**ARTICLE 4 Dangerous Buildings**

 **10.0401 Dangerous Buildings Defined** All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings""

1. 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.

2. Those which exclusive of the foundation, show thirty-three percent (33%) or more, 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.

3. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have sufficient strength to be reasonably safe for the purpose used.

4. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

5. 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 or are likely to cause sickness or disease so as to work injury to the health, morals, safety or general welfare of those living therein.

6. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairway, elevators, fire escapes or other means of communication.

7. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

8. Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this city.

9. Those buildings existing in violation of any provision of the building code, fire prevention code, electrical or plumbing codes or of other ordinances of this city.

 **10.0402 Standards for Repair, Vacation or Demolition** The following standards shall be followed in substance by the building inspector and the governing body in ordering repair, vacation or demolition:

1. If the "dangerous building" can be reasonably repaired so that it will no longer exist in violation of the terms of this article it shall be ordered repaired.

2. If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupant it shall be ordered to be vacated.

3. If any case where a "dangerous building" is fifty percent (50%) damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation to the terms of this article it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this article or any ordinance of the city or statute of the State of North Dakota, it shall be demolished.

 4. Any basement or sub-structures that are left after any house has been moved, burned, demolished, or otherwise destroyed shall be deemed condemned and must have all construction materials removed and the remaining hole filled.

 **10.0403 Dangerous Buildings - Nuisances**  All "dangerous buildings" within the terms of Section 10.0401 of this article are hereby declared to be public nuisances and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

 **10.0404 Duties of Building Inspector** The Building Inspector shall be the Chief of Police or the Fire Chief and he shall:

1. Inspect or cause to be inspected semi-annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places a "dangerous building" within the terms of Section 10.0401 of this article.

2. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.

3. Inspect any building, wall or structure reported (as hereinafter provided for) by the Fire or Police Departments of this city as probably existing in violation of the terms of this article

4. Notify in writing the owner, occupant, lessee, mortgagee and all other persons having an interest in said building, as shown by the records in the office of the County Recorder of the County of Mercer, of any building found by him to be a "dangerous building" within the

standards set forth in Section 10.0401 of this article that: (a) the owner must vacate, or repair, or demolish said building n accordance with the terms of the notice and this article; (b) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession.

Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty (30) days as may be necessary to do, or have done, the work or act required by the notice provided for herein.

5. Set forth in the notice provided for in subsection 4 hereof, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building" and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty (30) days, as is reasonable.

6. Report to the City Council any noncompliance with the "notice" provided for in subsection 4 and 5 hereof.

7. Appear at all hearings conducted by the New Salem City Council and testify as to the conditions of "dangerous buildings".

8. Place a notice on all "dangerous buildings" reading as follows: "This building has been found to be a dangerous building by the Building Inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee or mortgagee of this building and all other persons having an interest in said building as shown by the records of the County Recorder of the County of Mercer. It is unlawful to remove this notice until such notice is complied with."

 **10.0405 Duties of the New Salem City Council**

 The New Salem City Council shall:

1. Upon receipt of a report of the Safety Inspector as provided for in Section 10.0404, subsection 6 hereof, give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the County Recorder of the County of

Mercer, to appear before it on the date specified in the notice to show

cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein in Section 10.0404, subsection 5.

2. Hold a hearing and hear such testimony as the Building Inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the County Recorder of the County of Mercer shall offer relative to the "dangerous building".

3. Make written findings of fact from the testimony offered pursuant to subsection 2 as to whether or not the building in question is a "dangerous building" within the terms of section 10.0401 hereof.

4. Issue an order based upon findings of fact made pursuant to subsection 3 commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the County Recorder of the County of Morton to repair, vacate or demolish

any building found to be a "dangerous building" within the terms of this article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said "dangerous building".

 **10.0406 Failure to Comply with Decision of the Council** If the owner, occupant, mortgagee or lessee fails to comply with the order of the Council or fails to appear to the District Court within thirty (30) days as provided herein, the city through its officers and employees shall cause such building or structure to be repaired, vacated or demolished as ordered by the Council and shall cause the costs of such repair, vacation or demolition to be charged against the land on which said building existed by special assessment, or as a municipal lien, or shall cause said cost of removal to be levied as a special tax against the land upon which said building stands or did stand or to be recovered in a suit at law against the owner.

 **10.0407 Violations - Penalty for Disregarding Notices or Orders** The owner of any “dangerous building" who shall fail to comply with any notice or order to repair, vacate or demolish said building given by any person authorized by this article to give such notice or order shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding Five Hundred and No/100 Dollars ($500.00) for each offense and every day subsequent to such notice in which the said owner shall fail to comply with any notice or order as above stated shall be deemed a separate offense.

The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said building in accordance with any notice given as provided for in this article shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding Five Hundred and No/100 Dollars ($500.00) for each offense and every day subsequent to such notice in which the said occupant or lessee shall fail to comply with any notice or order as above stated, shall be deemed a separate offense.

Any person removing the notice provided for in Section 10.0404, subsection 8 thereof shall be guilty of an infraction and upon conviction shall be fined not exceeding Five Hundred and No/100 Dollars ($500.00) for each offense.

 **10.0408 Duties of the City Attorney**  The City Attorney shall:

1. Prosecute all persons failing to comply with the terms of the notices provided for herein in Section 10.0404, subsections 4 and 5 and the order provided for in Section 10.0405, subsection 4.

2. Appear at all hearings before the New Salem City Council in regard to "dangerous buildings".

3. Take such other legal action as is necessary to carry out the terms and provisions of this article.

 **10.0409 Where Owner Absent from the City** In cases,except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the city, all notice or orders provided for herein shall be sent by registered or certified mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the land records of the County Recorder of the County of Mercer to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

 **10.0410 Duties of Fire, Police and Health Departments**  All employees of the Fire, Police and Health Departments shall make written reports to the Safety Inspector of all buildings or structures which are, may be, or are suspected to be "dangerous buildings" as herein defined.

 **10.0411 Appeal** The governing body shall serve upon the owner, occupant, mortgagee, lessee and all other persons having an interest in any such building so ordered repaired, vacated or demolished, a copy of its order, such notice to be served upon such owner, occupant, mortgagee or lessee shall thereafter have thirty (30) days from the date of the service of such order upon him in which to appeal from such order to the District Court of Mercer County, North Dakota, or to take

such other legal steps to enjoin the enforcement of such order as he may deem proper.

Any person desiring to appeal from any order issued by the Council under and by virtue of this article shall file an undertaking in the sum of at least Five Hundred and No/100 Dollars ($500.00) to be approved by the City Auditor and conditioned that the appellant will prosecute the appeal without delay and will pay all costs that may be adjudged against him in the District Court. Such undertaking shall be payable to the city.