

**AMENDMENT TO ORDINANCES SECTION NO. 92.21 AND 92.23  
AND ESTABLISHMENT OF ORDINANCE SECTION 92.25**

**AN ORDINANCE DEALING WITH ABATEMENT PROCEDURES  
IN THE CITY OF BROWNS VALLEY**

Findings.

1. The Browns Valley Code of Ordinance contains provisions for dealing with substandard and dilapidated buildings and structures.
2. The Browns Valley City Council does not believe that the existing Ordinance contains adequate procedures to deal with handling these substandard and dilapidated buildings and structures.
3. The Browns Valley City Council believes that it is in the best interests of the residents of the City of Browns Valley to amend the existing Ordinance dealing with substandard and dilapidated buildings and structures in order to allow better abatement procedures.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BROWNS VALLEY ORDAINS AS FOLLOWS:**

1. **That Section 92.21 of Browns Valley City Ordinance is hereby amended to read as follows:**

“(B) *Structural hazards.*

- (1) Any stress in any material, element, member or portion thereof, due to all dead and live loads, which is greater than the working stresses deemed reasonable and safe by the Building Official.
- (2) Damage to any portion of a building by earthquake, wind, fire, flood, or by any other cause, in such a manner that the structural ability or strength thereof is appreciably less than the minimum requirements set forth in existing codes for a new building or structure of similar size, construction, location and purpose.
- (3) Likelihood of any portion or member or appurtenance of a building to fall, or become dislodged or detached, or to collapse, and thereby cause bodily injury or property damage.
- (4) Settling of any building or portion thereof to such an extent that walls or other structural portions have been displaced or distorted and rendered structurally unstable or dangerous, or that the basic function of such element has been impaired.
- (5) The building or structure, or any portion thereof, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or structure or portion thereof, or other cause, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.
- (6) The building or structure, or any portion thereof, is for any reason whatsoever manifestly unsafe for the purpose for which it is used or intended to be used.
- (7) 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 of that wall or structural member does not fall inside the middle third of the base.

- (8) The building or structure, exclusive of the foundation, shows 33% or more of damage or deterioration to the member or members, or 50% of damage or deterioration of a non-supporting enclosing or outside wall covering.
  - (9) The building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated, from any cause whatsoever, as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals, or as to enable persons to resort thereto for the purpose of committing nuisances or unlawful acts.
  - (10) Any building or structure which has been constructed or now exists or is maintained in violation of a specific requirement or prohibition, applicable to such building or structure, of the building code provisions of the city or of any law or ordinance of this state or city relating to the location, use and physical condition of buildings or structures.
  - (11) Any building or structure which, whether or not erected in accordance with all applicable laws and this code, because of dilapidation, deterioration, damage, or other cause is so weakened or defective as to have in any non-support part, member or portion less than 50%, or in a supporting member less than 66%, of the strength or fire-resistive qualities or characteristics or weather-resistive qualities or characteristics required by law or ordinance in the case of a newly constructed building or structure of similar size, purpose and location.
  - (12) Any chimney, antennae, air vent, or other similar projections that is structurally unsound and not in good repair (i.e., the projections are not secured properly, where applicable, to an exterior wall or exterior roof).
  - (13) Broken or cracked glass, including windows and light fixtures.
- (C) *Hazardous wiring.* All wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.
- (D) *Hazardous plumbing.* All plumbing except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in operating condition and which is free of cross-connections and siphonage between fixtures.
- (E) *Hazardous mechanical equipment.* All mechanical equipment, including vents, except that which conforms to all applicable laws in effect at the time of installation and which has been maintained in safe condition.
- (F) *Faulty weather protection.*
- (a) Deteriorated, crumbling or loose plaster.
  - (b) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.
  - (c) Defective or lack of weather protection for exterior wall coverings, including lack of

paint, or weathering due to lack of paint or other approved protective covering.

- (d) Broken, rotted, split, or buckled exterior walls or roof coverings.
- (e) Unsecured and/or improperly hung roof drainage system.
- (G) *Inadequate fire protection.* All buildings which are not provided with the fire-resistive construction required by the Minnesota State Building Code except those buildings which conformed to all applicable laws at the time of their construction and whose fire-resistive integrity has been adequately maintained or improved.
- (H) *Deteriorating Exterior Finish.* Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:
  - (a) Any one wall or other flat surface; or
  - (b) All door and window moldings, eaves, gutters, and similar projections on any one side or surface.”

2. **That Section 92.23 of Browns Valley City Ordinance is hereby amended to read as follows:**

“(A) *Inspections and Orders; Appeals.*

- (1) Inspection responsibilities of official. Whenever it shall come to the attention of the Building Official by written complaint of any person or agency, or otherwise, that a building or structure is a dangerous or substandard building, the Official shall cause a preliminary examination to be made of the building or structure and premises. In the execution of the inspection, the Official shall avail to the services of such other agencies, employees, departments and officers of the city as the Official deems necessary. Upon completion of the inspection, if it then appears that the building or structure is a dangerous or substandard building, the city shall issue a written order to the owner or occupant requiring repair, removal, demolition or compliance. If no appeal is filed within ten days of the order, the order shall be deemed final.
- (2) Appeal of order. Any person who deems to be aggrieved by any such order may appeal the order of the city to the City Council by filing a written appeal with the Clerk within ten days of such order. Such appeal shall fully state the order appealed from, the date thereof, and the facts of the matter. Upon such an appeal being filed, the Official also shall make a written report, supplemented by written reports from the other agencies, employees, departments and officials called upon by the Official in the execution of the inspection, and submit the reports to the Council.
- (B) *Council to Call Hearing.* The Council shall examine the report of the Official, and if there is probable cause to believe that the building or structure is a dangerous or substandard building, shall have the matter set for hearing.
- (C) *Notice of Hearing.* The Council shall hear the appeal not later than 30 days after the date the appeal is filed. Notice of the hearing shall be given in a form prescribed by the Council. It shall set forth the street address and legal description sufficient for identification of the premises upon

which the building or structure is located. It shall contain a brief statement of the conditions mentioned in the report of the Official which show probable cause to believe that the building or structure is a nuisance within the meaning of this section. It shall also state the date, hour and place of the hearing and shall order all interested parties who desire to be heard in the matter to appear before the Council to show cause why the building or structure should not be ordered repaired, vacated and repaired, removed, or demolished.

(D) *Service of Notice.*

- (1) Person to whom notice is served. One copy of the notice shall be served upon the person, if any, in real or apparent charge and control of the premises involved; the record owner, the holder of any mortgage, trust, deed or other lien or encumbrance of record; the owner or holder of any lease of record; and the record holder of any other estate or interest in or to the building or structure or and upon which it is located.
- (2) Posting of notice. One copy of the notice shall be posted in a conspicuous place upon the building or structure or premises involved.
- (3) Date of serving and posting notice. The notice of hearing shall be posted and served at least ten days prior to the date set for the hearing.
- (4) Notice sent by certified mail. The notice of hearing shall be served upon all persons entitled thereto either personally or by certified mail. Service by certified mail shall be effective on the date of mailing if a copy of such notice is so mailed, postage prepaid, return receipt requested, to each such person at the address of such person as it appears on the last equalized assessment roll of the County or as known to the Clerk. If no such address so appears or is known to the Clerk, then a copy of the notice shall be addressed to such person at the address of the building or structure involved in the proceedings. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any of the proceedings taken.
- (5) Affidavit of notice served. The officer or employee upon serving the notice as provided herein shall file an affidavit thereof with the Clerk certifying to the time and manner in which such notice was served. The officer or employee shall also file therewith any receipt which may have been returned to the officer or employee in acknowledgment of the receipt of such notice by certified mail.

(E) *Hearing.*

- (1) Hearing and considering evidence. The Council shall, at such hearing, hear and consider any evidence offered by the person or persons having any estate or interest in such building or structure pertaining to the matter set forth in the report of the Official.
- (2) Conclusion of hearing. After hearing the oral and written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future meeting.

(F) *Order to Repair, Vacate and Repair, Remove or Demolish.* If the Council finds that the building or structure involved is a dangerous or substandard building within the terms of this section, then it shall issue an order:

- (1) That the building or structure must be repaired, or vacated and repaired, or removed or

demolished.

- (2) That the occupant, lessee, or other person in possession must vacate the building, or that the occupant, lessee, or other person may remain in possession while repairs are being made.
  - (3) That any mortgage, beneficiary under deed of trust, or any other person having an interest or estate in said building may, at their own risk, repair, vacate and repair, remove or demolish said building or structure according to existing law and code provisions.
- (G) *Order to Be Served.* Copies of the order to repair, or vacate and repair, or remove or demolish shall be served upon the individuals and in the manner as prescribed in §92.23(D). A copy of the order shall also be posted in a conspicuous place upon the building or structure as prescribed in said subsection.
- (H) *Standards for Repair, Vacation and Repair, Removal or Demolition.* The following standards shall be followed in substance and spirit by ordering the repair, vacation and repair, removal or demolition of any building or structure. Any order to remove or demolish, rendered pursuant to this section, shall not indicate an alternative permission to repair; however, an order to repair may be satisfied by removal or demolition.
- (1) Repairing building. If the dangerous or substandard building can reasonably and economically be repaired so that it will no longer exist in violation of the provisions of this section, it shall be ordered repaired. For the purposes of this section, the term REPAIR shall include any improvements necessary to make such building comply with the applicable provisions of this code.
  - (2) Vacating building. If the dangerous or substandard building is in such condition as to make it dangerous to the health, moral, safety, or general welfare of its occupants, it shall be ordered to be vacated.
  - (3) Damaged buildings. In any case where a dangerous building is 50% or more damaged, decayed, or deteriorated, it shall be ordered to be removed or demolished.
  - (4) Unrepairable buildings. In all cases where a dangerous or substandard building cannot be repaired, with reasonable economy, so that it will no longer exist in violation of the terms of this section, it shall be ordered to be vacated and removed or demolished.
  - (5) Fire hazardous buildings. In all cases where a dangerous or substandard building is a fire hazard, whether existing or erected in violation of the provisions of this code, or state law, and cannot reasonably and economically be repaired pursuant to M.S.A. §470.08, it shall be ordered demolished.
  - (6) Particulars of order. The order shall set forth the street address of the building or structure and a legal description of the premises sufficient for identification. It shall contain a statement of the particulars which render the building or structure a dangerous or substandard building, and a statement of the things required to be done. The order shall state the time within which the work required must be commenced, the time being not earlier than ten days and no later than 30 days after the issuance of the order, and the order shall further specify a reasonable time within which the work shall be completed.

The time for completion may, by action of the council, be extended for just causes and such authority for extended time shall be given in writing by the Council upon written application of any interested party or parties.

(I) *Penalty for Disregarding, Defacing or Destroying Order; Council May Order Work.*

(1) Penalty.

(a) The owner or other person having charge and control of the building or structure cited in the order who shall fail to comply with any order to repair, or vacate and repair, or remove or demolish said building or structure shall be subject to the penalties as provided by §10.99 of the code.

(b) The occupant or lessee in possession cited in the order who shall fail to comply with any order to vacate said building or structure in accordance with any order given as provided for in this section shall be subject to the penalties provided by §10.99 of the code.

(2) Defacing or destroying order. Any person who removes or defaces or destroys a notice or order posted as required in this section shall be subject to the penalties provided by §10.99 of the code.

(3) Council may order repair or removal. The Council may order the repair or removal of the building or structure cited in the order and obtain enforcement of the order and entry of judgment by the district court shall be in accordance with M.S.A. §§463.15 to 463.26 where such statutory provisions apply, which statutes are hereby adopted and incorporated into this chapter by reference and made a part of this chapter.

(J) *Limitation on liability.* The City of Browns Valley, the Building Official, a law enforcement officer and/or any employee charged with the enforcement of this Ordinance, shall not be liable for any damage that may occur to persons or property as a result of any act required of the Building Official, a law enforcement officer, or any employee of the City of Browns Valley or by reason of any act or omission of the Building Official, law enforcement officer, or any such employee

(K) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance.

(1) To proceed with summary enforcement, the Building Official or law enforcement officer shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare.

(2) The Building Official or law enforcement officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement.

(3) The City Council shall determine whether or not the condition identified in the notice to

the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in this section, and may order that the nuisance be immediately terminated or abated.

(4) If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(L) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.”

3. **That Section 92.25 of Browns Valley City Ordinance be enacted to read as follows:**

“§92.25       **STRUCTURES IN DISREPAIR**

(A) *Requirements for Structures.*

(1) Maintenance. All structures which are intended to be occupied or let to another for occupancy, and all dwellings or apartments existing for the purpose of living therein, whether occupied or vacant, must comply with the requirements of this section.

(2) Foundations, exterior walls and surfaces, roofs. Every foundation, chimney, exterior wall and surface, and roof shall be weathertight, watertight, rodent-proof and insect proof, and shall be kept in a workmanlike state of maintenance and repair.

(a) The foundation elements shall support the building at all points.

(b) Every exterior wall shall be free of holes, breaks, loose or rotten boards or timbers, and any other condition which might admit rodents, rain or dampness to the interior portions of the walls or to the interior space of the dwelling.

(c) The roof shall be tight and have no defects which admit rain or other forms of moisture. Roof drainage shall be such that it prevents rainwater from causing dampness in the walls.

(d) All exterior surfaces shall be of a material manufactured and processed specifically for use in a weather-exposed location, including roofing, exterior painted wood, masonry, exposed redwood and other naturally suitable materials. Exterior walls shall be maintained and kept free from dilapidation, including those conditions caused by extensive cracks, tears or breaks and by extensively deteriorated plaster, stucco, brick, wood or other materials or combinations of materials.

(e) The exposed surface of exterior walls on a building above ground level shall be maintained in good repair so as to provide both sufficient covering and sufficient protection of the surface underneath against its deterioration. Without limiting the generality of this section, an exposed surface of a building shall be deemed not to be in a workmanlike state of maintenance and not to be in good repair if either or both of the following conditions exist:

- (i) The painted surface area is blistered, cracked, flaked, scaled or chalked away, and such condition(s) extends over more than 25% of the surface area of any plane or wall or other area, including window trim, cornice members, porch railings and other such areas; or
  - (ii) More than 10% of the pointing of any masonry chimney or more than 25% of the pointing of any masonry wall is loose, has fallen out, or otherwise does not exist.
- (f) Any exterior surface or plane required to be repaired under the provisions of this section shall be repaired in its entirety to make it weathertight, watertight, and rodent-proof.
- (3) Windows, exterior doors, basement hatchways. Every window, exterior door and basement hatchway shall be weather-tight and rodent-proof and shall be kept in working condition and in a workmanlike state of maintenance and repair.
  - (a) Every window shall be fully supplied with window panes which are without open cracks or holes.
  - (b) Every window sash shall be in good condition and fit tight within its frame.
  - (c) Every window other than a fixed window shall be capable of being easily opened and shall be held in an open position by window hardware.
  - (d) Every exterior door, door hinge and door latch shall be in good condition.
  - (e) Every exterior door when closed shall fit in a workmanlike condition within its frame.
  - (f) Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as completely to exclude rain and substantially to exclude wind from entering the structure.
  - (g) Every basement hatchway shall be so constructed and maintained as to prevent the entrance of rodents, rain and surface drainage water into the dwelling.
  - (h) Every door available as an exit shall be capable of being opened from the inside, easily and without the use of a key.
  - (i) Every entrance door to an apartment or rooming unit within a dwelling shall be equipped with a suitable lock in good working condition to provide security for the occupants.
- (4) Exterior stairways, exterior porches and decks, landings, and floor levels. Every inside and outside stairway, every exterior porch and deck, landing and floor level and every appurtenance attached thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in a sound condition and in a reasonably good state of maintenance and repair.
  - (a) Every flight of stairs and exterior porch and deck, landing and floor level shall be



free of holes, grooves and cracks which are large enough to constitute a possible accident hazard. The construction, design and headroom of stairways, exterior porches and decks, landings and floor levels shall conform to the Minnesota State Building Code.

- (b) Every stairwell and every flight of stairs which are four or more risers high shall have hand rails not less than 30 inches nor more than 34 inches above the nosing of treads and every exterior porch and deck, landing, and floor level which is more than 30 inches above grade shall have hand rails not less than 36 inches above the platform. The construction and design of handrail intermediates shall conform to the Minnesota State Building Code.
  - (c) Every rail and balustrade shall be fastened and maintained in a workmanlike condition. No flight of stairs shall have settled more than one inch out of its intended position or have pulled away from supporting or adjacent structures.
  - (d) No flight of stairs shall have rotten or deteriorated supports. The treads of every flight of stairs shall be uniform in height. Every stair tread shall be sound and securely fastened in position.
  - (e) Every stair tread shall be strong enough to bear the load required by the Minnesota State Building Code.
  - (f) Every exterior porch and deck, landing, and floor level shall have sound floor and supports.
  - (g) All outside stairways, fire escapes and exits shall be maintained unobstructed, and free of ice and snow. All outside stairways that serve as an entrance to an upper story apartment or rooming unit shall have a light located at the head of the stairway capable of lighting the entire stairway. This light may be controlled by three-way switches, one at the bottom of the stairway, and one at the top, or it may be a sensor light, activated by motion or dusk.
- (5) Discontinuance of required services, facilities, equipment or utilities. No owner or operator shall cause any service, facility, equipment or utility which is required to be supplied under the provisions of this code to be removed, shut off, or discontinued in any structure owned, let or occupied by such person, except for such temporary interruption as may be necessary while actual repairs, replacements, or alterations are in process of being made.
- (6) Responsibility of owner for public areas. Every owner of a structure containing two or more apartments shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwellings and premises thereof.
- (7) Responsibility for rubbish and garbage. Every occupant of a structure shall dispose of all refuse in a clean and sanitary manner by placing it in garbage disposal facilities or refuse storage containers as prescribed in §51.02 of this code.
- (8) Extermination. Every occupant of a single family structure shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of an apartment in a structure containing more than one apartment shall be

responsible for such extermination whenever his or her apartment is the only one infested.

Notwithstanding the foregoing provisions of this division, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the apartments in any dwelling, or in the shared or public parts of any dwelling containing two or more apartments, extermination thereof shall be the responsibility of the owner.

- (9) Non-dwelling structures. Every foundation, exterior wall, roof, window, exterior door, basement hatchway, and every other entranceway of every structure, whether intended for occupancy or not, shall be so maintained as to prevent the structure from becoming a harborage for rodents, vermin and insects and shall be kept in a reasonably good state of maintenance. In addition, every non-dwelling structure located on any dwelling premises shall be maintained in accordance with the provisions of division (B) of this section.
  - (10) Fences. Every fence in such condition as to constitute a public health or safety hazard shall be repaired or removed.
  - (11) Grading and draining of premises. All premises shall be graded and maintained so no stagnant water will accumulate or stand on the premises or within any building or structure located on the premises.
  - (12) Open areas.
    - (a) OPEN AREA means that part of a lot or property that is not covered by an enclosed building or structure, regardless of whether the view from outside the property is shielded by a fence, vegetation or other structure. The term OPEN AREA includes, but is not limited to, the yard, open porches, and areas under structures that are not entirely enclosed, such as a carport.
    - (b) All open areas and parts of premises shall be maintained and kept in a reasonably clean and neat condition. This requirement shall include the removal of dead trees and brush, the removal of inoperable machines, appliances, fixtures and equipment; the removal of lumber piles and building materials not being used in actual construction on the premises unless such premises are being used by a business dealing in or requiring the use of such lumber and materials, and the storage of these materials for business use is allowed or permitted by ordinance; the removal of tin cans, broken glass, broken furniture, mattresses, box springs, boxes, crates, cardboard, tires, and other garbage and debris; and the removal of furniture and other items of the type not designed or intended to be stored outside or in such a manner that they are exposed to weather and climatic conditions.
- (B) *Nuisance Declared.* Violations a public nuisance. A person or business entity that creates, maintains or allows to continue a condition in violation of this chapter shall be deemed to have created a public nuisance as defined in § 93.01 of this code, which is subject to abatement by the city as provided in this code.
- (C) *Abatement.* Abatement with or without special assessments. Any nuisance created by a condition in violation of this chapter may be, subject to the discretion of the City Council, abated with or without special assessments as described in Chapter 93 of this code.

(D) *Citation.*

- (1) Violations subject to citation. After the notice required by §92.25(E), any person or business entity that allows a nuisance condition in violation of this chapter to continue past the deadline given in the notice letter may be issued a citation by the Police Department.
- (2) Issuance of citation. The citation shall be issued in person or by mail to the occupant of the property on which the violation exists and to the owner of the property if not owner-occupied. The citation shall state the date, time and nature of the offense, the name of the peace officer issuing the citation, the amount of the penalty, the manner for paying the penalty, and that the violator has the right to contest the citation.
- (3) Continued violation. Each day that a violation continues, or is permitted to continue, shall constitute a separate offense in prosecution of such unlawful act.

(E) *Notice.* Prior to the issuance of a citation as described in §92.25(D), notice of the violation shall be given to the occupant of the property on which the violation exists, as well as the owner of the property if not owner-occupied. This notice shall be in the form of a letter either hand delivered or sent via certified mail to the address shown on the real estate tax certificate. This notice shall state the nature of the violation, the steps needed to remedy the violation, and the date by which the violation must be remedied. This date shall be determined by the City Council.

PASSED AND ADOPTED this 27th day of February, 2023.

BROWNS VALLEY CITY COUNCIL

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Mike Heck, Mayor

ATTEST:

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Jodi Hook, City Administrator

Motion:

Seconded:

Published:

Passed: