

CHAPTER 1328

Property Maintenance Code

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CHAPTER 1328: Dangerous Buildings

CROSS REFERENCES

Definitions – Chapter 1327.02

Summit County Building Code

1328.01 ZONING ADMINISTRATOR

Zoning Administrator shall have the same description and responsibilities as outlined in Section 1102.02 of the Tallmadge Zoning Code.

1328.02 DANGEROUS BUILDING DEFINED.

All buildings or structures which have any of the following defects may be deemed “dangerous buildings.”

- (a) Those whose 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.
- (b) Those which, exclusive of the foundation, show thirty-three percent (33%) or more of damage or deterioration of the supporting member or members, or fifty percent (50%) of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (e) Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation.
- (f) 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.
- (g) Those having inadequate facilities for egress in case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of communication.
- (h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (i) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety, or general welfare of the occupants of the city.
- (j) Those buildings existing in violation of any provisions of the Tallmadge Building Code, any provision of the Fire Prevention Code, other ordinances of the city, or Summit County Building Code.
- (k) Those buildings which are vacant and unguarded at the doors or windows.
- (l) Those buildings which have been condemned by the Summit County Building Department.

(l) Those buildings which are the site of a clandestine drug lab and the damage from such drug lab is found to be so severe that clean-up alone is impractical or ineffective to reduce the associated health and safety risks.

1328.03 DANGEROUS BUILDINGS; NUISANCES.

As used in this chapter, all dangerous buildings, within the terms of Section 1328.02 are hereby declared and shall be deemed to be public nuisances by reason of the condition in which the same are permitted to be or remain, and which shall or may endanger the health, life, limb, or property, or cause any hurt, harm, inconvenience, discomfort, damage, or injury to any one or more persons in the city, including but not limited to any one or more of the following particulars:

- (a) By reasons of being a nuisance to the general health of the community.
- (b) By reason of being a fire hazard.
- (c) By reason of being unsafe for occupancy or use on, in, upon, about, or around the aforesaid premises.
- (d) By reasons of being a nuisance, because of long-continued vacancy, lack of reasonable or adequate maintenance of structure and/or premises adjacent thereto, thereby depreciating the enjoyment and use of property in the immediate vicinity to such an extent that it is harmful to the community in which such structure is situated.

1328.04 UNSAFE CONDITIONS; REPORTS.

Any owner, manager, lessee, or occupant of a building who discovers or who has reason to believe that there exists, on the premises, a condition which may endanger other property or the life or limb of any person, and such condition cannot be immediately remedied so as to remove any danger therefrom, shall, within twenty-four hours after such discovery, report the existence of such dangerous condition to the Zoning Administrator, who shall forthwith take such steps as may be necessary to protect the public safety and welfare. No person who is an owner, manager, lessee, or occupant of a building on which premises such a dangerous condition exists and who knows or should know of such dangerous condition shall fail to make such report to Zoning Administrator within twenty-four (24) hours after such knowledge is obtained or should have been obtained.

1328.05 STRUCTURES VACANT AND OPEN ENTRY.

(a) Responsibility. The record titled owner(s) of any parcel located within the City on which there is a principal structure that has been voluntarily vacant for at least six (6) months shall provide the Director of Public Service the name, address, and contact information of the person(s) responsible for the maintenance of the property during vacancy. In the event that a principal structure becomes involuntarily vacant by court order, foreclosure, or other reason, the titled owner(s) shall provide the Director of Public Service, within ten days of such involuntary vacancy with:

- (1) The titled owner(s) current address; and
- (2) A copy of the court order, notice, statement or other document that terminated rights to possession and/or control of the property.

(b) Zoning Administrator or Designee to Secure. Whenever the Zoning Administrator or designee finds a vacant structure open to entry at doors, windows, or other points accessible to the general public, the Zoning Administrator or designee may cause the structure to be secured at those points of entry. The Zoning Administrator or designee shall be authorized at any time to enter upon the premises and secure the structure in order to lessen the severity of risk caused by the dangerous building. In securing such structure, the Zoning Administrator or designee may call upon any department, division, or bureau of the city or whatever assistance may be necessary, or may, by private contract, secure such structure. Such securing shall not abate the necessity to repair or remove the dangerous building. The Notice of Violation shall include the fact that the Zoning Administrator or designee has found it necessary to take appropriate action to secure the structure.

1328.06 AGREEMENT TO REPAIR OR REMOVE.

The record title holders and lienholders of the property may enter into an agreement with the city to perform the repair or removal of an unsafe building.

1328.07 AUTHORITY TO EXAMINE PREMISES.

The Zoning Administrator or Designee shall be empowered to examine or cause to be examined any building or dwelling within the city, to determine whether such building or dwelling is dangerous, unsafe, or constitutes a nuisance, as provided by this chapter, and may apply to a court of competent jurisdiction for an administrative search warrant to enter said premises for inspection.

1328.08 REMEDIAL ORDER; NOTICE.

(a) If the Zoning Administrator or designee examines or causes to be examined a building or structure or portion thereof and determines it to be a dangerous building, the Zoning Administrator or designee shall provide notice to the owner and lienholders of the property.

(b) Notice of violation and order.

(1) The Zoning Administrator or designee shall give written notice to the record title owner(s) and lienholder(s) of the property by regular 1st Class U.S. mail and post signs on the dangerous building in accordance with Section 1328.09 of the Zoning Administrator's or designee's condemnation order and/or designation of the building as a dangerous building. The violation and order notice must include the Zoning Administrator's or designee's intention to either require repair or demolish the dangerous building under Section 1328.11. The violation and order notice must also include the name, address, and phone number of the office of the Zoning Administrator, the address of the dangerous building, the name and last known address of the record title owner of the dangerous building, and the date by which the record title owner(s) must contact the Zoning Administrator in writing. If the Zoning Administrator's or designee's order requires repair of the dangerous building, the notice must include a list of repairs to be made and a date by which the repairs must be completed. The Notice of Violation shall include written notice of any action taken pursuant to 1328.05.

(2) Unless another deadline is established under this chapter or by the written notice of violation and order, the record title owner(s) shall contact the Zoning Administrator in writing within fourteen (14) days of the date the notice of violation and order is mailed.

(3) Unless another deadline is established under this chapter or by the written notice of violation and order, the record title owner(s) shall comply with the notice of violation and order requirement(s) to either repair or demolish the dangerous building within thirty-five (35) days of the date the notice of violation and order is mailed.

(4) If any emergency exists, written notice may be given by other means fifteen (15) days prior to demolition.

(5) If the record title owner(s) fails to contact the Zoning Administrator by the date provided on the written notice, or the notice of violation and order is returned undeliverable by the United States Postal Service (USPS), the Zoning Administrator or designee shall cause the notice of violation and order to be made by publication in a newspaper of general circulation in the county. The publication shall be published at least once a week for three (3) successive weeks and shall contain the name, address, and phone number of the office of the Zoning Administrator, the address of the dangerous building, the name and last known address of the record title owner of the dangerous building, the name and last known address of any and all lienholders of the dangerous building, a summary statement that the building has been determined to be dangerous and that the building must be repaired or demolished, and that the record title owner is required to contact the Zoning Administrator or designee and comply with the notice of violation and order within fifteen (15) days after the last publication.

(6) The Zoning Administrator or designee may grant an extension of time for compliance with the notice of violation and order upon the record title owner's written request and for good cause shown.

(c) It shall be unlawful for the owner of any dwelling unit or structure who has received a notice pursuant to paragraph (b), or whom a notice of violation has been served, to sell, transfer, mortgage, lease, or otherwise dispose of property to another until the provisions of the notice of violation and order have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such notice of violation issued by the Zoning Administrator or designee, and furnish the Zoning Administrator with a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such notice of violation and fully accepting the responsibility, without condition unless agreed to by the Zoning Administrator, for making the corrections or repairs required by such notice of violation.

1328.09 POSTING OF SIGNS.

The Zoning Administrator or designee shall cause to be posted at each entrance to or conspicuous place on a dangerous building or structure or portion thereof a notice to read: "CONDEMNED. DO NOT ENTER. UNSAFE TO OCCUPY. BUILDING CODE REGULATION, CITY OF TALLMADGE, OHIO." Such notice shall include the date of posting and a deadline as established in Section 1328.08 of this code. Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person to remove such notice without permission from the Zoning Administrator or designee or for any person to enter the building, except for the purpose of making the required repairs or demolishing the

same. Any person who shall occupy a placarded premises and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises shall be liable for the penalties provided by this code.

1328.10 PERMITS.

In all cases of construction or repair pursuant to orders of the Zoning Administrator or designee, permits covering such work shall be obtained as required by law.

1328.11 RIGHT TO DEMOLISH.

In case the record title owner(s), or the purchaser under a land contract if that be the case, shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or demolish and remove said dangerous building or structure or portion thereof, such party, either the record title owner(s) or the purchaser under land contract, shall be subject to the penal provisions of this building code and the Zoning Administrator or designee may proceed to have the building or structure or portion thereof demolished and removed from the premises, leaving the premises in a clean, safe, and sanitary condition. When any structure has been ordered to be demolished, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell or offset cost of demolition the salvage and valuable materials at the highest price obtainable.

1328.12 FAILURE TO ACT; REMEDY BY CITY; COSTS CERTIFIED AS LIEN.

Any and all costs incurred under this chapter shall be paid by the record title owner(s) of such building or structure. The record title owner(s) shall reimburse the city all expenses, including but not limited to the cost of securing, boarding, vacating, repairing, or demolishing the dangerous building.

If any person fails to comply with any lawful order of the Zoning Administrator or designee within the time limit specified in such order, the Zoning Administrator or designee shall cause such building to be secured, effectively boarded, vacated, repaired, or demolished, as the facts may warrant, under the standards provided for in this chapter. If record title owner(s) fails to pay the cost to secure, board, vacate, repair, and/or demolish the dangerous building within thirty (30) days after notice of the amount of the expense, the Director of Public Service shall certify the same to the appropriate County Auditor to be placed upon the tax duplicate and collected as other taxes are collected according to law.

Notwithstanding the power and authority to certify a lien, set forth in this section, nothing shall abrogate nor limit any other right of recovery the city may have. The Director of Law shall take any action necessary to collect the costs incurred under this chapter from the record title owner(s) or other responsible party.

1328.13 ENFORCEMENT.

The Zoning Administrator or designee, which may include, but is not limited to, the Summit County Building Department officials, have full authority to apply for warrants, issue orders, compel repair or demolition, and any other act called for by this chapter or by law. The City of Tallmadge may use the remedies detailed in this chapter and/or any other remedies available under the law.

1328.14 APPEAL TO BOARD OF ZONING APPEALS.

(a) Any owner, manager, lessee, or occupant of a building who has been notified by the Zoning Administrator or designee to repair or demolish a structure under this Chapter, may appeal that order within fifteen (15) days of notice of such order to the Board of Zoning Appeals by filing a written Notice of Appeal and including the applicable fee as contained in the zoning code. The written Notice of Appeal shall state the reason for said appeal.

(b) All appeals initiated under Section 1328.14(a) shall be filed in writing with the secretary of the Board of Zoning Appeals, who shall promptly forward the appeal to the Board of Zoning Appeals.

(c) Upon receipt of an appeal commenced under Section 1328.14(a), the Board of Zoning Appeals shall cause a meeting for the hearing of the appeal to be scheduled in accordance with the zoning code.

(d) On any appeal filed under Section 1328.14(a), the Board of Zoning Appeals may modify, reverse, or affirm the decision of the Zoning Administrator or designee. All appeals shall be considered de novo.

(e) Upon the submission of the appeal under this section, all orders of the Zoning Administrator or designee shall be stayed, unless the Zoning Administrator or designee certifies in writing that the order is in response to an emergency situation necessary for the immediate preservation of the health, safety, and welfare of the community.

1328.15 Penalty.

(a) The owner of any dangerous building who fails to comply with any notice or order to repair, vacate, or demolish such building, given by any person authorized by this chapter to give such notice or order, shall be guilty of a misdemeanor of the first degree for each offense. Each day of noncompliance with this chapter shall constitute a separate offense.

(b) Any owner of a dangerous building who sells, transfers, mortgages, leases, or otherwise disposes of property to another without compliance with Section 1328.08(c) shall be guilty of a misdemeanor of the first degree.

(c) The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair such building in accordance with any notice given, as provided in this chapter, shall be guilty of a misdemeanor of the second degree for each offense. Each day of noncompliance with this chapter shall constitute a separate offense.

(d) Whoever violates Section 1328.09 of this chapter shall be guilty of a misdemeanor of the second degree for each offense. Each day of noncompliance with this chapter shall constitute a separate offense.

(e) Whoever violates any other section of this chapter is guilty of a minor misdemeanor for each offense. Each day of noncompliance with this chapter shall constitute a separate offense.