

Topic:	Vacant & Distressed Properties
Resource Type:	Regulations
State:	Minnesota
Jurisdiction Type:	Municipal
Municipality:	City of Minneapolis
Year (adopted, written, etc.):	2008
Community Type – applicable to:	Urban; Suburban
Title:	City of Minneapolis Demolition of Vacant Properties Ordinance
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Abstract

Minnesota state statutes allow cities to enact ordinances to handle the problems associated with hazardous and vacant buildings. In turn, the Minneapolis legislature enacted a statute authorizing the city to rehabilitate or demolish buildings to enhance livability, preserve the tax base, and abate public nuisances created by these buildings.

The ordinance allows the director of inspections to secure vacant and hazardous buildings and serve notice on the property owner. If the owner fails to reply within six days, the director may authorize the building be secured by boarding up all openings, or in the case of an emergency, the director may order the building to be boarded immediately. After a building is secured for sixty days without abatement, the owner must pay to have the gas shut off and the building winterized to prevent further damage.

Buildings may be labeled nuisances for several reasons, including but not limited to: remaining vacant and unoccupied for the use they were originally erected for a period of six months; or failure to meet the minimum occupancy standards set out by city ordinance, housing maintenance code, or other defined means for sixty days. Upon the director's determination that the property is a nuisance, he shall order the building to be demolished or rehabilitated, and give notice to the building owner specifying the conditions composing the nuisance. The ordinance also provides the owner with a chance to appeal the nuisance determination.

Resource

CHAPTER 249. VACANT DWELLING OR BUILDING, NUISANCE CONDITION

249.10. Policy. Pursuant to authority provided in Minnesota Statutes, Section 463.26, permitting cities to enact and enforce ordinances on hazardous buildings, and in order to enhance the livability and preserve the tax base and property values of buildings within the city, and based upon the findings contained in section 249.20; and because of the need to

assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declared that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements. (92-Or-110, § 1, 9-11-92)

249.20. Findings. The city council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and invitation to derelicts, vagrants and criminals as a temporary abode, and an increased fire hazard, and increased risk of explosion due to the theft of internal piping, and that the unkept grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are permitted to become dilapidated since such buildings are often economically obsolete and the owners of such buildings are unwilling to expend the necessary funds to repair or raze the buildings; that such buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts and require additional governmental services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition to the annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and enjoyment of their property, and thus may constitute a nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of the means by which such nuisance conditions may be abated. (76-Or-102, § 1, 7-9-76; 78-Or-233, § 1, 11-9-78; 92-Or-110, § 1, 9-11-92; 2008-Or-073, § 1, 9-12-08)

249.25. Securing vacant buildings.

(a) In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the director of inspections may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within six (6) days after the order is served, the director of inspections shall cause the building to be boarded up or otherwise properly secured. Whenever a building is boarded up pursuant to the authority of this chapter, the director of inspections may cause all openings to the building to be boarded and secured.

(b) *Emergency.* When it is determined by the director of inspections or the chief of police, or the fire chief that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing of the building, the director of inspections or the

chief of police, or the fire chief may waive all requirements herein and immediately board or otherwise secure the building, provided that:

(1) The conditions showing the existence of an exigency are documented in writing by the director of inspections or the chief of police or the fire chief or their designees.

(2) Notice be mailed immediately by the department invoking this section to the address of the owner and taxpayer, and, if recorded on the assessors rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefor.

(c) After a vacant or unoccupied building has been boarded or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired and reoccupied, the director of inspections shall resecure any openings into the building whenever it again becomes open to trespass, without further notice to the owner. An administrative fee of one hundred dollars (\$100.00) and all other costs incurred by the city for boarding or otherwise securing a building under this chapter, including, but not limited to the actual costs for boarding, inspecting, posting and monitoring the building, shall be assessed as provided in section 227.100. "Owner," for the purposes of this section, shall mean the person who is listed as the contact person on the current rental licensing application on file with the city, if any; or, if none, the person listed as owner by the city assessor on the homestead record; or, if none, the taxpayer as shown by the records of the city assessor. "Owner" shall not include a community development agency organized pursuant to the Laws of Minnesota 1980 Chapter 595.

(d) After a vacant or unoccupied building has been boarded or otherwise secured under this section for a period of 60 days, the owner of the building shall have the gas to the building turned off and the building winterized. If the owner fails to have the gas to the building turned off the director of inspections may order the utilities company to shut off the gas to the building. The director of inspections shall then require the building to be winterized to prevent the water pipes from freezing and damaging the building. The costs incurred by the city for winterizing the building shall be assessed as provided in section 227.100. (94-Or-123, § 1, 9-16-94; 2001-Or-054, § 1, 4-20-01; 2006-Or-065, § 1, 6-16-06; 2008-Or-008, § 1, 2-1-08; 2008-Or-073, § 2, 9-12-08)

249.30. "Nuisance condition" defined; waiver of waiting period.

(a) A building within the city shall be deemed a nuisance condition if:

(1) It is vacant and unoccupied for the purpose for which it was erected and for which purpose a certificate of occupancy may have been issued, and the building has remained substantially in such condition for a period of at least six (6) months; or

(2) The building is unfit for occupancy as it fails to meet the minimum standards

set out by city ordinances before a certificate of code compliance could be granted, or is unfit for human habitation because it fails to meet the minimum standards set out in the Minneapolis housing maintenance code, or the doors, windows and other openings into the building are boarded up or otherwise secured by a means other than the conventional methods used in the original construction and design of the building, and the building has remained substantially in such condition for a period of at least sixty (60) days; or

(3) Evidence, including but not limited to neighborhood impact statements, clearly demonstrates that the values of neighborhood properties have diminished as a result of deterioration of the subject building; or

(4) Evidence, including but not limited to rehab assessments completed by CPED, clearly demonstrates that the cost of rehabilitation is not justified when compared to the after rehabilitation resale value of the building.

(b) When it is determined by the director of inspections or the city fire marshal that a building constitutes an immediate hazard to the public health and safety, and after approval by the city council, the sixty-day waiting period set out in this section may be waived and the other procedures, as set out in this chapter, may be implemented immediately.

(c) Notwithstanding the foregoing provisions, accessory buildings such as garages, barns and other similar structures, not intended to be used for human habitation, shall be deemed to constitute a nuisance condition when such buildings are in violation of section 244.1560 of the housing maintenance code which regulates nondwelling structures or when such accessory buildings are structurally unsound in the opinion of the director of inspections. (76-Or-102, § 1, 7-9-76; 77-Or-226, § 2, 11-10-77; 78-Or-233, § 2, 11-9-78; 79-Or-016, § 1, 1-26-79; 80-Or-181, § 1, 8-8-80; 84-Or-095, § 1, 6-15-84; 86-Or-236, § 1, 10-10-86; 91-Or-157, § 1, 8-9-91; 92-Or-110, § 2, 9-11-92; 93-Or-142, § 1, 10-1-93; 94-Or-123, § 2, 9-16-94; 2006-Or-059, § 1, 5-26-06)

Editor's note: It should be noted that Ord. No. 2006-Or-059, adopted May 26, 2006, was effective October 1, 2006.

249.40. Abatement of nuisance condition. Buildings determined to be a nuisance condition may be rehabilitated or razed by order of the director of inspections.

(1) Before any action is taken to abate a nuisance condition, except as provided in section 249.25 relating to securing vacant buildings, the director of inspections shall examine the building to ascertain whether the nuisance condition should be ordered for rehabilitation or demolition. Among the criteria to be considered are the following:

- a. The need for neighborhood housing;
- b. The historic value of the building;
- c. The impact on the neighborhood and the ability of the neighborhood to attract

future residents;

- d. The capacity of the neighborhood to use the property;
- e. The zoning and comprehensive plan classifications for the property use;
- f. The market potential for the property;
- g. The estimated cost of rehabilitation;
- h. The severity and the history of neglect;
- i. The availability of funds for rehabilitation to the owner;
- j. The structural condition of the building.

(2) If the director of inspections determines that the building is a nuisance condition, the director of inspections shall order the building to be demolished, or rehabilitated. The director may impose any and all conditions deemed appropriate to ensure compliance with the order.

(3) The division of inspections shall give notice of the director's order to demolish or rehabilitate the building to the owner and other persons shown to have an interest in the building deemed to create a nuisance condition. Proper notice shall be sufficiently given when mailed by certified mail return receipt requested, postage prepaid, addressed to the owner to whom the building is registered with the division of inspections or, if not registered, to the owner or other persons shown to have an interest in the property as ascertained by the files and records of the register of deeds or registrar of titles in and for Hennepin County. Such notice shall also be given to such persons that the director of inspections has actual knowledge of having an interest in the said property. In addition, such notice shall be served by three (3) weeks' published notice in any newspaper of general circulation in the City of Minneapolis as provided for in Minnesota Rules of Civil Procedure and by posting such notice at the street entrance to such building. The notice shall state:

a. That the director has determined that the building is a nuisance condition as defined by section 249.30 and that the building is to be demolished or rehabilitated. If the director is ordering that the building be rehabilitated, the notice shall state all of the conditions that are to be imposed.

b. The specific reasons the building has been determined to constitute a nuisance condition.

c. That unless the notice is appealed within twenty-one (21) days of the date the notice was mailed, in the manner provided in section 249.45, the division of inspections will proceed to demolish the building or that the division of inspections will impose the conditions of rehabilitation on the property.

d. The notice shall describe how an appeal may be filed under section 249.45.

e. The notice shall state that the owner of the property will be responsible for the payment of all costs incurred by the city in razing or rehabilitating the building, as well as an administrative fee of fifteen (15) percent of the cost. The notice shall state

that if the costs are unpaid, the costs and the administrative fee shall be levied and collected as a special assessment against the property as provided for under section 227.100

(4) If no appeal is received within twenty-one (21) days of the notice being mailed, the department of inspections may proceed with the director's determination to demolish the building by razing the building, or may proceed with the director's determination to rehabilitate the building by imposing the conditions set forth in the notice.

(5) When the owner of a property, that has received a director's order to demolish or rehabilitate the property, intends to sell an interest in the property, the owner must disclose to the purchaser that a director's order to demolish or rehabilitate the property has been previously issued. (76-Or-102, § 1, 7-9-76; 76-Or-165, § 1, 9-24-76; 78-Or-233, § 4, 11-9-78; 82-Or-256, § 1, 12-23-82; 85-Or-114, § 1, 6-4-85; 92-Or-110, § 4, 9-11-92; 94-Or-123, § 3, 9-16-94; 2001-Or-054, § 2, 4-20-01; 2006-Or-059, § 2, 5-26-06)

Editor's note: It should be noted that Ord. No. 2006-Or-059, adopted May 26, 2006, was effective October 1, 2006.

249.45. Abatement of nuisance condition appeals.

(a) There is hereby created a nuisance condition process review panel. The panel shall consist of the director of operations, licenses and environmental services, the fire marshal, the director of housing policy and development, and the city assessor or their designees. Three (3) members of the panel shall constitute a quorum. The panel shall make decisions by a majority vote. The director of inspections' order, as set forth in the notice, shall be upheld if the panel is deadlocked.

(b) The panel shall have authority to hear and decide all appeals from the director of inspections' order to demolish or rehabilitate a nuisance condition building. The panel shall uphold or overturn the director's determination that the building is a nuisance condition as defined by section 249.30 and shall uphold or overturn the director's determination that the building should be demolished or rehabilitated. If the director of inspections imposes conditions on an order to rehabilitate the building, the panel shall have the authority to uphold, modify or overturn those conditions.

(c) Any person wishing to appeal a determination of the director of inspections ordering demolition or rehabilitation shall file a written notice of appeal with the department of inspections within twenty-one (21) days after receipt of the director's order. The notice shall contain a statement of the grounds for the appeal. The notice of appeal shall be accompanied by a fee of three hundred dollars (\$300.00).

(d) The panel shall meet at the call of the chair to hear appeals. The panel shall notify the owner and any other person known to have an interest in the property in writing of the time and place of the hearing. In addition, notice of the hearing shall be sent to all

property owners within three hundred fifty (350) feet of the subject property and to any neighborhood organization in which the property is located.

(e) Notice to the owners, or other parties with an interest in the property, shall inform the owner and parties of (1) the right to appear individually or through a representative or to submit a written statement, (2) the right to examine witnesses at the hearings and offer such evidence as may bear on the decision to demolish or rehabilitate the building, and (3) that the hearing will be recorded. Neighborhood organizations and owners of property within three hundred fifty (350) feet of the subject property shall be entitled to present joint or individual neighborhood impact statements to the panel. The neighborhood impact statements shall specifically address the items contained in section 249.40 (1) a., b., c. and d., and such other relevant material as may be offered.

(f) At the hearing, the panel shall hear all relevant evidence and argument. The panel may admit and give probative effect to evidence that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The panel shall record the hearing and keep a record of documentary evidence submitted.

(g) At the hearing, the division of inspections shall present an oral summary of the background and reasons for its recommendation. A report, including any pertinent documents and photos shall be filed as part of the record. All parties having an interest in the property may review department documents, subject to restrictions in the Government Data Practices Act, prior to the hearing, and shall be permitted to present evidence in support of their position. Parties having an interest in the property shall have the right to question witnesses at the hearing.

(h) The panel shall render its decision in writing within thirty (30) days after the close of the hearing. The panel shall determine whether the building meets the definition of nuisance condition as set forth in section 249.30 and whether the director of inspections' order to demolish or rehabilitate the building should be upheld or overturned and shall specify the factual and legal basis for the determination. The panel shall make its determination based upon the preponderance of the evidence.

(i) The panel shall mail a copy of its decision to the appellant.

(j) The panel shall refer its decision to the city council, which shall have the final authority to determine whether the building is a nuisance condition as set forth in section 249.30 and whether the building should be rehabilitated or razed. The panel's findings shall include the date and time of the hearing before the public safety and regulatory services committee. The public safety and regulatory services committee may hear arguments from the appellants, but shall take no further evidence. (2006-Or-059, § 3, 5-26-06)

Editor's note: It should be noted that Ord. No. 2006-Or-059, adopted May 26, 2006, was effective October 1, 2006.

249.50. Alternatives to demolition.

(a) The city council may consider as an alternate to demolition:

(1) Ordering the owner of any nuisance condition to rehabilitate the building and specifying the time within which such rehabilitation shall occur. If rehabilitation is the alternative required by the city council, the owner shall present a plan for rehabilitation to the director of inspections that shall contain a commitment of funds to accomplish the plan. If the plan required herein is not received by the director of inspections within the time ordered by the council, the city shall proceed to demolish the building.

(2) If the owner is, for any reason, unwilling or unable to immediately rehabilitate the building, the city may elect to rehabilitate and assess the cost thereof provided that the estimated cost may not exceed fifty (50) percent of the estimated after-rehabilitation market value of the property. Such costs shall be assessed against the property, in the manner provided for in section 249.60.

(3) Notwithstanding the limitations of section 249.50(a)(2), and in order to make funds available for rehabilitation, the city may, to the extent neighborhood action plans of the neighborhood revitalization program allow, create a revolving fund for housing purposes to be used in the neighborhood for which the funds have been earmarked. The city may receive applications and consider, where appropriate, loans to owners for housing rehabilitation purposes.

(b) The city council shall order demolition or rehabilitation of the building. The city council shall make such order as it deems appropriate based upon the evidence and record of the appeal hearing. The city council may also impose any and all conditions it deems appropriate. These conditions may include the posting of a performance bond in an amount not to exceed the estimated cost of rehabilitation. The public safety and regulatory services committee may postpone its decision and order the owner to update the committee at a future date on the progress of rehabilitation. The order shall be mailed to the last known address of the owner to whom the building is registered with the division of inspections or, if not registered, to persons shown to have an interest in the property as ascertained by the files and records of the registrar of deeds or registrar of titles in and for Hennepin County.

(c) The owner of the subject property shall comply with the city council's decision and order. If the owner fails to abide by the order, the director of inspections shall immediately notify the city council which may then order immediate demolition or otherwise amend its order. (76-Or-102, § 1, 7-9-76; 77-Or-226, § 3, 11-10-77; 78-Or-233, § 5, 11-9-78; 92-Or-110, § 5, 9-11-92; 93-Or-107, § 1, 7-30-93; 93-Or-142, § 2, 10-1-93; 2001-Or-054, § 3, 4-20-01; 2004-Or-051, § 1, 5-14-04; 2006-Or-059, § 4, 5-26-06)

Editor's note: It should be noted that Ord. No. 2006-Or-059, adopted May 26, 2006, was

effective October 1, 2006.

249.60. Collection of costs. The director of inspections shall notify the owner of the cost incurred in razing or rehabilitating the building, under section 249.50, and the owner shall be responsible for the payment of the same, together with an administrative fee of fifteen (15) percent of the cost, within thirty (30) days of such notification. Upon default of payment after the said thirty (30) days, the cost of such razing or rehabilitating and the administrative fee shall be levied and collected as a special assessment against the property as provided for under section 227.100 of this Code, with interest at the rate of eight (8) per cent per annum on the unpaid balance thereof. (76-Or-102, § 1, 7-9-76; 78-Or-233, § 6, 11-9-78; 92-Or-110, § 6, 9-11-92; 93-Or-142, § 3, 10-1-93)

249.65. Revolving fund for abatement of buildings in a nuisance condition. The department of inspections shall maintain a revolving fund to be known as the nuisance building abatement fund (hereinafter referred to as "the fund"). The fund may be drawn upon to perform abatement of buildings within the city that have been deemed to be a nuisance condition pursuant to Chapter 249. All costs and fees incurred abating buildings that are a nuisance condition, including appropriate interest, shall be recovered from the property owner pursuant to section 249.60 and 227.100. The fund shall be credited with the collection of the costs and fees recovered. Disbursements from the fund shall not be subject to the provisions and requirements of the procurement process of the city. (2006-Or-059, § 5, 5-26-06)

Editor's note: It should be noted that Ord. No. 2006-Or-059, adopted May 26, 2006, was effective October 1, 2006.

249.70. [Authority of city.] Nothing herein shall limit the city's authority under the provisions of Minnesota Statutes, Chapter 463. (92-Or-110, § 7, 9-11-92; 93-Or-142, § 4, 10-1-93)

249.80. Vacant building registration.

(a) The owner of a building shall register the building with the director of inspections within five (5) days after it becomes a vacant building. In this section, a "vacant building" is one that is:

- (1) Condemned; or
- (2) Unoccupied and unsecured for five (5) days or more; or
- (3) Unoccupied and secured by means other than those normally used in the design of the building for thirty (30) days or more; or
- (4) Unoccupied and has multiple housing maintenance, fire or building code violations existing for thirty (30) days or more; or

(5) Unoccupied for a period of time over three hundred sixty-five (365) days and during which time an order has been issued to correct a nuisance condition pursuant to section 227.90; or

(b) The owner of a commercial building designated as vacant pursuant to this section may appeal such designation within twenty-one (21) days after receipt of the designation or a billing statement therefore to the nuisance condition process review panel pursuant to the procedures established in section 249.45. The notice of designation or billing statement shall notify the building owner of such appeal rights.

(c) The registration shall be submitted on forms provided by the director of inspections and shall include the following information supplied by the owner:

(1) A description of the premises;

(2) The names and addresses of the owner or owners;

(3) The names and addresses of all known lienholders and all other parties with an ownership interest in the building;

(4) The period of time the building is expected to remain vacant; and a plan and timetable for returning the building to appropriate occupancy or for demolition of the building.

(d) The owner shall submit a plan and timetable that must comply with the guidelines adopted by the director of inspections. The guidelines are adopted for purposes of preventing nuisance conditions and maintaining compliance with this code. These guidelines shall be made available to building owners. The plan shall be submitted at the time of registration, or within a reasonable period of time thereafter to be determined by the director of inspections.

(e) The owner shall comply with all applicable laws and codes. The owner shall notify the director of inspections of any changes in information supplied as part of the vacant building registration within thirty (30) days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the director of inspections.

(f) The owner and the subsequent owners shall keep the building secured and safe and the building and grounds properly maintained until the rehabilitation or demolition has been completed.

(g) Failure of the owner or any subsequent owner to maintain the building and premises that result in abatement completed by the city shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by law.

(h) The new owner(s) shall register or re-register the vacant building with the director

of inspections within thirty (30) days of any transfer of an ownership interest in a vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the director of inspections.

(i) The director of inspections shall include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.

(j) Vacant building fees:

(1) The owner of a vacant building shall pay an annual fee as established in the director's fee schedule pursuant to section 91.70. The fee is imposed to recover all costs incurred by the city for monitoring and regulating vacant buildings, including nuisance abatement, enforcement and administrative costs. This fee may be waived or suspended for the current year as a term or condition of a written restoration agreement or order issued pursuant to section 249.50. This fee may be waived for the current year and previous years if the property is acquired by the Community Planning and Economic Development (CPED) Department.

(2) The first annual fee shall be paid no later than five (5) days after the building becomes vacant. Subsequent annual fees shall be due on the anniversary date of initial vacancy. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit.

(3) Unpaid fees shall be levied and collected as a special assessment against the property as provided for under section 227.100, with interest at the rate of eight (8) percent per annum on the unpaid balance thereof. Upon transfer of ownership, the new owner(s) shall be responsible for all unpaid and subsequent annual fees.

(k) A building owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection for the purpose of enforcing and assuring compliance with the provisions of this chapter. (92-Or-110, § 8, 9-11-92; 2001-Or-054, §§ 4, 5, 4-20-01; 2006-Or-059, § 6, 5-26-06; 2008-Or-017, § 1, 2-29-08; 2009-Or-041, § 1, 5-22-09; 2009-Or-053, § 1, 7-17-09)

249.90. Penalties. Any person who violates a provision of this chapter or provides false information on a required registration or plan, is guilty of a misdemeanor, punishable as provided in section 1.30 of this Code. (93-Or-003, § 1, 1-15-93; 2001-Or-054, §§ 6, 7, 4-20-01)