

CITY OF MONMOUTH, COUNTY OF POLK

STATE OF OREGON

An Ordinance Adopting the)
"Monmouth Code for the Abatement)
of Dangerous and Substandard)
Buildings, 2008;" Amending)
MCC 80.135; and Repealing Conflicting)
Provisions)

ORDINANCE NO. 1264

THE CITY OF MONMOUTH DOES ORDAIN AS FOLLOWS:

Section 1. That the "Monmouth Code for the Abatement of Dangerous Buildings, 2008," attached hereto, be, and it hereby is, adopted.

Section 2. That Monmouth City Code Section 80.135 be, and it hereby is, amended as follows:

"80.135. Dangerous and Substandard Building Abatement Code. A publication, a copy of which is on file with the Recorder, marked and titled Monmouth Code for the Abatement of Dangerous and Substandard Buildings, 2008, is adopted as the code for the abatement of dangerous and substandard buildings in the city; said code by this reference is made a part of this ordinance as though fully set out herein."

Section 3. All other Ordinances, or portions thereof, which conflict with this Ordinance, or any portion hereof, or of the Code attached hereto, are hereby repealed.

Read for the first time: March 18, 2008
Read for the second time: April 1, 2008
Adopted by the City Council: April 1, 2008
Approved by the Mayor: April 1, 2008

Attest:

John E.D. Oberst, Mayor

Phyllis L. Bolman, City Recorder

**MONMOUTH CODE FOR
ABATEMENT
OF
DANGEROUS AND SUBSTANDARD
BUILDINGS**

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**MONMOUTH CODE FOR ABATEMENT
OF DANGEROUS AND SUBSTANDARD BUILDINGS**

**CHAPTER 1
TITLE AND SCOPE**

SECTION 101 - TITLE

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

SECTION 102 - PURPOSE AND SCOPE

102.1 Purpose. The purpose of this code is to provide for the regulating and controlling of the repair, vacation, demolition and abatement of dangerous and substandard buildings in the city.

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

SECTION 103 - 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 Monmouth Housing Code.

103.1 Building Code shall refer to the most current adopted code by the State of Oregon.

103.2 Chronic Nuisance Property means a building or structure inspected and found to be dangerous or substandard more than two times in a 120 day period or four times in a 365 day period.

103.3 Dangerous Building is any building or structure deemed to be dangerous under the provisions of Chapter 4 of this code.

103.4 Housing Code is the Monmouth Housing Code as adopted, and as it may be amended from time to time.

103.5 Substandard Building means any building or structure that fails to meet the minimum building appearance standards under the provisions of Chapter 5 of this code.

CHAPTER 2 ENFORCEMENT

SECTION 201 - GENERAL

201.1 Authority. The Building Official is hereby authorized and directed to enforce all of the provisions of this code. For such purposes, the Building Official shall have the powers of a law enforcement officer and has the authority to issue citations for violations of this code.

201.2 Inspections. The Building Official, Health Officer, and the Fire Marshal, and their authorized representatives, are hereby authorized to make inspections and take such actions as may be required to enforce the provisions of this code.

201.3 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this code, any authorized official listed in section 201.2 may request entry at reasonable times. If there is reason to believe that a condition exists that presents an imminent danger to public health, safety or welfare or to property or the environment, the official or the official's representative may request entry at any time. If the building or premises are occupied, the official's or representative's credentials shall be presented to the occupant upon request for entry. If such building or premises are unoccupied, the official shall first make a reasonable effort to locate the owner(s) or other person(s) responsible for the building or premises and request entry. If entry is refused, or if the owner(s) or other person(s) responsible cannot be located, the official shall have recourse to the remedies provided by law to secure entry.

SECTION 202 - DANGEROUS OR SUBSTANDARD BUILDINGS

Buildings or portions thereof that are determined to be dangerous or substandard, as defined in this code, shall be abated by repair, rehabilitation, closure, demolition or removal in accordance with the procedure specified in Section 601 of this code.

CHAPTER 3 CHRONIC NUISANCE PROPERTY INSPECTION FEE

SECTION 301 - FEES

The Building Official may require a fee be paid for inspection services for Chronic Nuisance Properties as defined in Section 103.2. Inspection service fees and administrative fee shall be in accordance with the city fee schedule as established by resolution of the City Council.

CHAPTER 4 DANGEROUS BUILDINGS

SECTION 402 - DANGEROUS BUILDING

For the purpose of this code, any building or structure which has any 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 public health, safety or welfare or to property or the environment are endangered:

402.1. 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.

402.2. 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.

402.3. 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.

402.4. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength, 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 stress permitted in the Building Code for such buildings.

402.5. Whenever any portion thereof has wracked, warped, buckled, deteriorated 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.

402.6. Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration or decay; 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.

402.7. Whenever, for any reason, the building or structure, or any portion thereof, is unsafe for the purpose for which it is being used.

402.8. 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.

402.9. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

402.10. 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 vagrants, criminals or immoral persons; or as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

402.11. 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.

402.12. 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 percent, or in any supporting part, member or portion less than 66 percent 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.

402.13. 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.

402.14. 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 fire marshal to be a fire hazard.

402.15. Whenever any building, structure or fence is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

402.16. 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.

CHAPTER 5 MINIMUM BUILDING APPEARANCE STANDARDS

SECTION 501- GENERAL

All structures, including dwelling units, mobile or manufactured homes, commercial buildings, industrial buildings, accessory buildings to any of the foregoing uses, whether permanent or temporary, must adhere to the minimum building appearance standards set forth in this chapter so as not to create a condition of unsightliness when viewed from a public right-of-way or neighboring property. For the purposes of this section, a condition of unsightliness is a condition that would be considered by a reasonable person to be offensive or a visual blight when viewed from a public right-of-way or neighboring property.

501.1. Roofs. Roofs for individual structures shall be covered entirely with commonly used roofing material of the same type and color. Use of temporary roof coverings such as plastic sheets or other such coverings is permitted for a period of no longer than 60 days.

501.2. Siding. Sides of individual structures shall be covered entirely with commonly used siding material. Siding material must be covered with commonly used protective coatings. Such protective coatings must be maintained in a manner that is substantially free of peeling, cracking and weather damage.

501.3. Entrances. For all entrances designed to have doors, including garages, such doors must be maintained in a manner in which they can fully close and fully open. Where screen or storm doors are installed the same requirement exists.

501.4. Windows and Shutters. Glass windows must be maintained free of cracks and breaks. If operable shutters are installed, they must be maintained in a manner in which they can fully open and fully close. Decorative shutters must be correctly mounted to the side of the building. Temporary coverings for broken or inoperable windows, such as plywood, plastic sheeting or other such material, are permitted for a period of no longer than 60 days.

501.5. Building Appurtenances. Building Appurtenances, including but not limited to chimneys, cornices, antennas, awnings, stairs and handrails shall be maintained in the manner designed and constructed so as not to create a condition of unsightliness.

501.6. Fences. Fences shall be constructed of material commonly used for fencing. Fences must be maintained in a manner in which they do not lean or have gaps or openings not intended in the design and construction of the fence. Gates, if installed, must be mounted in a manner in which they can fully open and fully close.

501.7. Buildings under construction. Buildings under construction are exempt from the above standards if a building permit has been issued for the construction, so long as the construction progresses at a reasonable rate. Should all construction cease under a specific building permit for a period of 90 days, the building must be brought into compliance with the above standards within an additional 60 days. Debris from construction activities must be controlled in a manner that does not create a condition of unsightliness.

CHAPTER 6 NOTICE ORDERS AND ABATEMENT

SECTION 601 - NOTICE AND ORDER

601.1 General. When the Building Official has inspected or caused to be inspected any building and has determined that such building is dangerous or in substandard condition, the Building Official shall commence proceedings to cause the repair, vacation, demolition or abatement of the building, as provided in this chapter.

601.2 Notice and Order. The Building Official shall send, by first class mail, a notice and order directed to the record owner(s) of the building and any other person(s) known to be responsible for the property. Service of the notice and order shall be made upon all persons entitled to notice either in person or by mailing a copy of such notice and order by first class mail, to each such person at their address as it appears on the last equalized assessment roll of the county or as otherwise known to the Building Official. If no address of any such person(s) so appears or is known to the Building Official, then the notice and order shall be posted in a conspicuous place on the building involved in the proceedings and in two other public places in the city. The failure of any person to whom notice has been directed under this section to receive such notice shall not affect by the validity of any proceedings taken under this section. The notice and order shall contain:

601.2.1. The street address and description sufficient for identification of the premises upon which the building is located.

601.2.2. A statement that the Building Official has found the building to be dangerous or substandard with a description of the conditions found, including references to the sections of this Code, on which the determination that the building is dangerous or substandard has been made.

601.2.3. A direction to abate the dangerous or substandard conditions, as provided Section 602, within ten (10) days from the date the notice was mailed or posted, as provided in this Section.

601.2.4. A statement that unless the violation is abated or an appeal is filed, as provided in Section 701, within the ten (10) day period provided under Subsection 601.2.3, the Building Official may issue a citation and have the violation abated, and that the cost of abatement plus an administrative charge will be charged to the owner and person(s) responsible and may become a lien against the property.

601.2.5. Statements advising (a) that any person having any record title or legal interest in the building, and any person responsible for the building, may appeal from the notice and order to the City Manager, provided the appeal is made in writing as provided in this code and filed with the City Recorder within the ten (10) day period provided under Subsection 601.2.3; and (b) that failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of the matter, as provided in Section 702.

601.3 Filing for permits. If the Building Official has determined that the building or structure must be repaired, but does not present an imminent danger to public health, safety or welfare or to property or the environment, the order shall further require that applications for required permits must be submitted within ten (10) days from the date the notice was mailed or posted, in which case the filing of proper applications for such permits and the payment of any applicable fees shall be deemed to satisfy the requirement of Subsection 601.2.3 that the dangerous or substandard conditions be abated within ten days within the time provided. Work must physically be commenced within such time, not to exceed 30 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. Failure to commence or thereafter complete the work within the time provided shall be deemed a failure to abate, in which case the city may proceed to abate the condition and assess costs as provided in Section 601.2.4.

SECTION 602 - ABATEMENT

The following standards shall be followed by the Building Official in ordering the repair, vacation or demolition of any dangerous or substandard building or structure:

602.1. Any building or portion of a building declared to be dangerous or substandard under this code shall be made to comply with one of the following:

602.1.1 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;

602.1.2 The building shall be demolished or removed at the option of the building owner; or

602.1.3 If the building does not constitute an imminent danger to public health, safety or welfare or to property or the environment, it may be vacated, and secured against entry. In that event the Building Official shall post the building as described in Section 603 and revoke the building certificate of occupancy.

602.2. If the building or portion of a building or structure is in such condition as to constitute an imminent danger to public health, safety or welfare or to property or the environment, the Building Official shall order the property to be vacated by issuing and posting a notice to vacate the property as provided in Section 603.

602.3. If the Building Official has determined that the building or structure must be vacated, the notice to vacate shall require that the building or structure be vacated within a time certain from the date of the order as determined by the Building Official to be reasonable.

602.4. If the owner(s) or person(s) responsible for the building or structure have not abated the dangerous or substandard condition within ninety (90) days after the notice described in Section 601.2, the Building Official may request authority from the City Council to abate the dangerous or substandard condition from the City Council. Such request shall include an estimate of the cost of abatement and approval to expend funds for the abatement.

SECTION 603- NOTICE TO VACATE

603.1 Posting. Every notice to vacate shall, in addition to being served in the same manner as notice as provided in Section 601.2, be posted with the date and time of posting at or upon each exit of a building or portion of a building, and shall be in substantially the following form:

**“DO NOT ENTER
UNSAFE TO OCCUPY**

It is a misdemeanor to enter or remain in this building or to remove
or deface this notice.

Building Official
City of Monmouth
(date and time)”

603.2 Compliance. Whenever such notice to vacate is posted, the Building Official shall include in or with the notice a statement of the conditions on which the notice to vacate is based. No person shall remain in or enter any building that 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. Any person violating this subsection shall be guilty of a Class C misdemeanor.

**CHAPTER 7
APPEALS**

SECTION 701- GENERAL

701.1 Form of appeal. Any person entitled to service of notice and order under Section 601.2 may appeal any notice and order of the Building Official under this code. Appeals must be delivered to the City Recorder within the time provided in this code and shall contain all of the following information.

1. A copy of the notice and order issued by the Building Official.
2. The address of the property.
3. A brief statement of the material facts relied on in support of the contentions of the appellant(s).
4. A brief statement of the relief sought and the basis for such relief.
5. The signatures of all parties named as appellants and their mailing addresses.

701.2 Processing of appeal. Upon receipt of any appeal filed pursuant to this Section, the City Recorder shall have it stamped with the current date and time. The appeal shall be delivered to the City Manager for action as provided in Section 704.

SECTION 702 - EFFECT OF FAILURE TO APPEAL

Failure of any person to file an appeal in accordance with the provisions of Section 701 shall constitute a waiver of the right to an appeal.

SECTION 703- SCOPE OF HEARING ON APPEAL

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

Section 704- APPEAL AUTHORITY

704.1 The City Manager shall:

(a) Hear an appeal within 10 days of the date of filing of the appeal, unless the time for hearing is extended by agreement between the City Manager and the appellant(s); or

(b) Refer the appeal for hearing to the City Council, which shall hold a hearing on the appeal within one month from the date of referral, unless the time for hearing is extended by agreement between the City Manager and the appellant(s).

704.2 The City Manager shall hear and render a decision on the appeal in a timely manner. If the City Manager refers the appeal to the City Council, the City Council shall render a decision on the appeal in a timely manner.

SECTION 705 -STAYING OF ORDER UNDER APPEAL

Except for notices to vacate issued pursuant to Sections 602 603, enforcement of any notice and order of the Building Official issued under this code shall be stayed until a final decision has been made on any appeal properly and timely filed.

CHAPTER 8 PENALTIES

SECTION 801 - FINES

801.1 General. After any order or notice of the Building Official or final appeal process pursuant to this code becomes final, no person to whom any such order or notice is directed shall fail, neglect or refuse to obey any such order or notice. Any such person who fails to comply with any such order or notice is guilty of a Class C misdemeanor, and in addition may be assessed abatement fees as provided in Section 802 .

801.1. A person violating any provisions of this code shall be considered to have committed a separate offense for each violation that exists.

A person violating any provisions of this code shall be subject to a fine not to exceed \$500.00 for each offense for each day that a violation exists, plus abatement fees as described in Section 802.

SECTION 802 - ABATEMENT FEES; LIEN OF ASSESSMENT

802.1 Abatement fees authorized. In the event the Building Official directs abatement of any dangerous or substandard building as provided in this code, the following fees shall be imposed:

1. The direct cost to abate the violation;
2. An hourly rate for inspection services as determined by resolution of the City Council;
and
3. Administrative fee as set by resolution of the Council.

802.2 Procedure for assessment. The assessment of abatement fees shall be made in the manner provided for the assessment of costs in MCC 44.750.

802.3 Lien of assessment. Any fees and costs assessed under this code not paid when due shall become a lien against the property and may be enforced in the manner provided in MCC 44.750.

