

Article 8
CHAPTER 6

DANGEROUS BUILDING OR STRUCTURES

SECTION:

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8-1-1 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous Building or Structure.

- A.** Is any fence, wall, shed, deck, house, garage, building, structure, or any part thereof that is so decayed, broken down, disintegrated, dilapidated, or poorly constructed as to constitute a fire or safety hazard to person and property within its vicinity.
- B.** A “dangerous building or structure” is also defined as any structure that:
 - 1.** Subjects the public or any adjoining property to danger of damage by storm, soil erosion, or fire;
 - 2.** Is occupied or infested by any rodent, skunk, termite, cockroach, poisonous fungus, infectious bacteria, or other life form or life forms that are destructive, annoying, loathsome, illegal, offensive, or injurious to health;
 - 3.** Has become a place frequented by trespassers or transients seeking a temporary hideout or shelter;
 - 4.** Is structurally unsafe;
 - 5.** Is not provided with adequate means of egress;

6. Is dangerous to human safety or life;
7. Is used for any illegal activity or purpose;
8. Constitutes an attractive nuisance; or
9. Is any building or portion thereof which is determined, after inspection by the building official of the Town of Wiggins, to be dangerous pursuant to the ordinances of the Town of Wiggins.

Unfit for Human Occupancy means any building or structure which is in such a degree of disrepair, lack of maintenance, is unsanitary, vermin or rat infested, contains filth and contamination or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by state statute or Town ordinance, or because of the location of the structure constitutes a hazard to the occupants of the building or structure or to the public.

8-6-2 NUISANCE DECLARED.

It is unlawful and hereby declared a public nuisance for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the Town, to allow or maintain a dangerous building or structure.

8-6-3 POSTING OF PROPERTY AND RESTRICTION OF ACCESS.

- A. Posting.** Upon finding that a building, structure or property constitutes a dangerous building or structure, the building official is authorized to post the property with a notice. The building official may also define the area of danger and prohibit all persons from entering onto, occupying or inhabiting the dangerous area. Notice must include at least the following:
 1. That the building official, upon inspection, has determined the building or structure to be dangerous and a hazard to the public health, safety or welfare; and
 2. That the property is not to be entered upon or occupied by anyone without specific authority of the building official; and
 3. That any person found to be occupying or otherwise upon the property without authority will be subject to citation and arrest for trespass.
- B. Closing of vacant structures.** If a dangerous building or structure is vacant, the building official is authorized to order the property to be closed up and secured so as not to be an attractive nuisance. Upon failure of the owner or the owner's

agent to close up the property within the time specified in the order, the Town may cause the property to be closed and secured and the cost thereof shall be charged as a lien against the property in accordance with Section 8-1-4.

- C. **Violation of posting.** Violation by any person of this posting and access restriction will constitute trespass under the Town's ordinances.

8-6-4 ACTION REQUIRED; NOTICE

- A. **Corrective Action Required.** If as a result of an inspection, the building official determines that there has been a violation of this Chapter or has grounds to believe that a violation has occurred, the building official may require corrective action by repair, vacation, and/or demolition.
- B. **Notice.** The building official shall issue a notice and order directed to the record owner or owners of the building or structure. The notice shall be given in the manner prescribed in Section 8-1-4 or Section 8-1-5 in the case of an emergency. In addition to the content described in Section 8-1-4 and Section 8-1-5, the notice and order must contain a statement of the action required to be taken as determined by the building official, which may include:
1. *Repair Required.* A statement advising that if the building official has determined that the building or structure must be repaired, that all required permits will be secured and the work physically commenced within such time (not to exceed ninety (90) days from the date of the order) and completed within such time as the building official will determine reasonable under all of the circumstances.
 2. *Vacation Required.* A statement advising that if the building official has determined that the building or structure must be vacated, that the building or structure will be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
 3. *Demolition Required.* A statement advising that if the building official has determined that the building or structure must be demolished, the building must be vacated within such time as the building official will determine is reasonable (not to exceed ninety (90) days from the date of the order), that all required permits be secured therefor within ninety (90) days from the date of the order, and that the demolition be completed within such time as the building official will determine is reasonable.

C. Abatement. Upon expiration of the time in the notice and the appeal period described below, the building official may cause the abatement of the dangerous structure or building in accordance with Section 8-1-4 or Section 8-1-5.

D. Appeal.

1. Any person receiving a notice and corrective order from the building official pursuant to this chapter, may appeal the building official's order by filing with the Town Clerk a written appeal within fourteen (14) days from the date of the notice and order. The appeal shall contain:
 - a. A list of names of all persons participating in the appeal.
 - b. A brief statement setting forth the legal interest of each of the persons in the building or the structure involved in the notice and order.
 - c. A brief statement of the specific order or action protested, together with any material facts claimed to support the appeal.
 - d. A brief statement of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
2. If the property owner files an appeal with the Town Clerk before the expiration of the 14-day period, the Town Clerk shall refer the matter to a hearing officer appointed by the Town Clerk for determination.
3. Upon conclusion of administrative review, the hearing officer shall determine, in writing, whether the notice and order were proper. The town shall have the burden of proof, by a preponderance of the evidence. According to that determination, the hearing officer shall affirm, cancel or modify the notice and order. The hearing officer shall furnish a copy of this determination to the person making the appeal together with a notice of such person's right to appeal to the district court.

8-6-5 REPAIR, VACATION, AND DEMOLITION.

The following standards shall be used by the building official in ordering the repair, vacation, or demolition of a dangerous building or structure:

1. If the building or structure can reasonably be repaired so that it will no longer

exist in violation of the terms of this chapter, it shall be ordered repaired.

2. If the building or structure is unfit for human occupancy, it shall be ordered to be vacated.
3. In any case where a building or structure is fifty percent (50%) damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so it will no longer exist in violation of the terms of this chapter, it shall be demolished.

8-6-6 EMERGENCY ENFORCEMENT.

Notwithstanding any other section of this chapter, the building official may require immediate remedial action to enforce the provisions of this chapter in accordance with Section 8-1-5.