

EXPLANATORY COVER SHEET

COUNCILMAN'S BILL NO. CB-1589

SPONSOR: COUNCIL MEMBER

TITLE: A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE 15 TO CHAPTER 10 OF THE NORTHGLENN MUNICIPAL CODE, WHICH ADOPTS BY REFERENCE THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS WITH AMENDMENTS

PURPOSE: THIS ORDINANCE WILL ALLOW THE CITY TO TAKE MEASURES TO FIX BUILDINGS OR STRUCTURES, WHICH POSE A DANGER TO THE GENERAL PUBLIC OR THE BUILDINGS' OCCUPANTS. THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS ALLOWS THE CITY TO REQUIRE THE OWNERS TO REPAIR, VACATE OR DEMOLISH ANY DANGEROUS BUILDING WITHIN THE CITY. THE CODE ALSO ALLOWS THE CITY TO CARRY OUT ANY SUCH ACTIONS AND RECOVER THE COSTS FROM THE OWNERS OF THE BUILDING AT ISSUE.

ADDITIONAL EXPLANATORY REMARKS:

Section 10-15-5. Scope. The purpose of the code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of the code.

Section 10-15-6. Amendments to the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition.

The Uniform Code for the Abatement of Dangerous Buildings adopted by Section 10-15-2 is amended as follows; section numbers refer to section numbers of the Uniform Code for the Abatement of Dangerous Buildings:

(a) Section 103, is hereby amended to read as follows:

“All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of Section 34 of the 2003 International Building Code.”

(b) Section 301 is hereby amended by the enactment of

“BOARD OF APPEALS means the same as Board of Adjustment as used in this code and defined in Section 11-42 of the Northglenn Municipal Code, and the two phrases shall be used interchangeably.”

(c) Section 302, Items No. 15 and 16, is hereby amended to read as follows:

15. Whenever any building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, contamination, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Building Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

16. 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 Building Official to be a fire hazard.

(d) Section 401.1 is hereby amended to read as follows:

“401.1 Commencement of Proceedings. When the Building Official has inspected or caused to be inspected any building and has found and determined

that such building is a dangerous building, the Building Official shall commence proceedings to abate by the repair, rehabilitation, remediation, demolition and/or vacation of the building.”

(e) Subsections 401.2(3.1), (3.3), (4), and (5) are hereby amended to read as follows:

3.1 If the Building Official has determined that the building or structure must be repaired, rehabilitated or remediated, the order shall require that any required permits be secured therefor 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.

3.3 If the Building Official 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 30 days from the date of the order); that all required permits be secured therefor within 15 days from the date of the order; and that the demolition be completed within such time as the Building Official shall determine is reasonable.

4. Statements advising that if any required repair, rehabilitation, remediation, or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official (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.

5. 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 Official to the Board of Adjustment, provided the appeal is made in writing as provided in this Code and filed with the Building Official within 15 days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

(f) Section 401.4 is hereby amended to read as follows:

“401.4 Method of Service. 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 their address as it appears on the last equalized assessment roll of the County or as known to the Building Official. If no address of any such person so appears or is known to the Building Official, 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, for all persons entitled thereto, and the date the property is posted for all action against the property.”

(g) Subsection 403(1) is hereby amended to read as follows:

“The following standards shall be followed by the Building Official (and by the Board of Adjustment if an appeal is taken) in ordering the repair, rehabilitation, remediation, vacation or demolition of any dangerous building or structure:

1. Any building declared a dangerous building under this code shall be made to comply with one of the following:

1.1 The building shall be repaired, rehabilitated or remediated in accordance with the current building code, health code, resolution or standards, or other current code applicable to the type of substandard conditions requiring repair; or

1.2 The building shall be demolished at the option of the building owner; or

1.3 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.”

(h) Subsection 701.1 is hereby amended to read as follows:

“701.1 General. After any notice and order of the Building Official becomes effective or the Board of Adjustment made pursuant to this code shall have become final, it shall be unlawful for any such person to whom any such notice and order is directed to fail, neglect or refuse to obey any such notice and order.

1. Any such person who fails to comply with any such order is guilty of a municipal ordinance offense.

2. Each day that the property remains in violation of the notice and order and the person to whom such notice and order is directed fails to obey such notice and order shall constitute a separate and distinct violation.

3. Any person who pleads guilty or no contest to or who, after trial, is found guilty of violating this Section 701.1 shall be penalized as provided in Section 1-1-10(a)(2) of the Northglenn Municipal Code.”

(j) Subsection 701.2 is hereby amended to read as follows:

“701.2 Failure to Obey Order. If, after any order of the Building Official becomes effective or Board of Adjustment made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Building Official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance.”

(k) Subsection 701.3(3) is hereby amended to read as follows:

“3. The Building Official may, in addition to any other remedy herein provided, cause the building to be repaired, rehabilitated, and/or remediated to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair, rehabilitation, remediation, or demolition work shall be accomplished and the cost thereof, including all administrative costs of the City, paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.”

(l) Sections 801.1 and 801.2 are hereby amended, and a new Section 801.3 is hereby enacted to read as follows:

801.1 Procedure. When any work, construction, rehabilitation, remediation, repair or demolition is to be done pursuant to Section 701.3, Item 3, of this Code, the work shall be accomplished by private contract upon the direction of the Building Official. Plans and specifications therefor may be prepared by the contractor, or the Building Official may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard contractual procedures shall be followed to choose the contractor. If the work to be performed is related to remediation or rehabilitation of contaminated property, cleanup shall meet State of Colorado and Tri-County Health standards and regulations.”

801.2 Costs. The cost of such work and all administrative costs of

the City may be paid by a special assessment against the property involved, but also shall be or may be made a personal obligation of the property owner. Such special assessment shall become and constitute a continuing and perpetual lien and charge upon the lots or parcels of ground upon which they are levied and such lien shall have a priority over all other liens except general taxes.

(m) 801.3 Special Assessments.

“801.3.1 Collection of Special Assessments. Collection of the special assessments, referred to in Subsection 801.2, may be collected following the procedures set forth in Subsection 801.3.2 herein. The procedures for collections of special assessments in this subsection, if followed, are in lieu of Sections 901 through 907 of Chapter 9.”

(n) 801.3.2 Collection of Special Assessment Procedure.

1. A notice of special assessment, including the right to a hearing, as set out in Subsections 801.3.2(5) and (6) of this section, shall be sent first class mail, from the City's Finance Director to the property owner/lessee at the address listed for the property owner in the county record and the property address. If any notice is returned, the property shall be posted with such notice.

2. The property owner/lessee has 30 days from the date the notice of special assessment is mailed or if notice is returned, from the date the property is posted to pay the assessment. Failure to pay within the time allotted will cause the special assessment to be recorded against the property. The special assessment will constitute a continuing lien against such property.

3. The amount of the assessment will include, in addition to all contractors' charges, inspection costs, attorneys' fees, court costs, and all other associated costs. The assessment may be paid any time prior to the assessment being turned over to the County Treasurer. Payments must be made directly to the City's Finance Director.

4. Unpaid assessments will be filed quarterly with the proper office of the County Clerk and Recorder's office and annually with the Treasury office.

5. An owner/lessee may object to such assessment within 30 days from the date the notice of assessment was mailed or if the notice is returned, from the date the property is posted. The objection must be in writing and mailed to and received by the Building Official within the 30-day period. The objection must include a phone number and address of the objecting party, and must state the basis for the objection and must be on

forms made available for this purpose by the Building Inspection Division. Upon receipt of such objection and payment of the appropriate fee, the Building Official will notify the Chairperson of the Board of Adjustment who will then set a hearing date, which hearing shall be the next regularly scheduled meeting of the Board of Adjustment following receipt of the objection. Notice of this date will be mailed to the person making the objection. Failure to include an address in the objection will constitute a waiver of the right to file an objection.

6. The owner/lessee who requests the hearing will be charged an administrative fee pursuant to Section 11-45-2(a) of the Northglenn Municipal Code pertaining to hearings before the Board of Adjustment. Failure of such person to attend the hearing at the date and time scheduled shall constitute a waiver of such right to a hearing and a determination of all issues regarding the assessment.

7. The Board of Adjustment shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The Building Official shall carry the burden of establishing that a violation existed and that costs for abatement represented in the special assessment were reasonable under the facts and circumstances of the particular case. The standard of proof shall be by a preponderance of the evidence. A written decision will be prepared at the end of the hearing. This decision will be reached after both the landowner and the Building Official have presented their cases. The decision will be deemed effective three days from the date the decision is mailed to the owner/lessee and will be a final decision.

(o) Section 802.1 is hereby amended to read as follows:

“802.1 General. The legislative body of this jurisdiction may establish a special revolving fund to be designated as the repair, rehabilitation, remediation, and demolition fund. Payments shall be made out of said fund upon the demand of the Building Official to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.”

(p) Sections 908.1 and 909 are hereby amended to read as follows:

“908.1 Priority. Immediately upon a special assessment being turned over to the County Treasurer, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The liens shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.”

(q) Section 909 --REPORT TO ASSESSOR AND TAX COLLECTOR: ADDITION OF ASSESSMENT TO TAX BILL.

“Certified copies of the special assessment shall be given to the County Assessor and/or the tax collector for this jurisdiction, who shall add the amount of the assessment to the next regular tax bill levied against the parcel.”

Section 10-15-7. Violations—Penalty.

(a) It shall be unlawful for any person to violate any of the provisions of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, as adopted, or the provisions of this ordinance.

(b) Any violation of the provisions of this ordinance, and any violation of any of the provisions of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, as adopted, shall upon conviction, be punishable as provided in Section 1-1-10(a)(2) of the Northglenn Municipal Code.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____, 2006.

KATHLEEN M. NOVAK
Mayor

ATTEST:

DIANA L. LENTZ, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____, 2006.

KATHLEEN M. NOVAK
Mayor

ATTEST:

APPROVED AS TO FORM:

DIANA L. LENTZ, CMC
City Clerk

COREY Y. HOFFMANN
City Attorney