 for repeat offense in same one year period.
- B. **Failure To Comply With Placard or Notice To Vacate.** The failure of any occupant of any unsafe building to comply with any posted warning placard or notice to vacate shall be a misdemeanor offense as provided in Chapter 16 of the Mount Rainier Code. The penalties shall be three hundred fifty dollars (\$350) for the first offense; six hundred dollars (\$600) for the second offense; eight hundred dollars (\$800) for the third offense; and one thousand dollars (\$1,000) for the fourth and subsequent offenses or imprisonment not to exceed three (3) months, or both.
- C. **Defacing or Removing Placard or Failing to Keep Placard in Good Condition.** The defacing or removal of any warning placard or notice which is posted on an unsafe building, or failing to keep the placard in good condition, shall be a municipal infraction as provided in Chapter 16 of the Mount Rainier Code. The penalties shall be \$75 for the first offense and \$150 for repeat offense in same one-year period.

#### **Section 3C-111 Civil Enforcement.**

In addition to the penalties for violations of this Chapter set forth in Section 3C-110, the

City may:

- A. Enforce the provisions of this Chapter through injunctive, mandamus, or any other appropriate proceedings, and a court of competent jurisdiction may issue a restraining order, interlocutory or final injunction, mandamus or other form of relief to restrain or correct violations of this Chapter;
- B. Bring suit to collect all costs, assessments or liens imposed or incurred by the City in repairing or causing to be vacated, secured or demolished unsafe buildings; and
- C. Take such other legal action as is necessary to carry out the terms or provisions of this Chapter.
- D. **Closing Streets.** When necessary for the public safety, the City Manager may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe buildings, and prohibit the same from being used.
- E. **Emergency Repairs.** For the purpose of this Section, the City Manager shall employ the necessary labor and materials to perform the required work as expeditious as possible.

**Section 3C-112. Severability.** Reference Chapter 18, Section 101.  
(Ord. 7-2005 (06/21/2005))

**§3C-110**

**UNSAFE BUILDINGS PUBLIC NUISANCE ABATEMENT**

**§3C-112**