

**ORDINANCE NO. 1007-2021
CITY OF GRANITE FALLS, WASHINGTON**

**AN ORDINANCE OF THE CITY OF GRANITE FALLS, WASHINGTON ADOPTING
AMENDMENTS TO THE CITY OF GRANITE FALLS MUNICIPAL CODE BY
ADOPTING A NEW CHAPTER 15.04 “DANGEROUS BUILDINGS” TO PROVIDE
FOR DANGEROUS BUILDING ABATEMENT AND TO AMEND GFMC 19.04.350 TO
EXPAND THE AUTHORITY OF THE CITY HEARING EXAMINER TO SERVE AS
THE APPEALS COMMISSION.**

WHEREAS, the City of Granite Falls desires to amend the Granite Falls Municipal Code to create enabling authority for dangerous building abatement. To accomplish this, the City has drafted proposed amendments to the Granite Falls Municipal Code; and,

WHEREAS, pursuant RCW 35.80 Unfit Dwellings, Buildings, and Structures, the City of Granite Falls may adopt an Ordinance to regulate and abate unfit dwellings, building, structures, or premises; and

WHEREAS, Washington statutes require all jurisdictions in the state to adopt by reference and enforce the Building Code throughout Washington; and

WHEREAS, the City of Granite Falls adopted with Ordinance 1002 the International Building Code, 2018 Edition; and

WHEREAS, the International Building Code Section 116 provides general authority for cities to regulate and abate dangerous buildings; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GRANITE FALLS, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. A new Chapter 15.04 entitled “Dangerous Buildings” and an amendment to the powers of the Hearing Examiner in Section 19.04.350 are hereby adopted as set forth in Attachment A hereto, which is incorporated herein.

Section 2. A copy of the code adopted hereby is on file with the Granite Falls City Clerk and is available for review and inspection.


Section 3. Effective Date. This ordinance shall take effect five days after publication.

ADOPTED by the City Council and APPROVED by the Mayor this 5th day of May, 2021.


CITY OF GRANITE FALLS

By 
Matthew Hartman, Mayor

ATTEST:

By 
Darla Reese, MMC, City Clerk

APPROVED AS TO FORM:

By 
Thom H. Graafstra, City Attorney
Emily Guildner, City Attorney

Date of publication: May 10, 2021

Effective Date: May 15, 2021

ATTACHMENT A

Section 1. A new Chapter 15.04 Granite Falls Municipal Code, entitled “Dangerous Buildings” is hereby adopted to read as follows:

CHAPTER 15.04

DANGEROUS BUILDINGS

Section 1:

- 15.04.010 Defective conditions enumerated.**
- 15.04.020 Administration and enforcement by building official and city engineer – Powers and duties.**
- 15.04.030 Hearing by city engineer – Findings of fact – Order to abate – Compliance.**
- 15.04.040 Standards to be followed in ordering abatement.**
- 15.04.050 Hearing Examiner to serve as appeals commission.**
- 15.04.060 Appeals – Findings of Hearing Examiner – Failure to comply with final order.**
- 15.04.070 Appeal to Superior Court.**
- 15.04.080 Failure to comply – Assessment of costs.**
- 15.04.090 Civil and criminal enforcement.**

15.04.010 Defective conditions enumerated.

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 the middle third of its base;
- (2) Those which, exclusive of the foundation, show 33 percent, or more, of damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the nonsupporting 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 insufficient strength to be reasonably safe for the purpose used;
- (4) Those which have become 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 of Granite Falls;
- (5) Those which have become or are so dilapidated or decayed or unsafe or 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 light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein. These include buildings or structures without connected water, sewer or electric power therein;

(7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication;

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property;

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

15.04.020 Administration and enforcement by building official and city engineer – Powers and duties.

The building official shall be charged with the primary responsibility for the administration and enforcement of this chapter and shall be assisted by the city engineer, and each, as well as the hearing examiner hereinafter established, shall have and exercise, in addition to those powers herein enumerated, such other powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter.

The city building official and/or his authorized representative shall:

(1) Inspect or cause to be inspected all buildings including, but not necessarily limited to, schools, halls, churches, theaters, hotels, all family, commercial, manufacturing or loft buildings which may be brought to his attention by the fire chief or any one of his duly authorized representatives, the City Manager or any one of his duly authorized representatives, or the police chief or any one of his duly authorized representatives for the purpose of determining whether any conditions exist which render such places “dangerous buildings” within the terms of GFMC 15.04.010;

(2) Inspect or cause to be inspected any building, wall or structure about which complaints are made by any person to the effect that a building, wall or structure is, or may be, existing in violation of this chapter;

(3) After such inspection, if the city building official finds any dwelling, building or other structure to be a “dangerous building,” he/she shall cause to be served, either personally or by certified mail, with a return receipt requested, on all persons having any interest therein, as shown upon the records of the auditor’s office of Snohomish County, and shall post in a conspicuous place on such property, a complaint stating in what respect such dwelling, building or structure is a “dangerous building.” If the whereabouts of such persons is unknown, and the same cannot be ascertained by the building inspector in the exercise of reasonable diligence, and the building inspector shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made by publishing the same once each week for two consecutive weeks in a legal newspaper published in the city. Such complaint shall contain a

notice that a hearing will be held before the city engineer, at a place therein fixed, not less than 10 days nor more than 30 days after the serving of said complaint; or in the event of publication, not less than 15 days nor more than 30 days from the date of the first publication; that all parties in interest shall be given the right to file an answer to the complaint, and to appear in person, or otherwise, and to give testimony at the time and place fixed in the complaint. Rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the city engineer. A copy of such complaint shall also be filed with the auditor of Snohomish County, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law;

(4) Appear at all hearings conducted by the city engineer and the hearing examiner, hereinafter established, and testify as to the condition of such “dangerous buildings”;

(5) The city engineer and the city building official and/or their authorized representatives shall be empowered to enter any building or structure for the purpose of making inspection thereof when said officers have reasonable grounds for believing that said buildings or structures are “dangerous buildings”; provided, that such entry shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.

15.04.030 Hearing by city engineer – Findings of fact – Order to abate – Compliance.

The city engineer shall:

(1) Hold a hearing to adduce such testimony as may be presented by any department of the city of Granite Falls, or the owner, occupant, mortgagee, lessee or any other person having an interest in such building or premises designated a “dangerous building,” as shown by the records of the Snohomish County auditor;

(2) Make written findings of fact from the testimony offered pursuant to subsection (1) as to whether or not the building in question is a “dangerous building” within the terms of GFMC 15.04.010;

(3) After a complete investigation of the “dangerous building,” issue an order based upon said findings of fact commanding the occupant, mortgagee, lessee, agent and all other persons having an interest in said building, as shown by the records of the Snohomish County auditor, to repair and/or vacate and/or demolish such building found to be a “dangerous building” within the terms of this chapter;

(4) Send a copy of said order and findings of fact via certified mail to the owner, lessee, mortgagee, agent and all other persons having an interest in the said building, as shown by the records of the Snohomish County auditor, of any building found by the city engineer to be a “dangerous building” within the standards set forth in GFMC 15.04.010, and a copy of the said order shall be posted in a conspicuous place on said building. The order and findings of fact shall cover the following information:

(a) Name of the owner or other persons interested, as provided hereinabove,

(b) Street address and legal description of the property on which said building, wall or structure is located,

(c) General description of type of building, wall or structure deemed unsafe,

(d) A complete, itemized statement or list of particulars which caused the building, wall or structure to be a "dangerous building" as defined in GFMC 15.04.010,

(e) Whether or not the defects specified in the statement or list of particulars, as provided for in paragraph (d) above, can be removed or repaired,

(f) Whether or not said building should be vacated by the occupants, and the date of such vacation,

(g) Whether or not the said building constitutes a fire menace,

(h) Whether or not it is unreasonable to repair the said building and whether or not the said building should be demolished,

(i) A statement of the reasonable time to commence to vacate and/or make repairs and/or demolish the building, as provided in said order. A reasonable time shall not exceed 30 days except in cases of an unusually large building. The time to commence may be extended by the city engineer or the hearing examiner for an additional period of 60 days; provided, however, the extension is applied for by the owner or other persons interested in the property as hereinabove defined at least five days before the expiration of the time to commence vacation, repair or demolition,

(j) A reasonable time to complete the vacation, repairs or demolition as provided in said order, and said reasonable time for completion shall not exceed 60 days, unless the time is extended by resolution of the city council;

(5) If the owner, mortgagee, lessee or other person having an interest in said building fails to comply with the order provided for in subsection (3) within 30 days or any reasonable time ordered by the city engineer, then the city engineer shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant under the standards herein before provided in GFMC 15.04.010, and the costs of such repair, vacation or demolition shall be a lien charged against the land on which said building or structure existed in favor of the city of Granite Falls, to be foreclosed in the manner provided for in the foreclosure of mechanics' and materialmen's liens, or shall be recovered in a suit at law or equity against the owner; provided, however, that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety or general welfare of the people of this city, the city engineer may notify the city attorney to take legal action to force the owner to make all necessary repairs, vacate or demolish the building or structure;

(6) If no appeal is filed as hereinafter provided, a copy of the order and findings of fact shall be filed with the Auditor of Snohomish County.

15.04.040 Standards to be followed in ordering abatement.

The following standards shall be followed in substance by the city engineer and hearing examiner in ordering repair, vacation or demolition of any “dangerous building”:

- (1) If the “dangerous building” can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired by the city engineer or the hearing examiner;
- (2) If the “dangerous building” is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated by the city engineer or the hearing examiner;
- (3) If the “dangerous building” is 50 percent damaged or decayed or deteriorated in value, it shall be demolished. Value as used herein shall be the valuation placed upon the building for purposes of general taxation;
- (4) If the “dangerous building” cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished.

15.04.050 Hearing Examiner to serve as designated appeals commission.

For the purposes of this Chapter 15.04 GPMC the Hearing Examiner is hereby designated as the appeals commission under this chapter. When acting as the appeals commission the Hearing Examiner shall act in accordance with the requirements of this chapter. All references in this chapter to the appeals commission shall refer to the Hearing Examiner as designated in this section.

15.04.060 Appeals – Findings of Hearing Examiner – Failure to comply with final order.

- (1) The owner or any party of interest, within 30 days from the date of service upon the owner and posting of an order issued by the city engineer under the provisions of GPMC15.04.020, may file an appeal in writing with the Hearing Examiner serving as the appeals commission setting forth with particularity the alleged errors of the order and findings of fact issued by the city engineer. Upon receipt of such written appeal the matter shall be promptly set down for hearing before the Hearing Examiner, and all such appeals shall be resolved by the Hearing Examiner within 60 days from the date of filing therewith.
- (2) The findings of fact and orders of the Hearing Examiner shall be reported in the same manner and shall bear the same legal consequences as if issued by the city engineer. A transcript of the findings of fact and orders of the Hearing Examiner shall be made available to the owner or the party in interest upon demand and shall be filed with the auditor of Snohomish County.

15.04.070 Appeals to Superior Court.

Any person affected by an order issued by the Hearing Examiner may, within 30 days after the

posting and service of the order, petition to the Superior Court for an injunction restraining the city from carrying out the provisions of the order. In all such proceedings, the Superior Court shall have authority to affirm, reverse or modify the city's order, and the Superior Court trial shall be heard de novo.

15.04.080 Failure to comply – Assessment of costs.

(1) If the owner or party in interest, following exhaustion of his rights to appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove or demolish the dwelling, building or structure, the city council may direct and cause such dwelling, building or structure to be repaired, altered, improved, vacated and closed, removed or demolished by city employees or by city contract. The amount of the cost of such repairs, alterations, improvements or vacating and closing, or removal and demolition, shall be assessed against the real property upon which such cost was incurred, unless such amount is previously paid. Upon certification to him by the city treasurer of the assessment amount being due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW **84.56.020**, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the city of Granite Falls. If the dwelling, building or structure is removed or demolished by the city, the city shall, if possible, sell the materials of such dwelling, building or structure and credit the proceeds of such sale against the cost of the removal or demolition, and if there be any balance remaining, it shall be paid to the parties entitled thereto, after deducting the costs incident thereto. The demolition assessment shall constitute a lien against the property of equal rank with state, county and municipal taxes.

(2) The remedies and procedures provided for herein shall be cumulative with all other remedies and procedures available to the city for the enforcement of compliance with its ordinances.

15.04.090 Civil and criminal enforcement.

(1) Any dwelling, building or structure which is found pursuant to procedures of this chapter to be a "dangerous building," and which is not repaired, altered, improved, vacated, closed, removed or demolished as required herein, is hereby declared to be a public nuisance. The city shall have the authority to commence civil proceedings for the abatement thereof, and to enforce compliance with the orders entered pursuant to this chapter, in the Snohomish County Superior Court. The cost of such proceedings, including reasonable attorney's fees, shall be assessed against the property owners or other party in interest.

(2) It is unlawful for any person to maintain a public nuisance, as defined above, or to willfully omit or refuse to comply with an order entered pursuant to this chapter to repair, alter, improve, vacate, close, remove or demolish a "dangerous building." Any person found guilty of such criminal acts or omissions, by judgment of the applicable District Court, shall be punished by imposition of a fine not to exceed \$300.00. Each day's violation shall constitute a separate offense punishable hereunder.

Section 2. GFMC 19.04A.350 “Hearing Examiner” is hereby amended to read as follows:

19.04A.350 Hearing examiner.

(A) The purpose of establishing a “hearing examiner” is to separate the application of land use regulations from policy making; to provide a level of expertise to conduct administrative and quasi-judicial hearings arising from the application of this title and the rules and procedures developed under it; to better protect and promote the interests of the community; and to expand the principles of fairness and due process in public hearings.

(B) Authority and Duties. The “hearing examiner” shall serve at the pleasure of the mayor. The hearing examiner shall interpret, review and make recommendations on implementation of land use regulations as provided by ordinance and may perform other quasi-judicial functions as are delegated by ordinance. Unless otherwise specified, the term hearing examiner shall also mean deputy examiners and examiners pro tem. Hearing examiners shall be appointed based on their qualifications for the duties of the office including education and experience.

(1) Influence and Conflict of Interest. No person, including city officials, elected or appointed, shall attempt to influence the hearing examiner in any matter pending before him/her, except at an open record hearing duly called for such purpose, or to interfere with the hearing examiner in the performance of his/her duties in any way; provided, that this section shall not prohibit the city attorney from rendering legal service to the hearing examiner upon request. The hearing examiner shall be subject to the same code of ethics as set forth in Chapter 42.23 RCW.

(2) Rules. The hearing examiner shall have the power to prescribe rules for the scheduling and conduct of hearings and other procedural matters related to his/her duties.

(3) Powers. The hearing examiner shall have the authority to:

(a) Review and make decisions on the following land use permit matters pursuant to RCW 35A.63.170:

(i) Conditional use permits;

(ii) Variances;

(iii) Preliminary plats;

(iv) Appeals of administrative decisions or determinations;

(v) Planned residential developments (PRDs);

(vi) Binding site plans;

(vii) Appeals of administrative decisions or determinations pursuant to Chapter 43.21C RCW, the State Environmental Policy Act (SEPA);

(viii) Amortization periods for nonconforming signs;

(ix) Manufactured/mobile home parks;

(x) Nonconforming use permits; and

(xi) Appeals of SEPA determinations of the underlying land use action.

(b) Review and decide civil violations in conjunction with enforcement actions of the city as described in GFMC 19.04.120, Enforcement.

(c) Review and make recommendations to city council regarding a proposed development agreement in compliance with GFMC 19.04.150.

(d) Hear and make decisions under GFMC 15.04.050 and .060.

(4) Procedures. The hearing examiner shall:

(a) Receive and examine available information;

(b) Conduct public hearings in accordance with the provisions of this UDC and Chapter 36.70B RCW and ensure that the city makes a recording of the open record hearing;

(c) Administer oaths and affirmations;

(d) Issue subpoenas and examine witnesses; provided, that no person shall be compelled to divulge information which he/she could not be compelled to divulge in a court of law;

(e) Regulate the course of the hearing;

(f) Make and enter findings of fact and conclusions to support his/her decisions;

(g) Conduct conferences for the settlement or simplification of the issues;

(h) Conduct discovery;

(i) Dispose of procedural requests or similar matters;

(j) Take official notice of matters of law or material facts;

(k) Issue summary orders in supplementary proceedings; and

(l) Take any other action authorized by or necessary to carry out this chapter;

(m) The above authority may be exercised on all matters for which jurisdiction is assigned to the hearing examiner by city ordinance, code or other legal action of the city council. The nature of the hearing examiner's decision shall be as specified in this chapter and in each ordinance or code which grants jurisdiction to the hearing examiner.