

CHAPTER 4 - BUILDING CODES

- 4.1 Enacting Ordinance.** Unless otherwise indicated in specific section, Chapter 4 of Dayton Code is enacted by Dayton City Ordinance 482, adopted 7/18/94, and becoming effective 8/18/94; and amended by Ordinance #490, adopted and effective 9/6/95; Ordinance #497, adopted and effective 5/5/97.
- 4.2 Building Code.** The City adopts the State Building Code, as it is defined in ORS 455.010. It is referred to as the "Building Code" within Dayton Code.
- 4.3 Violations.** No person may construct or demolish any structure or portion of a structure without complying with the requirements contained in the Building Code. A violation of Dayton Code section 4.3 is a Class B violation. Whenever any work related to construction for which a permit is required from the City is being done contrary to the provision of the Building Code, the Building Inspector may order the work stopped by notice in writing served on any persons engaged in the doing or causing of such work and any such persons shall immediately stop such work until authorized by the Building Inspector to proceed.
(Amended by Ordinance #497, 5/5/97 – Effective 5/5/97)
- 4.4 Temporary Occupancy.**
- 4.4.1 Definitions.** For the purpose of Dayton Code section 4.4, the term "mobile home" means a self-propelled vehicle or a trailer (with or without the wheels on which it was designed to be mobile), containing sleeping accommodations. The term "mobile home" includes vehicles that are commonly called recreational vehicles.
- 4.4.2 Occupancy Unlawful.** No individual may sleep in a mobile home, after it has been parked more than 48 hours, unless the vehicle is parked in a designated recreational vehicle park, the mobile home has been placed pursuant to a duly issued mobile home siting permit, or the individual has obtained a Temporary Occupancy Permit from the City Recorder.
- 4.4.3 Temporary Occupancy Permit.** The City Recorder is authorized to issue a Temporary Occupancy Permit, valid for a period of up to two weeks, allowing an individual(s) to occupy and sleep in a mobile home temporarily parked in the yard of a residence, in which the individual has access to sanitation and kitchen facilities. No more than four Temporary Occupancy Permits within a twelve-month period may be issued by the City Recorder for temporary occupancy on property belonging to the same real property owner.

An individual may request the City Council to authorize the City Recorder to issue a Temporary Occupancy Permit, valid for up to six months and subsequent renewals for up to six months each. City Council may authorize a six month permit or renewal if, following open hearing on the matter, City Council finds: (1) the mobile home is parked in the yard of a residence in which the occupant of the mobile home has access to sanitation and kitchen facilities, or the mobile home is completely self-contained with sanitation and kitchen facilities, or the mobile home is plumbed into the city water and sewer systems; (2) the applicant demonstrates that he or she is actively proceeding in good faith with the

construction of a permanent dwelling or is requesting the temporary occupancy permit because of a temporary medical emergency; and (3) a six-month temporary occupancy will not diminish the quiet enjoyment of property rights for adjoining property owners.

4.4.4 Interpretation. In the event section 4.4 of Dayton Code conflicts with another section of Dayton Code or city ordinance, the other section of Dayton Code or city ordinance shall control.

4.4.5 Violation. A violation of Dayton Code section 4.4.2 is a Class B infraction.

4.5 Dangerous Buildings.

4.5.1 Enacting Ordinance. Section 4.5 of Dayton Code was enacted by Ordinances 467 and 475.

4.5.2 Purpose and Scope. It is the purpose of Section 4.5 of Dayton Code to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by Dayton Code or otherwise available by law, whereby buildings or structures which from any cause endanger the life, limb, health, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

4.5.3 Dangerous Building Defined. For the purpose of Dayton Code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

- (a) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;
- (b) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (c) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings or similar structure, purpose or location.
- (d) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.
- (e) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby

injure persons or damage property.

- (f) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
- (g) Whenever any portion thereof has racked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- (h) Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction, (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
- (i) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (j) Whenever the exterior walls or other vertical structural member list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.
- (k) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- (l) 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 (i) an attractive nuisance to children; (ii) a harbor for vagrants or criminals; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful acts.
- (m) Whenever the building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
- (n) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i)

strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

- (o) 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 the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- (p) 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 fire marshal to be a fire hazard.
- (q) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
- (r) 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 months so as to constitute such building or portion hereof an attractive nuisance or hazard to the public.

4.5.4 General Definitions. For the purpose of Section 4.5 of Dayton Code, words, phrases and terms, not specifically defined herein, shall have the meanings stated in the Building Code.

4.5.5 Enforcement and Inspections.

- (a) The Building Inspector is hereby authorized to enforce the provisions of Section 4.5 of Dayton Code.
- (b) County health officers, city fire chief, county fire inspectors, city building inspector and county building inspectors are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of Section 4.5 of Dayton Code. In furtherance thereof, they are hereby empowered to seek inspection warrants.

4.5.6 Nuisance Declared. All buildings or portions thereof which are determined to be dangerous buildings by a public official authorized to inspect, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

4.5.7 Violation. No person or corporation, whether as owner, lessee, or occupant, shall construct, occupy or maintain any dangerous building within the City.

Violation of any provision of Dayton Code 4.5 is a Class A Infraction.

4.5.8 Commencement of Proceedings. Whenever an authorized inspector has inspected any building and has determined that such building is a dangerous building, the Building Inspector shall commence proceedings to cause the repair, vacation, or demolition of the building by issuing a notice and order as provided in Dayton Code 4.5.9.

4.5.9 Contents of Notice and Order. The notice and order shall contain:

- (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 authorized inspector has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous.
- (c) A statement of action required to be taken as determined by the authorized inspector.
 - (c-i) If the authorized inspector has determined that the building or structure must be repaired, the order shall require that all required permits be secured for repairs and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
 - (c-ii) If the authorized inspector 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 authorized inspector to be reasonable.
 - (c-iii) If the authorized inspector has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefore within 60 days from the date of the order, and that the demolition be completed within such time as the authorized inspector shall determine is reasonable.
- (d) Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced with the time specified, the Building Inspector (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.
- (e) Statements advising (i) that any person having any record title or

legal interest in the building may appeal from the notice and order or any action of the Building Inspector to Dayton City Council, provided the appeal is made in writing as provided in Dayton Code 4.5.14, and filed with the City Recorder within 30 days from the date of service of such notice and order, and (ii) that failure to appeal will constitute waiver of all right to an administrative hearing and determination of the matter.

4.5.10 Service of Notice and Order.

- (a) The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner, and posted on the property; and one copy thereof shall be served on each of the following if known to the City Recorder or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the Building Inspector to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.
- (b) Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last equalized assessment roll of the county or as known to the City Recorder. If no address of any such person so appears or is known to the City Recorder, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
- (c) Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date, and manner in which service was made. The declaration shall be retained by the City Recorder.

4.5.11 Recordation of Notice and Order. If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the City Recorder shall file in the office of the County Clerk a certificate describing the property and certifying (i) that the building is a dangerous building and (ii) that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the City Recorder shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have

been made so that the building is no longer dangerous.

4.5.12 Standards for Repair, Vacation or Demolition. The following standards shall be followed by authorized inspectors, Building Inspector and city council in ordering the repair, vacation or demolition of any dangerous building:

- (a) Any building declared a dangerous building under this code shall be made to comply with one of the following:
 - (a-i) The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or
 - (a-ii) The building shall be demolished at the option of the building owner, or
 - (a-iii) If the building does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured and maintained against entry.
- (b) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.
- (c) Whenever a building has been vacated pursuant to this section, it is the responsibility of the owner to secure all doors and windows against unauthorized entry. Upon failure of the building owner to comply with this section within five days of notice to do so, the Building Inspector may cause the building to be secured by any means he or she deems appropriate. The cost of securing the building shall be recorded as a lien against the property.

4.5.13 Notice to Vacate.

- (a) Every notice to vacate shall, in addition to being served as provided in Dayton Code 4.5.9, be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY
It is a Class A Infraction,
as defined in Dayton Code,
to occupy this building
or to remove or deface this Notice
Building Inspector
City of Dayton

- (b) Whenever such notice is posted, the Building Inspector shall include a notification thereof in the notice and order issued under Dayton Code 4.5.9, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to

repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a Certificate of Occupancy issued pursuant to the provision of the Building Code.

- (c) Unauthorized entry and removal or defacing of Notice shall be a Class A Infraction.

4.5.14 Appeal.

4.5.14.1 Form of Appeal. Any person entitled to service under Dayton Code 4.5.9 may appeal from any notice and order or any action of the building official under this code by filing at City Hall a written appeal containing:

- (a) A heading in the words: "Before the City of Dayton Hearings Officer *(As amended by Ordinance #490, 9/6/95 – Effective 9/6/95)*;
- (b) A caption reading: "Appeal of ... ," giving the names of all appellants participating in the appeal;
- (c) A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order;
- (d) A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;
- (e) A brief statement in ordinary and concise language of the relief sought and the reason why it is claimed the protested order or action should be reversed, modified or otherwise set aside;
- (f) The signatures of all parties named as appellants and their official mailing addresses;
- (g) The verification (by declaration under penalty to perjury) of at least one appellant as to the truth of the matters stated in the appeal.

4.5.14.2 Time for Filing. The appeal shall be filed within 30 days from the date of the service of such notice and order of the Building Inspector; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Dayton Code 4.5.13, such appeal shall be filed within 10 days from the date of the service of the notice and order of the Building Inspector. *(Amended by Ordinance #490, 9/6/95 – Effective 9/6/95)*

4.5.14.3 Scheduling and Noticing Appeal for Hearing. Upon receipt of any appeal filed pursuant to this Section, the City Recorder shall notify the City Hearings Officer. As soon as practicable after receiving the written appeal, the City Hearings Officer shall fix a date, time and place for hearing of the appeal. Such date shall not be less than 10 days nor more than 60 days from the date the appeal was filed with the City Recorder. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the City Recorder either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal. Such notice shall be deemed given on the date of the mailing. The failure of any person to receive such notice shall not affect the validity of any hearing or any determination, decision or order of the City Hearings Officer. *(Amended by Ordinance #490, 9/6/95 – Effective 9/6/95)*

4.5.14.4 Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of Dayton Code 4.5.14 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

4.5.14.5 Scope of Hearing on Appeal. Only those matters or issues specifically raised by the appellant in the written appeal shall be considered in the hearing of the appeal.

4.5.15 Staying of Order Under Appeal. Except for vacation orders made pursuant to Dayton Code 4.5.13, enforcement of any notice and order of the Building Inspector issued under this Code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

4.5.15.1 Failure to Commence Work. *(As amended by Ordinance #490, 9/6/95 – Effective 9/6/95)*

Whenever the required repair or demolition is not commenced within the time specified:

(a) The Building Inspector shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING
DO NOT OCCUPY
It is a Class A Infraction,
as defined in Dayton Code,
to occupy this building,
or to remove or deface this notice.
Building Inspector
City of Dayton

(b) No person shall occupy any building which has been posted as specified in this Section. No person shall

remove or deface any such notice so posted until the repairs, demolition or removal ordered by the Building Inspector have been completed and a Certificate of Occupancy issued pursuant to the provisions of the Building Code. Violation of this subsection is a class A infraction.

- (c) The City may proceed to cause the work to be done and charge the costs thereof against the owner and/or against the property as an assessment lien. *(Amended by Ordinance #490, 9/6/95 – Effective 9/6/95)*

4.5.16 Extension of Time to Perform Work. Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the Building Inspector may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the authorized inspector determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Inspector's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

4.5.17 Interference with Repair or Demolition Work Prohibited . No person shall obstruct, impede or interfere with any officers, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code, whenever such officer, employee, contractor or authorized representative of this City or person having an interest or estate in such building or structure is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provision of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code. Violation of this section is a class A Infraction.

4.5.18 Performance of Work Upon Owner's Failure.

- (a) When any work of repair or demolition is to be done pursuant to section 4.5.15 (c), the Building Inspector shall issue his or her order there-for to the superintendent of public works and the work shall be accomplished by city personnel or by private contract under the direction of said superintendent. Plans and specifications for the work may be prepared by the superintendent, or he may employ such architectural and engineering assistance on a contract basis as he or she may deem reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.
- (b) Upon completion of the work, the City Recorder shall certify to the city council the costs incurred for the work and the city council shall ascertain the cost of the work and assess the same against the property upon which the building is situated. Such assessment shall be

declared by an ordinance and it shall be entered in the docket of city liens and shall thereupon be and become a lien against the property. Any assessment levied pursuant to this section shall be due and payable in ten days after the same has been entered in the lien docket. Notice of the assessment shall be given to the owners of the property in the same manner as notice pursuant to Dayton Code 4.5.9.

4.6 Permit Requirements. *(Added by Ordinance #587, adopted 05/12/08 and effective 06/11/08)*

4.6.1 Conditions for Issuance.

In addition to the requirements found elsewhere in this Code and imposed in the Oregon Building Code for the issuance of a building permit, no such permit shall be valid unless:

- (a) Domestic water supply, sanitary sewer and storm water facilities are installed and approved of by the City Engineer or Public Works Director for service to the premises for which the permit is sought; and
- (b) Street improvements, street lighting, required sidewalks, if any have been installed and approved by the City Engineer and according to the City's Standards and Specifications; or, in the alternative, the applicant has agreed in writing to provide the City with an improvements guarantee along with sufficient monetary assurances (in form, manner and amount approved of by the City Attorney, City Manager and City Engineer) sufficient to cover the costs associated with the design, construction and maintenance of those improvements.

4.6.2 Payment Conditions.

In addition to the conditions noted above in subsection 4.6.1 of this section, the City's Building Official and/or City Manager have the authority to condition issuance of (or revoke or stop work under) any building permit required by any of the specialty codes comprising the State Building Code to demand proof of payment of all appropriate building permit fees as well as proof of payment of any or all of the following fees, liens and taxes:

- (a) Payment of business license taxes imposed under the terms of Chapter 3 of this Code on any contractor or subcontractor working on a structure in the City.
- (b) Payment of all System Development Charges that may be due as a result of the building activity requiring the permit; payment of any outstanding nuisance or other liens levied on the property for which the building permit is issued; and
- (c) Payment of the Construction Excise Tax imposed by the Dayton

School District.