

ORDINANCE NO. 15-02

AN ORDINANCE RELATING TO DANGEROUS BUILDINGS

THE COUNCIL OF THE TOWN OF FREDERICA HEREBY ORDAINS:

Section 1. That Chapter 102 of the Frederica Code of Ordinances shall be amended by adding a new article to read as follows:

ARTICLE III. - DANGEROUS BUILDINGS

Sec. 102-10. - Definitions.

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

Dangerous buildings means all buildings or structures which have any or all of the following defects or uses:

- (1) *Leaning interior walls.* Those of which the interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) *Damaged walls, etc.* Those which, exclusive of the foundation, show 33 percent or more of damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (3) *Loads on roofs.* Those which have improperly distributed loads upon the floors or roofs or which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (4) *Fire damage, etc.* Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.
- (5) *Unfit for habitation.* Those which have become or are so dilapidated, decayed, unsafe, insanitary or so utterly fail to provide the amenities to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

- (6) *Light, air, sanitation.* Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.
- (7) *Fire escapes, etc.* Those having inadequate facilities in case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of communication.
- (8) *Loose parts.* Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (9) *General welfare.* Those which, because of their condition or use, are unsafe, insanitary, or dangerous to the public health, morals, safety or general welfare of the people of this city.
- (10) *Code violations.* Those existing in violation of any provisions of the building code of this city, or any provision of the fire prevention code, or other ordinances of this city.
- (11) *Drug sales, use, etc.* Those which are being used for the unlawful selling, serving, storing, giving away or manufacturing (which includes the production, preparation, compounding, conversion, processing, packaging or repackaging) of any drug, which includes all narcotic or psychoactive drugs, cannabis, cocaine and all controlled substances as defined in the Uniform Controlled Substances Act (16 Del. C. § 4701 et seq.).
- (12) *Unoccupied buildings.* Those which are left unoccupied and unattended for periods of three months or more so that decay is being accelerated by natural or manmade causes or which may be attracting trespassers and vagrants, increasing the probability of fire and danger to human life.
- (13) *Incomplete buildings.* Those under construction, if the authorized work is substantially suspended or abandoned for a period of three months or more.

Sec. 102-11. - Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the building inspector in ordering repair, vacation, or demolition of dangerous buildings:

- (1) *Repair.* If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.
- (2) *Vacation.* If the dangerous building is in such a condition or is being used as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated and closed. Buildings ordered closed shall not be reopened until a certificate of occupancy is issued.
- (3) *Demolition.* In any case where a dangerous building is 50 percent damaged, decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished. In all cases where a dangerous building is a fire hazard as determined by the fire marshal, or is existing or erected in violation of the

terms of this article or any ordinance of the city or statute of the state, it may be demolished.

Sec. 102-12. - Nuisance declared.

All dangerous buildings within the terms of section 102-11 are hereby declared to be public nuisances, and shall be repaired, vacated and closed or demolished as hereinbefore and hereafter provided.

Sec. 102-13. - Duties of building inspector.

The building inspector shall:

- (1) *Inspect public buildings.* Inspect or cause to be inspected semiannually all public buildings, schools, halls, churches, theaters, hotels, tenements, or commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building within the terms of section 102-11
- (2) *Complaints.* Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.
- (3) *Reported violations.* Inspect any building, wall or structure reported (as hereinafter provided for) by the fire or police departments of this city as probably existing in violation of this article.
- (4) *Dangerous buildings.* Inspect such other buildings as shall from time to time come to his attention as possibly dangerous buildings within the terms of section 102-11
- (5) *Notice to owner.* Notify, in writing, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building, as shown by the land records of the recorder of deeds of the county, of any building found by him to be a dangerous building within the standards set forth in section 102-11, that:
 - a. *Duties of owner.* The owner must vacate and close, or repair, or demolish said building in accordance with the terms of the notice and this article;
 - b. *Duties of occupant.* The occupant or lessee must vacate and close said building or may have it repaired in accordance with the notice and remain in possession;
 - c. *Persons with interest.* The mortgagee, agent or other persons having an interest in said building, as shown by the land records of the recorder of deeds of the county, may, at their own risk, repair, vacate and close, or demolish said building or have such work or act done; provided that any person notified under this subsection to repair, vacate and close, or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein;
 - d. *Appeal.* The person or entity receiving notice by the building inspector shall have the right to appeal his decision directly to the council and have a hearing conducted

in accordance with the provisions of section 102-14 before council, provided that the notice of appeal is filed with the city clerk no later than five days after receiving notice from the building inspector.

- (6) *Order to remedy conditions.* Set forth in the notice provided for in subsection (5) hereof a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable.
- (7) *Noncompliance with notice.* Report to the council any noncompliance with the notice provided for in subsections (5) and (6) hereof.
- (8) *Testify at hearings.* Appear at all hearings conducted by the council and testify as to the condition of dangerous buildings.
- (9) *Notice on buildings.* Place a notice on all dangerous buildings, reading as follows:

"This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building unit until it is repaired, vacated and closed, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building, as shown by the land records of the recorder of deeds of Kent County. It is unlawful to remove this notice until such notice is complied with."
- (10) *Orders of council.* Carry out all orders of the council to cause the repair, vacation and closure, or demolition of dangerous buildings pursuant to section 102-14. In causing the vacation of the dangerous building, the building inspector may order the city utilities to be disconnected. In causing the closure of dangerous buildings, the building inspector may direct the removal from the building of all furniture, equipment and other personal property left by vacated occupants.

Sec. 102-14. - Hearing before council.

The council of the city shall:

- (1) *Notice of hearing.* Upon receipt of a report of the building inspector as provided for in section 102-13 (7), give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building, as shown by the records of the recorder of deeds of the county, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated and closed, or demolished in accordance with the statement of particulars set forth in the building inspector's notice provided for herein in section 102-13 (6).
- (2) *Conduct of hearing.* Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee, or any other person having an interest in said building, as shown by the land records of the recorder of deeds of the county, shall offer

relative to the dangerous building. Hearings relative to reported dangerous buildings as defined in section 102-10 (11) shall include the testimony of a police officer, who may submit arrest records, complaint records, and affidavits relative to the property as evidence for the hearing.

- (3) *Findings.* Make written findings of fact from the testimony offered pursuant to subsection (2) of this section as to whether or not the building in question is a dangerous building within the terms of section 102-10.
- (4) *Order.* Issue an order based upon findings of fact made pursuant to subsection (3) of this section, commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building, as shown on the land records of the recorder of deeds of the county, to repair, vacate and close, or demolish any building found to be a dangerous building within the terms of this article, setting the time within which said building shall be repaired, vacated and closed, or demolished, and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said dangerous building; or any person not the owner of said dangerous building but having an interest in said building as shown by the land records of the recorder of deeds of the county may demolish said dangerous building at his own risk to prevent the acquiring of a lien against the land upon which said dangerous building stands by the city as provided in subsection (5) hereof.
- (5) *Failure to comply.* If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (4) hereof within ten days, cause such building or structure to be repaired, vacated and closed, or demolished, as the facts may warrant, under the standards hereinbefore provided for in section 102-13, and shall, with the assistance of the city solicitor, cause the costs of such repair, vacation, or demolition to be charged against the land on which the building existed as a municipal lien or cause such costs to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in a suit at law against the owner, provided that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety, or general welfare of the people of this city, the council shall notify the city solicitor to take legal action to force the owner to make all necessary repairs or demolish the building.
- (6) *Report to solicitor.* Report to the city solicitor the names of all persons not complying with the order provided for in subsection (4) hereof.

Sec. 102-15. - Violations; penalty for disregarding notices or orders.

- (a) *Violations by owner.* The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate and close, or demolish said building given by the council shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided for in Appendix F—Fees and Fines.

(b) *Violations by occupant or lessee.* The occupant or lessee in possession who fails to comply with any notice to vacate and close or who fails to repair said building in accordance with any notice given by the council as provided for in this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided for in Appendix F— Fees and Fines.

(c) *Removal of notice.* Any person removing the notice provided for in section 102-13(9) shall be guilty of a misdemeanor and, upon conviction, shall be fined \$100.

(d) *[Late payment.]* Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.

Sec. 102-16. - Duties of the city solicitor.

The city solicitor shall:

- (1) *Prosecutions.* Prosecute all persons failing to comply with the terms of the order provided for in section 102-14 (4).
- (2) *Hearings.* Appear at all hearings before the council in regard to dangerous buildings.
- (3) *Collections.* Bring suit to collect all municipal liens, assessments, or costs incurred in repairing or causing to be vacated and closed or demolished dangerous buildings.
- (4) *Other legal action.* Take such other legal action as is necessary to carry out the terms and provisions of this article.

Sec. 102-17. - Emergency cases.

In cases where it reasonably appears that there is an immediate danger to the life or safety of any person, unless a dangerous building is immediately repaired, vacated and closed, or demolished, the building inspector shall report such facts to the council, which may cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in section 102-14 (5).

Sec. 102-18. - Procedure when owner absent from the city.

In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the city, all notices or orders provided for herein shall be sent by registered or certified mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building, as shown by the land records of the recorder of deeds of the county, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

Sec. 102-19. - Administrative liability.

No officer, agent, or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit against any officer, agent, or employee of the city as a result of any act required or permitted in the discharge of his duties under this article shall be defended by the city solicitor until the final determination of the proceedings therein.

Sec. 102-20. - Duties of fire marshal and city employees.

All members of the fire department, all officers of the police department, and all other employees of the city shall report, in writing, to the building inspector all buildings or structures within the city which shall come to their knowledge or attention as being dangerous buildings within the terms of this article.

Section 2. Severability. The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph shall be held unconstitutional or violate the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 3. Effective Date. This ordinance shall become effective thirty days after adoption..

SYNOPSIS

This ordinance provides a procedure for dealing with dangerous buildings.

Repealer: All ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Date of Effect: The Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take effect and be in force thirty days from and after its approval by Council.

ORDAINED AND ENACTED INTO THE LAW by a majority vote of the Council Members present at a regular session of Frederica Town Council, Delaware on the 7th day of October, A.D. 2015.

First Reading: September 16, 2015

Public Hearing and Second Reading: Oct. 7, 2015

Published: Sept. 20, 2015

William C. Glanden

William C. Glanden

Mayor

I do hereby certify that the foregoing is a true and correct copy of the Ordinance passed by the Town Council at its meeting on Oct. 7 2015 at which meeting a quorum was present and voting throughout that the same is still in full force and effect.

Janet M. White

Clerk