

ORDINANCE NO. 13-01

AN ORDINANCE ENACTING THE PROPERTY MAINTENANCE CODE OF THE CITY OF HEBRON, MORTON COUNTY, NORTH DAKOTA.

- 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEBRON, MORTON COUNTY, NORTH DAKOTA, THAT THE FOLLOWING PROPERTY MAINTENANCE CODE OF THE CITY OF HEBRON IS HEREBY ENACTED AND SHALL READ AS FOLLOWS:**

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CHAPTER 1 ADMINISTRATION

SECTION 101 GENERAL

101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Hebron, hereinafter referred to as "this code".

101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102 APPLICABILITY

102.1 General. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the City Building Code, City Electrical Code, City Plumbing Code, or City Fire Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the City Zoning Ordinances.

102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.

102.5 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

102.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings which such buildings or structures designated as historic buildings when such buildings or structures are judged by the City Building Inspector to be safe and in the public interest of health, safety and welfare.

102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the City Building Inspector

SECTION 103

DUTIES AND POWERS OF THE CITY BUILDING INSPECTION

103.1 General. The City Building Inspector shall enforce the provisions of this code.

103.2 Inspections. The City Building Inspector shall make all of the required inspections, or shall accept reports of inspection by agencies or individuals approved by the Hebron City Council. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The City Building Inspector is authorized to engage such expert opinion as deemed necessary.

103.3 Right of entry. The City Building Inspector is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the City Building Inspector is authorized to pursue recourse as provided by law.

103.4 Notices and orders. The City Building Inspector and the City Attorney shall issue all necessary notices or orders to ensure compliance with this code.

SECTION 104 APPROVAL

104.1 Modifications.

Whenever there are practical difficulties involved in carrying out the provisions of this code, the City Planning and Zoning Board shall have the authority to grant modifications for individual cases, provided that the City Planning and Zoning Board shall first find that special individual reasons make the strict letter of this code impractical and the modifications are in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements.

Applications for modifications shall be submitted to the City Building Inspector. Such application shall include:

- a. Name and address of applicant.
- b. Date of application.
- c. The special conditions or circumstances which are peculiar to the applicant's individual case.

After review of the application for a modification, the City Planning and Zoning Board shall notify the City Auditor in writing of the Board's recommendation with respect to the applied for modification. Thereafter, the City Auditor shall provide such written recommendation to the Hebron City Council which shall thereafter consider said application for modification at its next regularly scheduled city council meeting or at a special meeting called for this purpose. The Hebron City Council shall thereafter consider the application for modification and have the authority to either approve or reject the application for modification. The applicant has the right to appeal the Hebron City Council's decision pursuant to Section 110 herein.

104.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the City Building Inspector finds that the proposed design is satisfactory and complies with the intent of the

provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

104.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the City Building Inspector shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

104.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the City Building Inspector shall be permitted to use appropriate testing procedures developed by an approved agency.

104.3.2 Test reports. Reports of tests shall be retained by the City Building Inspector for the period required for retention of public records.

104.4 Material and equipment reuse. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

SECTION 105 VIOLATIONS

105.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

105.2 Notice of violation. The City Building Inspector and City Attorney shall serve a notice of violation or order in accordance with Section 106.

105.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 106 shall be deemed guilty of an infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the City Attorney shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the City of Hebron on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

105.4 Violation penalties. Any person, who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, shall be guilty of an infraction which has a maximum penalty of a fine not to exceed Five Hundred Dollars (\$500.00). Additionally, the court may assess the cost of any demolition, repair, or removal of a building or structure against the property in question as a lien against the real property from which the cost was incurred and the lien may be foreclosed in judicial proceedings in the manner provided by law for loans secured by liens on real property. If this amount is not adequate to cover the cost of demolition, repair, or removal, the City has a lien for the amount of the additional costs on real property owned, or later acquired, by the property owner in the City. If the City provides the amount of the lien and the name of the owner, the County Auditor shall enter on the tax list the amount of the additional cost as a tax lien. The tax lien is enforceable by the City in the same manner as a tax lien by a county. This subsection in no way limits or restricts any authority which is now or may hereafter be vested in the State Fire Marshall for the regulation or control of such buildings or structures.

105.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the City of Hebron from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

SECTION 106 NOTICES AND ORDERS

106.1 Notice to person responsible. Whenever the City Building Inspector determines that there has been a violation of this code or has grounds to believe that a violation has occurred, appropriate notices shall be given in the manner prescribed in Sections 106.2 and 106.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 107.3.

106.2 Forms.

1. **NOTICE OF INSPECTION** - A Notice of Inspection prescribed in Section 106.1 shall be in accordance with all of the following for an alleged violation or violations:

- a. Be in writing.
- b. Include a description of the real estate sufficient for identification.
- c. Include a statement of the alleged violation(s) and why the notice is being issued.
- d. Include a statement requesting the responsible person for the alleged violation(s) to contact the City Building Inspector to discuss the alleged violation(s) and to schedule an onsite inspection with the City Building Inspector.

- e. Include a statement that if an onsite inspection by the City Building Inspector is refused by the person responsible for the alleged violation(s) then such alleged violation(s) shall be deemed to exist and that a Notice of Violation as described below shall be immediately issued to the person responsible for the alleged violation(s).

2. NOTICE OF VIOLATIONS - A Notice of Violation prescribed in Section 106.1 shall be in accordance with all of the following for a determined violation or violations:

- a. Be in writing.
- b. Include a description of the real estate sufficient for identification.
- c. Include a statement of the violation(s) and why the notice is being issued.
- d. Include a statement requesting the person responsible for the violation(s) to contact the City Building Inspector to schedule an appointment for the City Building Inspector to inspect the property in question. This statement shall also provide notice to the person responsible for the violation(s) of the City's right to seek a court order authorizing the inspection of the property in question to determine whether the property in question is in compliance with this Ordinance.
- e. To the extent that such violation(s) can be determined by the City Building Inspector, the Notice of Violation shall include a statement of the compliance deadline for the repairs and improvements required to bring the property in question into compliance with the provisions of this Ordinance and all subsequent amendments thereto.
- f. Include a statement advising the person responsible for the violation(s) of his or her right to appeal the Notice of Violations as per section 110.1.
- g. Include a statement advising the person responsible for the violation(s) of his or her right to request a modification as per Section 104.1.
- h. Include a statement advising the person responsible for the violation(s) that failure to bring the property into full compliance with this Ordinance may result in the City commencing legal action against the person in municipal court.
- i. Include a statement advising the person responsible for the violation(s) of the penalty provisions as provided in Section 105 and also advising that each day that a violation continues to occur after the compliance deadline may be deemed a separate offense for which the person may be prosecuted and penalized.

106.3 Method of service. Such notices shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or

3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

106.4 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 105.4.

106.5 Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the City Building Inspector and City Attorney and shall furnish to the City Building Inspector and City Attorney a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation. Lack of notice of a compliance order or a Notice of Violation shall not be a defense by grantee, transferee, mortgagee, or lessee and said grantee, transferee, mortgagee, or lessee shall have the same responsibility and obligation to bring his or her property into full compliance with this Ordinance.

SECTION 107

UNSAFE STRUCTURES AND EQUIPMENT

107.1 General. When a structure or equipment is found by the City Building Inspector to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

107.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

107.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

107.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the City Building Inspector finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat

infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

107.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

107.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the City Building Inspector and City Attorney are authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the City Building Inspector shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

107.3 Notice. Whenever the City Building Inspector and City Attorney condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 106.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 106.2.

107.4 Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, City Building Inspector and City Attorney shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

107.4.1 Placard removal. The City Building Inspector and City Attorney shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the City Building Inspector and City Attorney shall be subject to the penalties provided by this code.

107.5 Prohibited occupancy. Any occupied structure condemned and placarded by the City Building Inspector and City Attorney shall be vacated as ordered by the City Building Inspector and City Attorney. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

SECTION 108 EMERGENCY MEASURES

108.1 Imminent danger. When, in the opinion of the City Building Inspector, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the City Building Inspector is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The City Building Inspector shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the City Building Inspector." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

108.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the City Building Inspector, there is imminent danger due to an unsafe condition, the City Building Inspector shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the City Building Inspector deems necessary to meet such emergency.

108.3 Closing streets. When necessary for public safety, the City Building Inspector shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

108.4 Emergency repairs. For the purposes of this section, the City Building Inspector shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

108.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The City Attorney shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

108.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon request directed to the Municipal Court of the City of Hebron, be afforded a hearing as described in this code.