

ORDINANCE NO. 390

AN ORDINANCE AMENDING TITLE 15 – BUILDINGS AND CONSTRUCTION, OF THE MILL CITY MUNICIPAL CODE AND REPEALING ORDINANCES 70 AND 322

WHEREAS, the Planning Commission recommends section 15.08 be amended and section 15.10 be added in Title 15 of the Mill City Zoning Code; and

WHEREAS, the city finds that it is in the public interest to update the city's dangerous building code and adopt a new chapter to the Mill City Municipal Code to address derelict buildings and structures; and

WHEREAS, the city council finds that it is in the public interest and necessary for the preservation of the public health, safety and welfare to update the city's dangerous building code; and

WHEREAS, the city contracts with Linn County to provide building inspection services in the city and the city council finds it is in the best interests of the city to adopt revisions to the Mill City Municipal Code which provide clear standards and procedures for the identification, repair and abatement of dangerous buildings and derelict buildings inside the city limits;

NOW, THEREFORE, the City Council of the City of Mill City hereby ordains as follows:

SECTION 1. Title 15 Section 15.08 of the Mill City Municipal Code is hereby amended to read as follows:

Chapter 15.08 - Dangerous Buildings and Structures

15.08.010	Purpose.
15.08.015	Scope.
15.08.020	Definitions.
15.08.025	Alternations, Additions & Repairs.
15.08.030	Administration.
15.08.035	Inspections.
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15.08.045	Dangerous Buildings declared to be Public Nuisances; Abatement.
15.08.050	Violations.
15.08.055	Inspections of Work.
15.08.060	Commencement of Proceedings.
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15.08.110	Effect of Failure to Appeal.

- 15.08.115 Scope of Appeal Hearing; Stay of Order.
- 15.08.120 Form of Notice of Hearing to Appellant.
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- 15.08.130 Conduct of Hearings
- 15.08.135 Rights of Parties.
- 15.08.140 Official Notice.
- 15.08.145 Inspection of the premises.
- 15.08.150 Form of decision; Judicial review.
- 15.08.155 Enforcement of Orders.
- 15.08.160 Failure to Commence Work.
- 15.08.165 Interference with Repair or Demolition Work Prohibited.

15.08.010 Purpose.

A. This Chapter is to provide a method (cumulative with and in addition to any other remedies available to the City by law) whereby buildings or structures which from any cause endanger the life, limb, health, property, safety or welfare of the general public or the building’s occupants such that they should be required to be repaired, vacated or demolished.

B. This Chapter does not 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 hereof.

15.08.015 Scope.

This Chapter shall apply to all “Dangerous Buildings and Structures” as herein defined [as they are](#) now in existence or which may hereafter become Dangerous Buildings or Dangerous Structures in the City.

15.08.020 Definitions.

For the purpose of this Chapter, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster’s 3rd New International Dictionary of the English Language (Unabridged, copyrighted 1986) shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

A. Building Official is the Linn County Building Official or designee. The Building Official is responsible to enforce state building codes and this chapter inside the city limits of the City of Mill City, in both Linn and Marion counties.

B. Building Code has the meaning given by the terms of ORS 455.010 to “state building code” and includes all specialty codes as defined in ORS 455.010.

C. City means the City of Mill City, Oregon.

D. City Recorder means the City Recorder for the City of Mill City, Oregon or designee.

E. Dangerous Building or Dangerous Structure is any building or structure having one or more of the conditions or defects hereinafter described provided that such condition(s) or defect(s) exist the extent that the Building Official can reasonably believe the life, health, property or safety of the public or the building’s or structure’s 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 current applicable structural specialty codes as defined in ORS Chapter 455 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:
- i. dilapidation, deterioration or decay;
 - ii. faulty construction;
 - iii. the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - iv. the deterioration, decay or inadequacy of its foundation; or
 - v. 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 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.

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:

- i. an attractive nuisance to children;
- ii. a harbor for vagrants and/or criminals; or
- iii. a place so as to enable persons to resort thereto for the purpose of committing unlawful acts.

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 appropriately adopted Building 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 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) 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 County Public 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 Fire Marshal 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.

15.08.025 Alternations, Additions & Repairs.

All buildings or structures required to be repaired under the provisions of this Chapter shall be subject to the provisions of Chapter 34 of the Oregon Structural Specialty Codes as they currently exist or may hereafter be amended and adopted by the State.

15.08.030 Administration.

The Building Official is hereby authorized to enforce the provisions of this Chapter. The Building Official shall have the power to render interpretations of this Chapter 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 Chapter.

15.08.035 Inspections.

The Building Official and others such as the Fire Marshal, Linn County Health Department officials and Marion County Health Department officials are authorized to make such inspections and take such other actions as may be required to enforce the provisions of this Chapter, including (but not limited to) the issuance of stop work or similar abatement orders.

15.08.040 Right of Entry.

A. When necessary to make an inspection to enforce the requirements imposed by the terms of this Chapter (or when the Building Official has reasonable cause to believe there exists in a building or upon a premises a condition contrary to or in violation of this Chapter making 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 Chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested.

B. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person(s) 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.

15.08.045 Dangerous Buildings declared to be Public Nuisances; Abatement.

All buildings or portions thereof determined after inspection by the Building Official to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this Chapter.

15.08.050 Violations.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Chapter.

15.08.055 Inspections of Work.

All buildings or structures within the scope of this Chapter and all construction or work for which a permit is required shall be subject to inspection by the Building Official consistent with and in the manner provided by this Chapter and the currently adopted Building Code, including the Oregon Structural Specialty Codes, and other relevant provisions of municipal, county or state law.

15.08.060 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 or City Recorder has the authority to commence ~~cause commencement of~~ proceedings to effect the repair, vacation or demolition thereof.

15.08.065 Notice and Order.

The Building Official or the City Recorder 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 description sufficient for identification of the premises upon which the building is located.

B. A statement that the Building Official has found the building dangerous with a brief factual description of the conditions found to render the building dangerous.

C. A statement of the action(s) required to be taken by the Building Official:

1. If the building must be repaired, the notice and order shall require 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 reasonable under all of the circumstances.

2. If the building must be vacated, the order 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.

3. If the building or structure is to be demolished, the order shall require that the building be vacated within such time as the Building Official determines reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefore within 60 days of the date of the order; and that the demolition be completed within such time as the Building Official determines reasonable thereafter.

D. Statement advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official:

1. will order the building vacated and posted to prevent further occupancy until the work is completed; and

2. may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

E. Statements advising:

1. 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 or City Recorder to the City's hearings officer provided the appeal is made in writing as provided in this Chapter and filed with the City Recorder within 14 days from the date of service of such notice and order; and

2. that failure to appeal will constitute a waiver of all right to a hearing and determination of the matter.

15.08.070 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 with a copy thereof being served on each of the following (if known to the City or disclosed from official public records):

A. the holder of any mortgage or deed of trust or other lien or encumbrance of record;

B. the owner or holder of any lease of record; and

C. 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 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.

15.08.075 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, to each such person at their address as it appears in the Linn County or Marion County tax records or as otherwise known to the City. If no address of such person appears or is known to the City, then a copy of the notice and order shall be 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.

15.08.080 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 City.

15.08.085 Repair, Vacation and Demolition.

A. Any building or structure declared a dangerous building or structure under this Chapter shall be made to comply with one of the following:

1. The building or structure shall be repaired in accordance with the current Building Code or other specialty codes applicable to the type of substandard conditions requiring repair; or

2. The building or structure shall be demolished consistent with subsection D below.

B. If the building or structure 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.

C. 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 the building's occupants, it shall be ordered vacated, secured and maintained against entry.

D. If a building or structure is found to be or becomes dangerous and if (in the opinion of the Building Official) the building or structure is not, under current circumstances likely to be repaired so as to be habitable within 120 days, it may be ordered demolished by the Building Official with the cost thereof borne by the owners. In the event the Building Official determines that a building is to be demolished, the Building Official shall make a written order which includes the circumstances supporting demolition. The order shall be served on all persons entitled to notice under 15.08.070 and is subject to a 21-day appeal consistent with the provisions of 15.08.100.

15.08.090 Notice to Vacate - Posting.

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

**DONOTENTER
UNSAFETO OCCUPY**

It is unlawful to occupy this building or to remove or deface this notice.

Building Official

15.08.095 Compliance with Notice to Vacate.

A. Whenever such notice is posted, the Building Official shall include a notification thereof in the notice and order issued under 15.08.065 reciting the emergency and specifying the conditions which necessitate the posting.

B. 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.

C. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and all lawful requirements been met.

15.08.100 Form of Appeal.

A. Any person entitled to service under 15.08.070 may appeal from any notice and order or any action of the Building Official under this Chapter by filing with the City Recorder a written appeal containing:

1. A heading in the words: "Before the City of Mill City, Oregon".
2. A listing of the names of all appellants participating in the appeal along with a brief statement setting forth the legal interest of each appellant in the building or the land involved in the notice and order.
3. A brief statement concerning the basis for the appeal together with any material fact(s) claimed to support those contentions and why the protested order or action should be reversed, modified or otherwise set aside.
4. The signatures of all parties named as appellants and their official mailing addresses.
5. 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 14 days of the date of service of the Building Official's order or action; however, 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 15.08.090, such appeal shall be filed not later than 10 days from the date of the service of the notice and order of the Building Official.

15.08.105 Scheduling Appeal for Hearing.

As soon as practicable after receiving the written appeal, the City shall fix a date, time and place for the hearing of the appeal. Such date shall not be less than ten (10) nor more than sixty (60) days from the date the appeal was filed with the City Recorder. 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 City 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.

15.08.110 Effect of Failure to Appeal.

Failure of any person to file an appeal in accordance with the provisions of Section 15.08.100 shall constitute a waiver of the right to a hearing and adjudication of the notice and order or any portion thereof.

15.08.115 Scope of Appeal Hearing; Stay of Order.

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

B. Except for vacation orders made pursuant to Section 15.08.085, enforcement of any notice and order of the Building Official issued under this Chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

15.08.120 Form of Notice of Hearing to Appellant.

The notice to the appellant(s) shall be substantially in the following form:

“You are hereby notified that a hearing will be held before the Hearings Officer for the City of Mill City at 444 1st Avenue, Mill City, Oregon on the _____ day of _____, 20____ at the hour given on the notice and order served upon you for alleged violation(s) of Chapter 15.08 (Dangerous Buildings) of the Mill City Municipal Code. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present relevant evidence and be given full opportunity to examine all witnesses.”

15.08.125 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 court.

15.08.130 Conduct of Hearings.

Hearings need not be conducted according to the technical rules relating to evidence and witnesses. Oral evidence shall be taken on oath or affirmation. Hearsay evidence may be used for the purpose of supplementing or explaining 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 Oregon. 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 Oregon. Irrelevant and unduly repetitious evidence shall be excluded.

15.08.135 Rights of Parties.

The City and the appellant(s) shall be able:

- A. To call and examine witnesses on matters relevant to the issues of the hearing;
- B. To introduce documentary and physical evidence;

- C. To cross-examine opposing witnesses;
- D. To rebut evidence; and
- E. To be represented by anyone lawfully permitted to do so.

15.08.140 Official Notice.

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 noticeable by Oregon courts. Parties present at the hearing shall be informed of the matters to be noticed which is to be noted in the record. Parties present at the hearing shall be given a reasonable opportunity to refute the noticed matters by evidence or by written or oral presentation of authority.

15.08.145 Inspection of the Premises.

The Hearings Officer may inspect any building or structure involved in an appeal during the course of the hearing provided that: notice of such inspection shall be given the parties before the inspection is made; the parties are given an opportunity to be present during the inspection; and, the Hearings Officer shall state for the record after said inspection the material facts observed and the conclusions drawn therefrom.

15.08.150. Form of Decision; Judicial Review.

With appeals heard by the Hearings Officer, the Hearings Officer shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) prepare a written decision which shall contain findings of fact, a determination of the issues presented and the requirements, if any, to be complied with. The effective date of the decision shall be as stated therein. A copy of the decision shall be delivered to the City and appellant by regular mail, postage prepaid. Judicial review of the Hearings Officer's decision shall be by way of writ of review as provided for in ORS 34.010 to ORS 34.100.

15.08.155. Enforcement of Orders.

After any order of the Building Official or Hearings Officer made pursuant to this Chapter has become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. If, the person to whom such order is directed fails neglects or refuses to comply with said order, the Building Official may take any and all actions deemed by him, in consultation with the City Recorder and City Attorney to be appropriate including the filing of supplementary enforcement or compliance action(s) in a court of competent jurisdiction.

15.08.160 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 Chapter becomes effective:

- A. 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 unlawful to occupy this building or to remove or deface this notice.

**Building Official
City of Mill City, Oregon**

B. No person shall occupy any building which has been posted as specified in this section. 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.

C. 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 provide for the collective of assessment or nuisance liens under state statute or city code. Any surplus realized from the sale of any such building or from the demolition thereof, over and above the cost of demolition, administrative costs and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto.

15.08.165 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 Chapter; or with any person to whom such building has been lawfully sold pursuant to the provisions of this Chapter, whenever such officer, employee, contractor or authorized representative of the City, 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 Chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Chapter.

SECTION 2. Title 15 Section 15.10 of the Mill City Municipal Code is hereby created and to read as follows:

Chapter 15.10 - Derelict Buildings and Structures

- 15.10.010 Purpose.
- 15.10.020 Administration.
- 15.10.030 Exceptions.
- 15.10.040 Building Maintenance Standards.
- 15.10.040 Dangerous Buildings declared to be Public Nuisances; Abatement.
- 15.10.050 Vacant Buildings.
- 15.10.060 Violation Options.
- 15.10.070 Violation Notice.
- 15.10.080 Procedure for Enforcement.
- 15.10.090 Abatement by the Owner.
- 15.10.100 Voluntary Correction Agreement.
- 15.10.110 Citation.
- 15.10.120 Abatement.
- 15.10.130 Assessment of Abatement Costs.

15.10.010 Purpose

The purpose of this chapter is to establish an enforcement program to address the problem of derelict, abandoned, and vacant buildings or structures within the City in order to protect the public health, safety, and welfare of the community through the required maintenance of unkempt, unsightly, unsafe, unsanitary, and otherwise improperly maintained structures.

The program is intended to protect the City from blight, deterioration, and decay as a result of properties in a condition or state that potentially would have an adverse effect on the value, utility, and habitability of property within the City. In addition to the obvious hazards which these conditions pose to the public health, safety, and welfare, they specifically cause damage to adjoining and nearby properties. A property which is merely unkempt or vacant for long periods may reduce the value of adjoining and nearby property, and the habitability and economic well-being of the City may be materially and adversely affected.

The goals of this chapter are as follows:

- A. To supplement the City Nuisance Ordinance and further define as public nuisances those conditions which constitute visual blight and which could result in conditions which are harmful or deleterious to the public health, safety and welfare; and
- B. To develop regulations that will promote the sound maintenance of buildings and structures, enhance the livability, community appearance, and the social, economic, and environmental conditions of the community; and
- C. To establish guidelines for the correction of property maintenance violations and nuisances that afford due process and procedural guarantees to affected property owners; and
- D. To support responsible environmental practices with the repair and reuse of existing structures in lieu of demolition of buildings that are able to be repaired.

15.10.020 Administration.

A. Determination of whether a building or property is in violation of this chapter shall be made by the City Recorder, or the City Recorder’s designee. The City Recorder should consult with the Building Official, Fire Marshal, County Public Health Officer, or any other agency as necessary, before making the determination to bring the matter before the City’s Derelict Building Committee.

1. For a violation to have occurred under this chapter, one or more of the building maintenance standards specified in Section 15.10.040 (A-H) shall be out of compliance.

2. Prior to proceeding with a notice of violation, the City Recorder’s determination shall be reviewed by the City’s Derelict Building Committee. The Derelict Building Committee shall be comprised of one city councilor [Building Commissioner], one planning commission member and one citizen, all appointed by the Mayor. If a majority of the committee agrees with the City Recorder’s determination, the City Recorder will issue the notice of violation to the owner or person in charge of the property as set forth in Section 15.10.070. For the purposes of this chapter, the term “person in charge of property” has the meaning defined in SMC 8.04.010(B).

B. Buildings or structures determined a nuisance shall be subject to the necessary permits and requirements in accordance with the applicable Oregon Structural Specialty Codes. All construction or work for which a permit is required shall be subject to inspection by the Building Official.

C. The City may take appropriate steps to gain entry into or upon the property to investigate and/or cause the removal of a nuisance.

D. The City Recorder will provide a report to the City Council identifying the number of complaints received, the number of derelict building violations found and notices of violation issued, and the actions taken to resolve the violations.

15.10.030 Exceptions.

This chapter shall not apply to a building or structure that is actively undergoing construction or repair as indicated by a valid building permit and appearance that the person in charge is progressing diligently to complete the repair or construction. This exception does not apply to requirements relevant to public safety or health concerns.

15.10.040 Building Maintenance Standards.

No person in charge of a property shall maintain or permit to be maintained any property which does not comply with the requirements of this chapter and is deemed to be a nuisance and detrimental to the City. All property shall be maintained to the Building Code requirements in effect at the time of construction, alteration, or repair, and shall meet the requirements below. The building maintenance standards are listed as subsections A. through H of this Section.

A. Accessory Structures.

1. All accessory structures, including sheds, awnings, and other similar features, shall be maintained structurally safe and sound, and in good repair.

2. Accessory structures shall comply with maintenance standards in Section 15.10.040 B. through H.

B. Roofs.

1. The roof shall be structurally sound, tight, and have no defects which might admit rain.

2. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building.

3. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstructions and shall channel rainwater into approved receivers.

C. Chimneys and Towers.

1. All chimneys, cooling towers, smoke stacks, towers, and similar appurtenances / attachments shall be maintained so as to be structurally safe and sound, and in good repair. They shall remain adequately supported and free from obstructions and shall be maintained in a condition which ensures there will be no leakage or back-up of noxious gases. They shall be reasonably plumb.

2. Loose bricks or blocks shall be re-bonded. Loose or missing mortar shall be replaced. Unused openings into the interior of the structure must be permanently sealed using approved materials.

D. Foundations and Structural Members.

1. Foundation elements shall adequately support the building and shall be free of rot, crumbling elements, or similar deterioration.

2. The supporting structural members in every structure shall be maintained so as to be structurally sound, showing no evidence of deterioration or decay which would substantially impair their ability to carry imposed loads.

E. Exterior Walls and Exposed Surfaces.

1. Exterior wall and weather-exposed exterior surface or attachment shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or the occupied spaces of the building.

2. Exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative, paint, or other approved coating, and be maintained in good condition.

3. Exterior metal surfaces shall be protected from rust and corrosion of an extent that would substantially impair its ability to carry imposed loads.

4. Exterior brick, stone, masonry, or other veneer shall be maintained so as to be structurally sound and be adequately supported and tied back to its supporting structure.

5. Cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

6. Overhang extensions, including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition.

F. Windows.

1. Each window shall be substantially weather-tight, shall be kept in sound condition and repair for its intended use.

2. Window sash shall be fully supplied with glass window panes, light transmitting ceramic and/or light-transmitting plastic panels as permitted in the Oregon Structural Specialty Code without open cracks and holes.

3. Window sash shall be in good condition and fit weather-tight within its frames.

4. Window frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain as completely as possible and to substantially exclude wind from entering the structure.

G. Doors.

1. Exterior doors, including screen doors, cellar doors, and garage doors, door assemblies, and hardware shall be maintained in good condition, be weather-tight, and substantially exclude wind and rain from entering the structure.

H. Insect and Rodent Harborage.

1. Every dwelling shall be kept free from insect and rodent infestation, and where insects and rodents are found, they shall be promptly terminated. After extermination, proper precautions shall be taken to prevent re-infestation.

15.10.050 Vacant Buildings.

In addition to the maintenance standards in Section 15.10.040, the person in charge of a vacant property and/or building shall comply with the following maintenance and security requirements:

A. The building and/or property shall be secure so that it is not accessible to unauthorized persons, including but not limited to the closure and locking of windows and doors (walk through, sliding, and garage) and any other opening of such size that may allow a child to access the interior of a structure; chaining or padlocking gates, and repairing fencing.

B. If the person in charge of the property or building does not reside or have a business office within 50 miles of the City limits, the person in charge shall contract with or otherwise engage a person to provide property management to perform inspections to verify that all requirements of this ordinance, enforcement notice, and any other applicable laws are being met.

C. The property shall be posted with name and 24-hour contact phone number of the owner, person in charge, or a local property management representative. The posting shall be no larger than 18" X 24" and shall contain the words "THIS PROPERTY MANAGED BY . . ." The posting shall be secured to the exterior of the building or placed in a location on the property so it is visible from the street.

15.10.060 Violation Options.

When an alleged complaint is reported to the City, the City Recorder or designee shall prepare a statement of the facts and shall review the facts and circumstances surrounding the alleged complaint. The City Recorder shall not proceed further with the matter if the City Recorder determines that there is not sufficient evidence to support the allegation, or if the Derelict Building Committee rules that the nuisance does not exist and is not a violation. If a nuisance is determined to exist by the Derelict Building Committee, the City Recorder may enforce this Chapter by any of the following methods:

- A. Abatement by the Owner;
- B. Voluntary Correction Agreement;
- C. Citation;
- D. Abatement by the City;
- E. Citation and Abatement;
- F. Other enforcement remedies available at law or at equity.

15.10.070 Violation Notice.

A. Upon determination by the City Recorder, and after consultation with the Derelict Building Committee, that a nuisance as defined in Chapters 15.10.040 or 15.10.050 exists, the City Recorder shall forthwith cause a notice to be posted on the premises where the nuisance exists, directing the owner or person in charge of the property to abate such nuisance.

B. At the time of posting, the City Recorder shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the owner or person in charge of the property at the last known address of such owner or other person.

C. The notice of violation shall contain:

1. A description of the real property, by street address or otherwise, on which such nuisance exists;

2. A statement explaining the different options for abatement by the owner, including the voluntary correction agreement.

3. A direction to abate the nuisance by the date listed on the notice;

4. A description of the nuisance;

5. A statement that unless such nuisance is removed, the city may abate the nuisance and the cost of abatement shall be a lien against the property;

6. A statement that the owner or other person in charge of the property may appeal to the City by filing an appeal with the City Recorder within twelve (12) business days of the mailing date of the notice of violation. The City's hearings officer, shall hear and determine the objections of the appeal.

D. Upon completion of the posting and mailing, the City Recorder or designee posting and mailing the notice shall execute and file a certificate stating the date and place of such mailing and posting.

E. An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or other person shall not make the notice void and in such a case the posted notice shall be sufficient.

15.10.080 Procedure for Enforcement.

The following are the general steps that should be conducted in the enforcement of derelict buildings. These procedures are intended as a guideline and strict adherence to this process is not required. Time lines may be shortened or lengthened depending on individual circumstances. These procedures do not prevent the use of other methods of enforcement that may be available to the City.

- A. Possible nuisance is identified by a city employee or through a complaint. Complaints may be made anonymously.
- B. The City Recorder or designee verifies that the nuisance exists and is a violation. The City Recorder or designee identifies property owner, person in charge, and/or person responsible for the violation.
- C. The City's Derelict Building Committee evaluates the City Recorder's determination and then either concurs or does not concur that the nuisance exists and is a violation. If a majority of the committee decides that a nuisance does not exist, then the City Recorder will note that decision for the file and take no further action on the matter.
- D. If a majority of the Derelict Building Committee determines a nuisance does exist, the City Recorder shall cause a notice to be posted on the premises where the nuisance exists and send a notice of violation by regular mail to the property owner or others advising of the nuisance, citing the specific violation and the options for completing the work. Staff will provide the options for rectifying the nuisance, repair, rehabilitation or abatement.
- E. If the property owner enters into a voluntary correction agreement with the City, then the steps in Section 15.10.100 for Voluntary Correction Agreement shall be followed.
- F. If the property owner does not enter into a voluntary correction agreement, then, after two weeks, the City Recorder or designee verifies if the nuisance still exists. If a nuisance does not exist, the City Recorder will note that fact for the file and take no further action on the matter.
- G. If nuisance persists, a second notice of violation is sent by regular and certified mail with due date of additional two weeks, and advisement of possible fines.
- H. After two weeks, the City Recorder verifies if nuisance still exists. If nuisance does not exist, the City Recorder will note that fact for the file and take no further action on the matter.
- I. If nuisance still exists, the City may issue a complaint to the property owner to appear in Municipal Court as permitted under Section 15.10.110 or may request the Council abate the nuisance in accordance with Section 15.10.120 and Section 15.10.130 of this chapter.
- J. Each day the nuisance persists is a separate violation.
- K. If the nuisance still exists after fines imposed in accordance with Section 15.10.110 and the property owner's failure to comply with a Municipal Court order, the City may abate the nuisance in accordance with Section 15.10.120 and Section 15.10.130 of this chapter and place a lien on the property for all of its costs incurred to abate the nuisance, including but not limited to attorney fees, and/or continue with other methods of enforcement available to the City.

15.10.090 Appeal to Hearings Officer and Abatement by the Owner.

A. On the date listed on the notice to abate the nuisance as contained on the posting and mailing of the notice as provided in Section 15.10.070, the owner or person in charge of the property shall have removed the nuisance or show that no nuisance exists.

B. The owner or person in charge protesting that no nuisance exists shall file with the City Recorder an appeal which shall specify the basis for appeal. A notice of violation may be appealed to the City by filing an appeal with the City Recorder within twelve (12) business days of the mailing date of the notice of violation.

C. The appeal shall be referred to the City's hearings officer. The hearings officer will set a date and time to consider the appeal. At the time set for consideration of the appeal, the owner or other person may appear and be heard. The hearings officer will thereupon determine whether or not a nuisance in fact exists and upon such determination will issue a written Notice of Decision.

D. If the hearings officer determines that a nuisance does in fact exist, the owner or other person shall, by a date as specified by the hearings officer's determination, abate such nuisance.

E. The decision of the hearings officer is final.

15.10.100 Voluntary Correction Agreement.

A. The City Recorder is authorized to execute a voluntary correction agreement with the owner of a dwelling, building, structure or property for which the owner has been issued a Notice of Violation in accordance with 15.10.070.

B. A voluntary correction agreement is a contract between the City of Mill City and the property owner in which the property owner agrees to abate the nuisance as described in the Notice of Violation. The voluntary correction agreement be in a form approved by the City and shall include:

1. The name and address of the owner of the property and any other person bound under the agreement.

2. The street address, assessor's map and tax lot number or other legal description sufficient to identify the premises.

3. A copy of the Notice of Violation or a description of the nuisance and conditions to be abated.

4. The corrective action to be taken and a date by which the corrective action must be completed. If a building permit is required, the agreement will state a date when the property owner, or his authorized representative, will submit a building permit application and plans meeting Linn County Building Department requirements.

5. A stipulation by the property owner that the illegal condition(s) identified in the Notice of Violation, complaint or order to exist and that the corrections specified in the voluntary correction agreement are appropriate and that the property owner agrees to make the corrections by the date and time specified. [Set by City Recorder, in consultation w/ city attorney and/or building official]

6. A stipulation by the property owner that the City of Mill City may abate the illegal condition(s) and recover costs and administrative fees as an assessment to the owner and a lien on the property pursuant to the City's nuisance abatement procedures in MCMC Chapter 8.04, in the event of a material breach of the voluntary correction agreement.

7. A stipulation by the property owner that the property owner will reimburse the city for all or an agreed upon portion of the city's enforcement costs and a statement of the costs and administrative fees to be paid, by whom and by what date.

8. A statement by the property owner that the City, its employees, contractors, agents and assigns, are permitted to enter the property at any reasonable time until the illegal condition is abated.

9. A statement that upon notification from the property owner that the work is complete, the City will inspect the premises, determine if the illegal conditions or nuisance no longer exists and issue a written notice to the property owner that the work is complete or if the City finds the corrective action is not complete and an illegal condition still exists.

C. The City Recorder may, in his or her sole discretion, extend deadline(s) for correction if the property owner has been diligent and made substantial progress but has been unavoidably delayed.

D. The City Recorder may determine that a material breach of a voluntary correction agreement has occurred and may further determine what shall be done to abate the illegal conditions which were the subject of the voluntary compliance agreement. The City Recorder shall cause a notice of such determination of a material breach of a voluntary compliance agreement to be forwarded by registered or certified mail, postage prepaid, to the owner or person in charge of the property at the last known address of such owner or other person. A copy of the City Recorder's determination will be provided to the Derelict Building Committee. The City Recorder's determination may be appealed to the City.

E. A written appeal of the City Recorder's determination that a material breach has occurred may be filed at City Hall within 21 days of the mailing date of the notice. The hearings officer, after consultation with the City Attorney, will set a date and time to consider the appeal. The property owner may appear at the appeal hearing and be heard by the hearings officer. The hearings officer will thereupon determine whether or not a material breach exists will issue a written Notice of Decision on the appeal. If the hearings officer determines that a material breach does in fact exist, the City may proceed with abatement of the nuisance under terms stipulated in the voluntary correction agreement. The decision of the hearings officer is final.

15.10.110 Penalties.

Any person violating any of the provisions herein for which a special penalty has not been expressly provided shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that a violation exists after due notice has been served shall be deemed a separate offense.

15.10.120 Abatement.

A. If, within the time allowed, the nuisance has not been corrected by the owner or person in charge of the property, the council may cause the nuisance to be abated.

B. The City official charged with abatement of such nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.

C. The City Recorder shall keep an accurate record of the expense incurred by the city in abating the nuisance and shall include therein a charge of twenty (20) percent of the expense for administrative overhead.

15.10.130 Assessment of Abatement Costs.

A. The City Recorder, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property a notice stating:

1. The total cost of abatement, including but not limited to the administrative overhead and outside consultant costs or legal fees;

2. That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of notice;

3. That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he/she may file a notice of objection with the City Recorder not more than twelve (12) business days from the date of notice.

B. The Council, in regular course of business, shall hear and determine the objections to the cost to be assessed.

C. The costs of abatement shall be paid in full within 30 days from the date of the Notice. In lieu of full payment within 30 days of the Notice, the City may enter into an installment payment agreement with the owner in charge of the property that provides for installment payments to the City for a period of up to five years for the full amount of the outstanding balance due to the City, plus accrued interest. The agreement will include a payment schedule. The interest rate shall be the rate set forth in Section 3.08.110 of this code or such other interest rate established by the City Council in the resolution adopted per subsection D. of this Section.

D. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, an assessment of the costs as stated or as determined by the Council shall be made by resolution and shall thereupon be entered in the docket of city liens and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

E. The lien shall be enforced in the same manner as liens for local improvements are enforced, as set forth in Chapter 3.08 of this code. The lien shall bear interest at the rate set forth in Section 3.08.110 of this code or such other interest rate established by the City Council in the lien resolution adopted per subsection D. of this Section. Such interest shall accrue from the date of the entry of the lien in the lien docket.

F. An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

SECTION 3. Ordinance 70, adopted March 14, 1962 and Ordinance 322, adopted May 25, 2004 are hereby repealed.

SECTION 4. Severability. The provisions of this ordinance are severable. If a section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

This Ordinance read for the first time by title only on the _____ day of _____, 2016.

This Ordinance read for a second time by title only on the _____ day of _____, 2016.

This Ordinance passed on the _____ day of _____, 2016 by the City Council and executed by the Mayor this _____ day of _____, 2016.

Date: _____

By: _____
THORIN F. THACKER, Mayor

Date: _____

Attest: _____
STACIE COOK, MMC, City Recorder

APPROVED AS TO FORM

Date: _____

By: _____
JAMES L. MCGEHEE, City Attorney