



Code of Ordinances
CITY OF AUBURN





Code of Ordinances
CITY OF AUBURN

Dangerous Buildings

CHAPTER
159

AUBURN



Table of Contents

GENERAL PROVISIONS

- 159.001 TITLE
- 159.002 PURPOSE AND SCOPE
- 159.003 ALTERATIONS, ADDITIONS AND REPAIRS
- 159.004 DEFINITIONS

ENFORCEMENT

- 159.020 ADMINISTRATION
- 159.021 INSPECTIONS
- 159.022 RIGHT OF ENTRY
- 159.023 INSPECTION OF WORK
- 159.024 BOARD OF APPEALS

NOTICES AND ORDERS OF BUILDING OFFICIAL

- 159.035 COMMENCEMENT OF PROCEEDINGS
- 159.036 NOTICE AND ORDER
- 159.037 SERVICE OF NOTICE AND ORDER
- 159.038 METHOD OF SERVICE
- 159.039 PROOF OF SERVICE
- 159.040 RECORDATION OF NOTICE AND ORDER
- 159.041 REPAIR, VACATION AND DEMOLITION
- 159.042 NOTICE TO VACATE

APPEAL

- 159.050 FORM OF APPEAL
- 159.051 PROCESSING OF APPEAL
- 159.052 SCHEDULING AND NOTICING APPEAL FOR HEARING
- 159.053 EFFECT OF FAILURE TO APPEAL
- 159.054 SCOPE OF HEARING ON APPEAL
- 159.055 STAYING OF ORDER UNDER APPEAL

PROCEDURES FOR CONDUCT OF HEARING APPEALS SECTION

- 159.065 HEARING EXAMINERS
- 159.066 RECORD
- 159.067 REPORTING
- 159.068 CONTINUANCES



- 159.069 OATHS; CERTIFICATION
- 159.070 REASONABLE DISPATCH
- 159.071 FORM OF NOTICE OF HEARING

SUBPOENAS

- 159.080 FILING OF AFFIDAVIT
- 159.081 CASES REFERRED TO EXAMINER

CONDUCT OF HEARING

- 159.090 RULES
- 159.091 ORAL EVIDENCE
- 159.092 HEARSAY EVIDENCE
- 159.093 ADMISSIBILITY OF EVIDENCE
- 159.094 EXCLUSION OF EVIDENCE
- 159.095 RIGHTS OF PARTIES

OFFICIAL NOTICE

- 159.105 WHAT MAY BE NOTICED
- 159.106 PARTIES TO BE NOTIFIED
- 159.107 OPPORTUNITIES TO REFUTE
- 159.108 INSPECTION OF THE PREMISES

METHOD AND FORM OF DECISION

- 159.120 HEARING BEFORE BOARD ITSELF
- 159.121 HEARING BEFORE THE EXAMINER
- 159.122 CONSIDERATION OF REPORT BY BOARD; NOTICE
- 159.123 EXCEPTIONS TO REPORT
- 159.124 DISPOSITION BY THE BOARD
- 159.125 PROPOSED DECISION NOT ADOPTED.
- 159.126 FORM OF DECISION
- 159.127 EFFECTIVE DATE OF DECISION

ENFORCEMENT OF ORDER OF BUILDING OFFICIAL OR BOARD OF APPEALS

- 159.140 COMPLIANCE
- 159.141 EXTENSION OF TIME TO PERFORM WORK
- 159.142 INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED
- 159.150 PROCEDURE
- 159.151 COSTS



REPAIR AND DEMOLITION FUND

159.160 GENERAL

159.161 MAINTENANCE OF FUND

RECOVERY OF COST OF REPAIR OR DEMOLITION

159.170 ACCOUNT OF EXPENSE; FILING OF REPORT

159.171 NOTICE OF HEARING

159.172 PROTESTS AND OBJECTIONS

159.173 HEARING OF PROTESTS

159.174 PERSONAL OBLIGATION OR SPECIAL ASSESSMENT

159.175 CONTEST

159.176 AUTHORITY FOR INSTALLMENT PAYMENT OF ASSESSMENTS WITH INTEREST

159.177 LIEN OF ASSESSMENT

159.178 REPORT TO ASSESSOR AND TAX COLLECTOR: ADDITION OF ASSESSMENT TO TAX BILL

159.179 FILING COPY REPORT WITH COUNTY AUDITOR

159.180 COLLECTION OF ASSESSMENT: PENALTIES FOR FORECLOSURE

159.181 REPAYMENT OF REPAIR AND DEMOLITION FUND

159.999 PENALTY



GENERAL PROVISIONS

159.001 TITLE

This chapter shall be known as the Code for the Abatement of Dangerous Buildings, may be cited as such, and will be referred to herein as "this code."

159.002 PURPOSE AND SCOPE

A. Purpose

1. It is the purpose of this code to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Building Code, Housing Code or otherwise available by law, whereby buildings or structures which from any cause may endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated or demolished.
2. The purpose of this code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

B. Scope

The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

159.003 ALTERATIONS, ADDITIONS AND REPAIRS

All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of the City of Auburn Building Code.

159.004 DEFINITIONS

For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code or the Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and plural the singular. Words used in the masculine gender include the feminine and the feminine gender the masculine.

- **BUILDING CODE**

The Uniform Building Code promulgated by the International Conference of Building Officials as from time to time amended, as adopted by this jurisdiction.

- **DANGEROUS BUILDING**

For the purpose of this chapter any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

1. Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.



2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.
5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
8. Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse.
9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.
11. Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children; a harbor for criminals; or as to enable persons to resort thereto for the purpose of committing a felony or misdemeanor under the laws of the State of Indiana or the United States.
13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the strength; fire-resisting qualities or characteristics; or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement,



inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the building official to be a fire hazard.
 17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
 18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
- **HOUSING CODE**
The Uniform Housing Code promulgated by the International Conference of Building Officials as from time to time amended and hereby made a reference document to assist the implementation of this code.

ENFORCEMENT

159.020 ADMINISTRATION

The Building Official is hereby authorized to enforce the provisions of this code. The building official shall have the power to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code.

159.021 INSPECTIONS

The City and/or State Fire Marshal, City Fire Chief, and the Building Official, and or their designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

159.022 RIGHT OF ENTRY

When it is necessary to make an inspection to enforce the provisions of this code, or when the building official or the building official's authorized representative has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry. "Authorized representative" shall include the officers named in 159.021 and their authorized inspection personnel.

159.023 INSPECTION OF WORK

All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this code and the City Building Code.



159.024 BOARD OF APPEALS

A. The Board of Public Works and Safety shall act as the Board of Appeals. All decisions and findings shall be rendered in writing to the appellant, with a copy to the building official. Appeals to the Board shall be processed in accordance with the provisions contained in ' 159.050 through ' 159.055. Copies of all rules or regulations adopted by the Board shall be delivered to the building official, who shall make them freely accessible to the public.

B. Limitations of Authority

The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the Board be empowered to waive requirements of this code.

NOTICES AND ORDERS OF BUILDING OFFICIAL

159.035 COMMENCEMENT OF PROCEEDINGS

When the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.

159.036 NOTICE AND ORDER

The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

- A. The street address and a legal description sufficient for identification of the premises upon which the building is located.
- B. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of 159.003.
- C. A statement of the action required to be taken as determined by the building official.
 - 1. If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
 - 2. If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
 - 3. If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefore within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.
- D. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official will order the building vacated and posted to prevent further occupancy until the work is completed, and may proceed to cause the work to be done and charge the costs thereof against the property or its owner.
- E. Statements advising that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the Board of Appeals, provided the appeal is made in writing as provided in this code and filed with the building official



within 30 days from the date of service of such notice and order; and that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

159.037 SERVICE OF NOTICE AND ORDER

The notice and order and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records; the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

159.038 METHOD OF SERVICE

Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

159.039 PROOF OF SERVICE

Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the building official.

159.040 RECORDATION OF NOTICE AND ORDER

If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the building official shall file in the office of the county recorder a certificate describing the property and certifying that the building is a dangerous building, and that the owner has been notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

159.041 REPAIR, VACATION AND DEMOLITION

The following standards shall be followed by the building official (and by the Board of Appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure.

- A. Any building declared a dangerous building under this code shall be made to comply with one of the following:
 1. The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or
 2. The building shall be demolished at the option of the building owner; or



- 3. If the building does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured and maintained against entry.
- B. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

159.042 NOTICE TO VACATE

A. Posting

Every notice to vacate shall, in addition to being served as provided in 159.037, shall be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER
 UNSAFE TO OCCUPY
 It is a violation of the AUBURN CITY CODE
 to occupy this building, or to remove or deface
 This notice.
 Building Official
 City of Auburn

B. Compliance

Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under 159.036 reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed, and a certificate of occupancy issued pursuant to the provisions of the Building Code.

APPEAL

159.050 FORM OF APPEAL

- A. Any person entitled to service under 159.037 may appeal from any notice and order or any action of the building official under this code by filing at the office of the building official a written appeal containing:
 - 1. A heading in the words: "Before the Board of Appeals of the City of Auburn".
 - 2. A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal.
 - 3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
 - 4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
 - 5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
 - 6. The signatures of all parties named as appellants and their official mailing addresses.
 - 7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- B. The appeal shall be filed within 30 days from the date of the service of such order or action of the building official; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is



ordered vacated and is posted in accordance with § 159.042, such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official.

159.051 PROCESSING OF APPEAL

Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the Board of Appeals.

159.052 SCHEDULING AND NOTICING APPEAL FOR HEARING

As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time and place for the hearing of the appeal by the Board. Such date shall not be less than 10 days nor more than 60 days from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the secretary of the Board, either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

159.053 EFFECT OF FAILURE TO APPEAL

Failure of any person to file an appeal in accordance with the provisions of 159.050 through 159.052 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

159.054 SCOPE OF HEARING ON APPEAL

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

159.055 STAYING OF ORDER UNDER APPEAL

Except for vacation orders made pursuant to § 159.042, enforcement of any notice and order of the building official issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

PROCEDURES FOR CONDUCT OF HEARING APPEALS SECTION

159.065 HEARING EXAMINERS

The Board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the Board for decision.

159.066 RECORD

A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the Board.

159.067 REPORTING

The proceedings at the hearing shall also be reported by an audio recording if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefore. Such fees may be established by the Board, but shall in no event be greater than the cost involved.



159.068 CONTINUANCES

The Board may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing, no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.

159.069 OATHS; CERTIFICATION

In any proceedings under this chapter, the Board, any Board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

159.070 REASONABLE DISPATCH

The Board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

159.071 FORM OF NOTICE OF HEARING

The notice to appellant shall be substantially in the following form, but may include other information:

"You are hereby notified that a hearing will be held before (the Board of Appeals or name of hearing examiner) at _____ on the __ day of 19__, at the hour __, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and production of books, documents or other things by filing an affidavit therefore with (Board of Appeals or name of hearing examiner)."

SUBPOENAS

159.080 FILING OF AFFIDAVIT

The Board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the Board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefore which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.

159.081 CASES REFERRED TO EXAMINER

In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.

CONDUCT OF HEARING

159.090 RULES

Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

159.091 ORAL EVIDENCE

Oral evidence shall be taken only on oath or affirmation.



159.092 HEARSAY EVIDENCE

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

159.093 ADMISSIBILITY OF EVIDENCE

Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

159.094 EXCLUSION OF EVIDENCE

Irrelevant and unduly repetitious evidence shall be excluded.

159.095 RIGHTS OF PARTIES

Each party shall have these rights, among others:

- A. To call and examine witnesses on any matter relevant to the issues of the hearing;
- B. To introduce documentary and physical evidence;
- C. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
- D. To impeach any witness regardless of which party first called the witness to testify;
- E. To rebut the evidence;
- F. To be represented by anyone who is lawfully permitted to do so.

OFFICIAL NOTICE

159.105 WHAT MAY BE NOTICED

In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the Board of departments and ordinances of the city or rules and regulations of the Board.

159.106 PARTIES TO BE NOTIFIED

Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

159.107 OPPORTUNITIES TO REFUTE

Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Board or hearing examiner.

159.108 INSPECTION OF THE PREMISES

The Board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that notice of such inspection shall be given to the parties before the inspection is made; the parties are given an opportunity to be present during the inspection; and the Board or the hearing examiner shall state for the record upon completion of the inspection the material facts



observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Board or hearing examiner.

METHOD AND FORM OF DECISION

159.120 HEARING BEFORE BOARD ITSELF

When a contested case is heard before the Board itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.

159.121 HEARING BEFORE THE EXAMINER

If a contested case is heard by a hearing examiner alone, the examiner shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the Board. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the board as its decision in the case. All examiner's reports filed with the Board shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party on the date they are filed with the Board.

159.122 CONSIDERATION OF REPORT BY BOARD; NOTICE

The Board shall fix the time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

159.123 EXCEPTIONS TO REPORT

Not later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with written argument in support of such decision. By leave of the Board, any party may present oral argument to the Board.

159.124 DISPOSITION BY THE BOARD

The Board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.

159.125 PROPOSED DECISION NOT ADOPTED.

If the proposed decision is not adopted as provided in 159.124, the Board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, the examiner shall prepare a report and proposed decision as provided in 159.121 after any additional evidence is submitted. Consideration of such proposed decision by the Board shall comply with the provisions of this section.

159.126 FORM OF DECISION

The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested.

159.127 EFFECTIVE DATE OF DECISION



The effective date of the decision shall be as stated therein.

ENFORCEMENT OF ORDER OF BUILDING OFFICIAL OR BOARD OF APPEALS

159.140 COMPLIANCE

A. General

After any order of the building official or the Board of Appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order within 30 days is in violation of this Code and subject to a fine of \$100 a day.

B. Failure to Obey Order

If, after any order of the building official or Board of Appeals made pursuant to this code has become final, the person to who such order is directed shall fail, neglect or refuse to obey such order, the building official may cause such person to be prosecuted under division (A) of this section or institute any appropriate action to abate such building as a public nuisance.

C. Failure to Commence Work

Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

1. The building official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING
DO NOT OCCUPY

It is a violation of the AUBURN CITY CODE
to occupy this building, or to remove or
deface this notice
Building Official
City of Auburn

2. No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.
3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

159.141 EXTENSION OF TIME TO PERFORM WORK



Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

159.142 INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code; or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating, and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

159.150 PROCEDURE

When any work of repair or demolition is to be done pursuant to 159.140(C)(3), the building official shall request approval therefore from the Board of Public Works and Safety and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said official. Plans and specifications therefore may be prepared by said official or the official may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

159.151 COSTS

The cost of such work shall be paid from the repair and demolition fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the Common Council shall determine is appropriate.

REPAIR AND DEMOLITION FUND

159.160 GENERAL

The Common Council shall establish a special revolving fund to be designated as the Repair and Demolition Fund. Payments shall be made out of said fund upon proper claim procedure to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.

159.161 MAINTENANCE OF FUND

The Common Council may at any time transfer to the Repair and Demolition Fund, out of any money in the general fund of this jurisdiction, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the Repair and Demolition Fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the treasurer of this jurisdiction who shall credit the same to the Repair and Demolition Fund.



RECOVERY OF COST OF REPAIR OR DEMOLITION

159.170 ACCOUNT OF EXPENSE; FILING OF REPORT

The building official shall keep an itemized account of the expense incurred by the city in the repair or demolition of any building done pursuant to the provisions of 159.140(C)(3). Upon the completion of the work of repair or demolition, said building official shall prepare and file with the Clerk-Treasurer a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to 159.037.

159.171 NOTICE OF HEARING

Upon receipt of said report, the Clerk-Treasurer shall present it to the Common Council for consideration. The Common Council shall fix a time, date, and place for hearing said report and any protests or objections thereto. The Clerk-Treasurer shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in the city, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the Clerk-Treasurer. Such notice shall be given at least ten days prior to the date set for the hearing and shall specify the day, hour and place when the Common Council will hear and pass upon the building official's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

159.172 PROTESTS AND OBJECTIONS

Any person interested in or affected by the proposed charge may file written protests or objections with the Clerk-Treasurer of the city at any time prior to the time set for the hearing on the report of the building official. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The Clerk-Treasurer shall endorse on every such protest or objection the date of receipt. The Clerk-Treasurer shall present such protests or objections to the Common Council at the time set for the hearing, and no other protests or objections shall be considered.

159.173 HEARING OF PROTESTS

Upon the day and hour fixed for the hearing, the Common Council shall hear and pass upon the report of the building official together with any such objections or protests. The Common Council may make such revision, correction or modification in the report or the charge as it may deem just; and when the Common Council is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the Common Council on the report and the charge, and on all protests or objections, shall be final and conclusive.

159.174 PERSONAL OBLIGATION OR SPECIAL ASSESSMENT

A. General

The Common Council may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

B. Personal Obligation

If the Common Council orders that the charge shall be a personal obligation of the property owner, it shall direct the attorney for the city to collect the same on behalf of the city by use of all appropriate legal remedies.



C. Special Assessment

If the Common Council orders that the charge shall be assessed against the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

159.175 CONTEST

The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgement.

159.176 AUTHORITY FOR INSTALLMENT PAYMENT OF ASSESSMENTS WITH INTEREST

The Common Council, in its discretion, may determine that assessments in amounts of \$500 or more shall be payable in not to exceed five equal annual installments. The Common Council's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

159.177 LIEN OF ASSESSMENT

A. Priority

Immediately upon its being placed on the assessment roll the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be paramount to all other liens except for state, county and property taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

B. Interest

All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 1% per annum above prime rate from and after said date. Said prime rate to be the Federal Prime Rate as quoted in the Wall Street Journal.

159.178 REPORT TO ASSESSOR AND TAX COLLECTOR: ADDITION OF ASSESSMENT TO TAX BILL

After confirmation of the report, certified copies of the assessment shall be given to the county auditor, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

159.179 FILING COPY REPORT WITH COUNTY AUDITOR

A certified copy of the assessment shall be filed with the county auditor on or before August 10. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

159.180 COLLECTION OF ASSESSMENT: PENALTIES FOR FORECLOSURE

A. The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected; and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.



- B. If the Common Council has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary property taxes.

159.181 REPAYMENT OF REPAIR AND DEMOLITION FUND

All money recovered by payment of the charge or assessment or from the sale of the property at any sale shall be paid to the Clerk-Treasurer, who shall credit the same to the Repair and Demolition Fund.

159.999 PENALTY

Any person who refuses without lawful excuse to attend any hearing or to produce material evidence which the person possesses or controls as required by any subpoena served upon such person as provided for herein shall be in violation of this code and subject to a fine of \$500.