

ORDINANCE NUMBER 233

AN ORDINANCE TO DEFINE DANGEROUS BUILDINGS, TO ALLOW FOR THE ABATEMENT OF DANGEROUS BUILDINGS, AND TO IMPOSE PENALTIES AND COSTS FOR ALLOWING A DANGEROUS BUILDING

Whereas, the Town of Hugo, hereinafter referred to as the “Town”, in the County of Lincoln, State of Colorado, is the body corporate operating as a statutory town pursuant to the general statutes of the State of Colorado; and

Whereas, Colorado Revised Statutes, C.R.S. 31-15-401, et. seq., gives to the governing bodies of municipalities the authority to regulate the police of the municipality and pass and enforce all necessary police ordinances and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease, and to declare what is a nuisance and to abate the same, imposing fines upon parties who may create or continue nuisances or suffer nuisances to exist; and

Whereas, Colorado Revised Statutes 31-15-601, et, seq., gives to the governing bodies of municipalities the authority to direct that any buildings or structures when the same have been damaged by fire or decay to the point that the building or structure is a fire hazard or otherwise dangerous or harmful to the citizens of the municipality be torn down or removed or placed in a safe condition; and

Whereas, the Board of Trustees, hereinafter referred to as the “Board” has determined that there may be dangerous buildings or structures within the community, which are a nuisance and dangerous, or potentially dangerous to the citizens, which buildings or structures should be subject to rehabilitation or removal;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUGO, COLORADO:

SECTION I – PURPOSE AND SCOPE: It is the purpose of this Ordinance to provide a just, equitable, and practicable method whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety, or welfare of the general public or their occupants may be required to be repaired, vacated, or demolished. The provisions of this Ordinance shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous within the Town of Hugo.

SECTION II - DANGEROUS BUILDING DEFINED: A “dangerous building” is any building or structure deemed to be dangerous under any of the following provisions:

A. Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration, decay, faulty construction; removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay, or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse.

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

C. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children; a harbor for vagrants, criminals or immoral persons; or as to enable persons to resort thereof for the purpose of committing unlawful or immoral acts.

D. 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 a town, county, or state health officer, or caseworker to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease.

E. 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 town fire marshal, or appropriate county or state officials, to be a fire hazard.

F. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or by state statute.

G. 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 (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

SECTION III - NUISANCE DECLARED; PROHIBITED: All buildings or portions thereof which are determined after inspection by the Town's Representative to be dangerous as defined in this Ordinance are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in this Ordinance.

SECTION IV - ENFORCEMENT; INSPECTION; DETERMINATION:

A. The Town Board shall appoint a Town Representative to enforce the provisions of this Ordinance. This Town Representative shall have at least the minimum training or education necessary to interpret and enforce the provisions of this Ordinance and may employ, if deemed necessary, engineering or other technical expertise to determine those portions of the dangerous building definition applicable to structural or construction issues.

B. The Town Representative is hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this Ordinance.

C. When it is necessary to make an inspection to enforce the provisions of this Ordinance, or when the Town Representative has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this Ordinance which makes the building or premises unsafe, dangerous or hazardous, the Town Representative may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Ordinance, provided that if such building or premises is occupied, that credentials be presented to the occupant and entry requested. If such building or premises are unoccupied, the Town Representative shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the Town Representative shall have recourse to the remedies provided by law to secure entry.

SECTION V - ABATEMENT; PROCEEDINGS:

A. When the Town Representative has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the Town Representative shall commence proceedings to cause the repair, vacation or demolition of the building.

B. The Town Representative shall issue a notice and order directed to the record owner of the building and to the occupant of the building, if known.

1. The notice and order shall contain the following:

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

b. A statement that the Town Representative has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of this Ordinance.

c. A statement of the action required to be taken as determined by the Town Representative. Such statement of action may be one of the following:

(1) If the Town Representative has determined that the building or structure must be repaired, the order shall require that the owner obtain all necessary permits, if any, and that all repairs commence within such time (not to exceed sixty days from the date of the order) and completed within such time as the Town Representative shall determine is reasonable under all of the circumstances.

(2) If the Town Representative has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the Town Representative to be reasonable.

(3) If the Town Representative has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Town Representative shall determine is reasonable (not to exceed sixty days from the date of the order); that all required permits be secured therefore within sixty days from the date of the order; and that the demolition be completed within such time as the Town Representative shall determine is reasonable.

d. Statements advising that if any required repair or demolition work is not commenced within the time specified, the Town Representative will order the building vacated and posted to prevent further occupancy until the work is completed and may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

e. Statements advising that any person having any record title or legal interest in the building may appeal from the notice and order of any action of the Town Representative to the Town Board, provided the appeal is made in writing and filed with the Town Clerk within thirty (30) days from the date of service of such notice and order; and that failure to appeal in a timely manner will constitute a waiver of all right to an appeal hearing. Any appeal shall state with specificity the reasons for the appeal.

f. Statements advising that the order may be enforced by the Municipal Court for the Town of Hugo.

2. Service of the notice and order may be made upon the owner or possessor of the property by either mailing a copy of the notice and order to the owner or possessor by certified mail, delivering a copy of the notice and order to the owner or possessor at his or her address or wherever he or she may be found, and / or by posting such notice and order to the front door or other visible portion of the subject property.

SECTION VI - ABATEMENT ENFORCEMENT

A. Refusal to Comply: Should the owner, or person or persons in control of the dangerous building fail or refuse to comply with the notice and order issued by the Town's Representative, and further fails to appeal to the Town Board within the time required by this Ordinance, the Town's Representative shall cause a summons and complaint to be served upon the person or persons, in accordance with the Colorado municipal court rules of procedure, requiring the person or persons to appear in Hugo Municipal Court on a date certain to answer the charges against him or her. Nothing in this Ordinance shall be construed to prevent the Town from taking immediate action to abate the dangerous building if in the Town's Representative's discretion immediate action is required due to an imminent and immediate hazard, danger, and safety factor existing to the public at large if immediate action is not taken.

B. Abatement: The Town, through its appointed Representative, upon the determination that an owner, person, or persons, in control of a dangerous building, has failed and refused to bring the dangerous building into compliance, and / or upon a finding of the Hugo Municipal Court Judge that the subject property is in violation of this Ordinance, may take such action as is necessary to abate the dangerous building and to bring the subject property into compliance. The whole cost, thereof, including the Town's reasonable costs (including legal, engineering, and other technical expenses) incurred in enforcing this Ordinance, together with five percent (5%) for inspection and other incidental costs in connection therewith, shall be assessed upon the lots and tracts of land which have been adjudicated to be a dangerous building. The assessment shall be a lien against each lot or tract of land until paid, the expenses and assessment to be paid within thirty (30) days of assessment. The land owner may request a hearing upon the reasonableness of the assessment provided that such request is made within ten (10) days of the assessment.

C. Certification to County Treasurer: In the event the assessment for the abatement of the dangerous building is not paid within thirty (30) days of the final billing of the Town, or of such deadline as is established by the Hugo Municipal Court, whichever the case may be, the Town may certify the sum owed to the Lincoln County Treasurer who shall collect the assessment, together with a ten percent (10%) penalty for cost of collection, in the same manner as other taxes are collected against real property.

SECTION VII - VIOLATION; PENALTY: 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, maintain, or allow any building or structure or cause or permit the same to be done in violation of the terms of this Ordinance. Those persons or entities in violation of the provisions of this Ordinance may be subject to a fine not to exceed five hundred dollars (\$500.00) for each violation of this Ordinance, and for each day that the property is not in compliance with the provisions of this Ordinance.

SECTION VIII – SEVERABILITY.

If any one or more sections or parts of this Ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, it being the intention that the various provisions hereof are severable.

SECTION IX – REPEALER.

All acts, orders, resolutions, ordinances, or parts thereof, of the Town of Hugo that is inconsistent or in conflict with this Ordinance is hereby repealed to the extent only of such inconsistency or conflict.

SECTION X – RECORDING AND AUTHENTICATION.

Following adoption, this Ordinance shall be authenticated by the signature of the Mayor and the Town Clerk and shall be recorded in the Town of Hugo book of ordinances. This Ordinance shall take effect thirty (30) days after publication as required by law.

INTRODUCED, READ, ADOPTED, AND ORDERED PUBLISHED this twelfth day of March, 2012.

MAYOR

ATTEST:

TOWN CLERK

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