

SECTION RBC112 - DANGEROUS BUILDINGS

RBC112.1 GENERAL PROVISIONS.

RBC112.1.1 Title. This section shall be known and cited as the Dangerous Building Code.

RBC112.1.2 Purpose and Scope of Regulations.

RBC112.1.2.1 Purpose. It is the purpose of these provisions to provide a just, equitable, and practicable method, to be cumulative with and in addition to, any other remedy provided by this Code, or the Housing Code, as applicable, or otherwise available at law, whereby buildings or structures that from any cause endanger the life, limb, health, morals, property, safety, or welfare of the general public or their occupants, may be required to be repaired, vacated or demolished.

RBC112.1.2.2 Scope. The provisions of Section RBC112 of this Code shall apply to all dangerous buildings, as herein defined, that are now in existence, or that may hereafter be constructed in the City.

See Appendix C of this Code for additional modifications to this section by the Board of County Commissioners of El Paso County, Colorado.

RBC112.1.3 Administration. The Building Official is hereby authorized to enforce the provisions of this Section.

RBC112.1.4 Board of Appeals. In order to provide for final interpretation of the provisions of this Code and to hear appeals provided for hereunder, there is hereby established a Board of Appeals of five (5) members who are not employees of the City or the Building Department except that the Building Official shall be an ex officio member of and shall act as secretary to this Board. The Board shall be appointed by the governing body of the Jurisdiction and shall serve at its pleasure. The Board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the Building Official. Appeals to the Board shall be processed in accordance with the provisions contained in Section RBC112.3 of this Code. Copies of all rules and regulations adopted by the Board shall be delivered to the Building Official, who shall make them freely accessible to the public.

RBC112.1.5 Inspections. The Jurisdiction's Health Officer and the Fire Chief of the Fire Authority along with the Building Official and their authorized representatives are hereby authorized to make any inspections and take any actions as

may be required to enforce the provisions of this Section.

All buildings or structures within the scope of this Section and all construction or work for which a permit is required shall be subject to inspection by the Building Official in accordance with and in the manner provided by this Section RBC109 of this Code.

RBC112.1.6 Right of Entry for Inspections.

RBC112.1.6.1 Authorized Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Section, or whenever the Building Official or the Building Official's authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition that makes a building or premises dangerous as defined in Section RBC112.1.7 of this Code, the Building Official or the Building Official's authorized representative may enter this building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Building Official by this Code, provided that:

1. If this building or premises is occupied, the Building Official or the Building Official's authorized representative shall first present proper credentials and demand entry; and
2. If this building or premises is unoccupied, the Building Official or the Building Official's authorized representative shall first make a reasonable effort to locate the owner or other persons having charge or control of the building premises and demand entry. If entry is refused, the Building Official or the Building Official's authorized representative shall have recourse to every remedy provided by law to secure entry.

RBC112.1.6.2 Authorized Representative. "Authorized representative" shall include the officers named in Section RBC112.1.5 of this Code and their authorized inspection personnel.

RBC112.1.6.3 Permission of Entry. No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made herein provided, to promptly permit entry therein by the Building Official or the Building Official's authorized representative for purpose of inspection and examination pursuant to this Code. Any person violating this subdivision shall be guilty of a misdemeanor.

RBC112.1.7 Definitions. The following terms, as used in Section RBC112 of this Code, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

Dangerous Building. For the purpose of Section RBC112 of this Code, any building or structure that has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that the conditions or defects exist to the extent that the life, health, property, or safety of the public or its occupants are endangered:

1. 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.
2. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1½) times the working stress or stresses allowed in this Code for new buildings of similar structure, purpose or location.
3. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to 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 this Code for new buildings of similar structure, purpose or location.
4. Whenever any portion of a member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
5. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is found to be of insufficient strength or stability, or it is not anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half (½) of that specified in this Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in this Code for new buildings.
6. Whenever any portion thereof has cracked, warped, buckled, or settled to 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.
7. Whenever the building or structure, or any portion thereof, is likely to partially or

completely collapse because of:

- 7.1. Dilapidation, deterioration or decay;
 - 7.2. Faulty construction;
 - 7.3. Removal, movement or instability of any portion of the ground necessary for the purpose of supporting the building;
 - 7.4. Deterioration, decay or inadequacy of the foundation; or
 - 7.5. Any other cause.
8. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
 9. Whenever the exterior walls or other vertical structural members 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 (1/3) of the base.
 10. Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
 11. 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:
 - 11.1. An attractive nuisance to children;
 - 11.2. A harbor for vagrants, criminals or immoral persons; or as to
 - 11.3. Enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
 12. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to the building or structure provided by this Code, the Housing Code, or of any law or ordinance of the State or City relating to the condition, location or structure of buildings.
 13. Whenever any building or structure that, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion, less than fifty percent (50%), or in any supporting part, member or portion, less than sixty-six percent (66%) of the:
 - 13.1. Strength;
 - 13.2. Fire-resistance rating characteristics; or

13.3. 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.

14. Whenever a building or structure, 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 a condition that is likely to cause sickness or disease.

15. 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 Chief to be a fire hazard.

16. Whenever any building or structure is in a condition to constitute a public nuisance known to the common law or in equity jurisprudence.

17. 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 (6) months so as to constitute a building or portion thereof as an attractive nuisance or hazard to the public.

RBC112.2 ABATEMENT OF DANGEROUS BUILDINGS

RBC112.2.1 Public Nuisance Declared. All buildings or portions thereof that are determined, after inspection by the Building Official, to be dangerous as defined in Section RBC112.1.7 of this Code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified in this Section.

RBC112.2.2 Comply With Applicable Codes. All buildings, or structures that are required to be repaired under the provisions of this Section shall be subject to the provisions of Chapter 3 of this Code, and the applicable codes adopted by reference therein.

RBC112.2.3 Commence Abatement Proceedings. Whenever the Building Official has inspected, or caused to be inspected, any buildings and has found and determined that the building is a dangerous building, the Building Official shall commence proceedings to cause the repair, vacation or demolition of the building.

RBC112.2.4 Notice and Order to Abate. The Building Official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient to identification of the premises upon which the building is located.
2. A statement that the Building Official has found the building to be dangerous, with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section RBC112.1.7 of this Code.
3. A statement of the action required to be taken, as determined by the Building Official.
 - 3.1. If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within an appropriate amount of time (not to exceed sixty (60) calendar days from the date of the order) and completed within an appropriate amount of time as the Building Official determines to be reasonable under all of the circumstances.
 - 3.2. If the Building Official 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 Building Official to be reasonable.
 - 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 an appropriate amount of time as the Building Official determines to be reasonable (not to exceed sixty (60) calendar days from the date of the order); that all required permits be secured therefor within sixty (60) calendar days from the date of the order, and that the demolition be completed within an appropriate amount of time as the Building Official determines to be reasonable.
4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building

Official:

- 4.1. Will order the building vacated and posted exit to prevent further occupancy until the work is completed; and
 - 4.2. May proceed to cause the work to be done and charge the costs thereof against the property or its owner.
5. Statements advising:
- 5.1. 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 Appeals, provided the appeal is made in writing as provided in the Code, and filed with the Building Official within thirty (30) calendar days from the date of service of the notice and order; and
 - 5.2. That failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

RBC112.2.5 Service of Notice and Order.

RBC112.2.5.1 To Whom Made. 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 Building Official or disclosed from official public record;

1. The holder of any mortgage or deed of trust or other lien or encumbrance of record;
2. The owner or holder of any lease of record; and
3. 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 Official 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 person from any duty or obligation imposed on the person by the provisions of Section RBC112 of this Code.

RBC112.2.5.2 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 the notice and order by certified mail, postage prepaid, return receipt requested, to the person at the address as it appears on the

assessment roll of the County or as known to the Building Official. If no address of any persons so appears or is known to the Building Official, then a copy of the notice and order shall be so mailed, addressed to the person, at the address of the building involved in the proceedings. The failure of any person to receive the 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.

RBC112.2.5.3 Proof of Service. 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, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the Building Official.

RBC112.2.6 Notice To Vacate. Every notice to vacate shall, in addition to being served as provided in Section RBC112.2.5 of this Code above, be posted at or upon each exit of the building, and shall be in substantially the following form:

DANGEROUS BUILDING

DO NOT OCCUPY

It is a misdemeanor to occupy the building or to remove or deface this notice.

Building Official

Pikes Peak Regional Building Department

Whenever this notice is posted, the Building Official shall include a notification thereof in the notice and order issued under Section RBC112.2.4 of this Code, reciting the emergency and specifying the conditions that necessitate the posting. No person shall remain in or enter any building that has been so posted, except that entry may be made to repair, demolish or remove the building under permit. No person shall remove or deface this notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the this Code. Any person violating this Section shall be guilty of a misdemeanor.

RBC112.2.7 Record Notice and Order; Certificates. Upon initiation of service of the notice and order, the Building Official shall file in the office of the County Clerk and Recorder of El

Paso County a certificate describing the property and certifying:

1. That the building is a dangerous building; and
2. That the owner is being so notified.

Whenever the Building Official's order has been reversed on appeal, or 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 on the certificate, the Building Official shall file a new certificate with the County Clerk and Recorder certifying that the order has been rescinded, the building has been demolished, or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

RBC112.2.8 Standards for Repair, Vacation or Demolition. The following standards shall be followed by the Building Official (and by the Board of Appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure.

RBC112.2.8.1 Order to Repair. Where the Building Official determines that any building declared as a dangerous building under Section RBC112.1 of this Code may reasonably be repaired in accordance with the current Building Code, the Building Official shall order this action. A building owner ordered to effect repairs under this paragraph may elect to have the building demolished.

RBC112.2.8.2 Order to Demolish. Where the Building Official determines that repair in accordance with the provisions of Section RBC112.2.8.1 of this Code above cannot reasonably be accomplished, the Building Official shall order the building demolished.

RBC112.2.8.3 Order to Vacate. If the building or structure is in a condition as to make it immediately dangerous to life, limb, property, or the safety of the public or its occupants, the Building Official shall order the building vacated. The Building Official may also take action under Section RBC112.2.10 of this Code relating to Emergency Orders.

RBC112.2.9 Vacant Buildings.

RBC112.2.9.1 Cleanup and Securing of Property. Whenever a building becomes vacant or unoccupied, the owner or agent of the building shall remove therefrom and from the lot and exterior premises on which the building is located all paper, trash, rubbish, refuse, garbage, or combustible material accumulated thereon, and shall securely close and keep closed all doors,

windows or the other openings into the building for as long as the building remains unoccupied.

RBC112.2.9.2 Order to Cleanup and Secure. In the event the owner, operator or other person responsible for the condition of any vacant building fails or refuses to remove all paper, trash, rubbish, refuse, garbage, or combustible material accumulated therein, or upon the lot and exterior premises on which the building is located, or fails or refuses to securely close and keep closed all doors, windows, or other openings into the building, the Building Official shall order the same to be done without delay.

RBC112.2.9.3 Giving or Serving of Order or Notice. Any order or notice by the Building Official shall be given or served upon the owner, operator, or other person responsible for the condition of the vacant building by verbal notification or personal service, and by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises. Where personal service cannot be made, a copy thereof shall be mailed to the person by registered or certified mail to that person's last known address and the building posted the same day. Where orders are given verbally, they shall be confirmed by service in writing.

RBC112.2.9.4 Compliance with Order or Notice. Where notification is given verbally or by personal service, ten (10) calendar days shall be given to comply with the order. Where notice is by registered or certified mail, fifteen (15) calendar days from mailing shall be given for compliance.

RBC112.2.9.5 Failure to Comply. If compliance with the order has not yet begun, or arrangement made with the Building Official by the due date, then the Building Official may order the same to be done without delay.

RBC112.2.9.6 Timely Abatement. To assist in the rapid abatement of vacant buildings in violation of this Section:

RBC112.2.9.6.1 Authority of City Engineer to Abate. Where there has been no compliance with Building Official's order, the City Engineer may contract to provide the services needed upon demand of the Building Official through the year. The City Engineering Department is authorized to perform the abatement at the Building Official's request.

RBC112.2.9.6.2 Report. Where, upon the order of the Building Official, a vacant building has been cleaned, boarded, and sealed, the Building Official shall then prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the

real property upon which the building was located, and the names and addresses of persons entitled to notice under this Section. Upon receipt of the report, the City Clerk shall be governed by the provisions of Section RBC112.4 of this Code and applicable provisions of City Tax Code.

RBC112.2.9.7 Applicability. This Section shall be construed as an addition to, and not inconsistent with applicable provisions of the Fire Code adopted by the Fire Authority.

RBC112.2.10 Emergency Orders.

RBC112.2.10.1 Issuance of Order. If any building or structure constituting a dangerous building under Section RBC112.1 of this Code is in a condition as to make it immediately dangerous to life, limb, property, or the safety of the public or its occupants, the Building Official may, in addition to ordering that the building or structure be vacated pursuant to Section RBC112.2.8.3 of this Code, issue an order, without prior notice and hearing, declaring that an emergency exists and requiring that temporary action, not constituting either repair in accordance with the current Building Code or demolition, be taken as deemed necessary to abate the emergency. This order may be issued to the record owner of the property, the owner's agent, or any person entitled to notice under Section RBC112.2.5 of this Code. Notwithstanding any provision of Section RBC112 of this Code to the contrary, this order shall be effective immediately.

RBC112.2.10.2 Compliance with Order. Any person to whom an emergency order is issued shall comply with that order immediately, and it shall be unlawful to fail or refuse to comply with such an order.

RBC112.2.10.3 Failure to Comply. In the event that the person to whom the emergency order is issued fails or refuses to immediately comply therewith, the Building Official may request, without prior notice to any party, that the City Engineer take any action as required by the terms of the emergency order. The provisions of Section RBC112.4 of this Code shall apply to any emergency abatement.

RBC112.2.10.4 Action to Abate. The Building Official shall, either simultaneously with or as soon after the issuance of an emergency order as possible, institute action in accordance with the provisions of Section RBC112 of this Code to permanently abate the dangerous building or structure.

RBC112.3 APPEALS AND HEARINGS.

RBC112.3.1 Form of Appeal. Any person entitled to service under Section RBC112.2.5 of

this Code may appeal from any notice and order to any action of the Building Official by filing at the Office of the Building Official within thirty (30) calendar days from the date of the service of the order a written appeal containing:

1. A heading in the words: "Before the Board of Appeals".
2. A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal.
3. 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.
4. 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 applicant.
5. A brief statement, in ordinary and concise language, of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signature of all parties named as appellants, and that, in ordinary and concise language, of the specific order or action protested, together with any material facts claimed to support the contentions of the applicant.
7. The signature of all parties named as appellants, and their official mailing addresses.
8. The verification (by declaration under penalty of perjury) of all appellants as to the truth of the matters stated in the appeal.

RBC112.3.2 Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of Section RBC112.3.1 of this Code shall constitute a waiver of that person's right to an administrative hearing and adjudication of the notice and order, or any portion thereof.

RBC112.3.3 Staying Order under Appeal. Except for vacation orders made pursuant to Section RBC112.2.8 of this Code or emergency orders issued pursuant to Section RBC112.2.10 of this Code, enforcement of any notice and order of the Building Official issued under this Code shall be stayed during the pendency of an appeal therefrom that is properly and timely filed.

RBC112.3.4 Processing Appeal. Upon receipt of any appeal filed pursuant to this Section, the Building Official shall present it at the next regular or special meeting of the Board of Appeals.

As soon as practicable, after receiving the written

appeal, the Board of Appeals shall fix a date, time and place for the hearing of the appeal by the Board. This date shall not be less than ten (10) calendar days nor more than sixty (60) calendar days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to each appellant by the secretary of the Board either by causing a copy of the notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the appellant's address shown on the appeal.

RBC112.3.5 Scope of Hearing on Appeal. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

RBC112.3.6 Procedure for Hearing Appeals.

RBC112.3.6.1 Hearing Examiners. The Board may appoint one or more hearing examiners or designate one or more of its member to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted by the examiner to the Board for decision.

RBC112.3.6.2 Records and Reports. A record of the entire proceedings shall be made by live voice recording determined to be appropriate by the Board. The proceedings at the hearing shall also be reported by a phonographic, or other reporting system, if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and payment of the fee prescribed therefor. Fees may be established by the Board, but shall in no event be greater than the cost involved to produce the transcript for the requesting party.

RBC112.3.6.3 Continuances. The Board may grant a continuance for good cause shown; however, when a hearing examiner has been assigned to a hearing, no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.

RBC112.3.6.4 Oaths; Certification. In any proceedings under this Section, the Board, and Board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

RBC112.3.6.5 Reasonable Dispatch. The Board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience

and necessity of any parties or their representatives.

RBC112.3.7 Form of Notice of Hearing. The notice to appellant shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held before (the Board or name of hearing examiner) at ___(PLACE)___ on the ___(DATE)___ day of ___(MONTH)___, ___(YEAR)___, at the hour upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses, and the production of books, documents or other things by filing an affidavit therefor with (Board or name of hearing examiner).

RBC112.3.8 Subpoenas.

RBC112.3.8.1 Filing of Affidavit. The Board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the Board or upon the written demand of any party. The issuance and service of this subpoena shall be obtained upon the filing of an affidavit therefor that states the name and address of the proposed witness, specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in the witness' possession or under the witness' control. A subpoena need not be issued when the affidavit is defective in any particular.

RBC112.3.8.2 Cases Referred to Examiner. In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.

RBC112.3.8.3 Penalties. Any person who refuses, without lawful excuse, to attend any hearing or to produce material evidence in the person's possession or under the person's control as required by any subpoena served upon the person as provided for herein, shall be guilty of a misdemeanor.

RBC112.3.9 Conduct of Hearing.

RBC112.3.9.1 Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

RBC112.3.9.2 Oral Evidence. Oral evidence shall be taken only on oath or affirmation.

RBC112.3.9.3 Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence,

but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this State.

RBC112.3.9.4 Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of any evidence over objection in civil actions in courts of competent jurisdiction in this State.

RBC112.3.9.5 Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

RBC112.3.9.6 Rights of Parties. Each party shall have these rights among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called to testify;
5. To rebut the evidence against the party;
6. To represent the party or to be represented by anyone of the party's choice who is lawfully permitted to do so.

RBC112.3.9.7 Official Notice.

RBC112.3.9.7.1 What May be Noticed.

In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of the State, or of official records of the Board or Departments and ordinances of the City, or rules and regulations of the Board.

RBC112.3.9.7.2 Parties to be Notified.

Parties present at the hearing shall be informed of the facts to be noticed, as shall be noted in the record, referred to therein, or appended thereto.

RBC112.3.9.7.3 Opportunity to Refute.

Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of refutation to be determined by the Board or hearing examiner.

RBC112.3.9.7.4 Inspection of the Premises. The Board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing provided that:

RBC112.3.9.7.4.1 Notice of the Inspection. Notice shall be given to the parties before the inspection is made;

RBC112.3.9.7.4.2 Opportunity to Be Present. The parties are given an opportunity to be present during the inspection; and

RBC112.3.9.7.4.3 Conclusions, Right To Rebut. The Board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Board or hearing examiner.

RBC112.3.10 Method and Form of Decision.

RBC112.3.10.1 Hearing Before Board. Where a contested case is heard before the Board itself, no member thereof who did not hear the evidence or who has not read the entire record of the proceedings shall vote on or take part in the decision.

RBC112.3.10.2 Hearing Before Examiner. If a contested case is heard by a hearing examiner alone, the hearing examiner shall, within a reasonable time (not to exceed ninety (90) calendar days from the date the hearing is closed) submit a written report to the Board. This report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the Board as its decision in the case. All examiners' reports filed with the Board shall be matters of public record. A copy of each report and proposed decision shall be mailed to each party on the date they are filed with the Board.

RBC112.3.10.3 Consideration of Report by Board; Notice. The Board shall fix a time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five (5) calendar days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

RBC112.3.10.4 Exceptions to Report. Not later than two (2) calendar days before the date set to consider the report, any party may file written exception to any part or all of the examiner's report and may attach thereto a

proposed decision together with written argument in support of the decision. By leave of the Board, any party may present oral argument to the Board.

RBC112.3.10.5 Disposition of the Board. The Board may adopt or reject the proposed decision in its entirety or may modify the proposed decision. If the proposed decision is not adopted, the Board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, that examiner shall prepare a report and proposed decision as provided in Section RBC112.3.10.2 of this Code above after any additional evidence is submitted. Consideration of this proposed decision by the Board shall comply with the provisions of this Section.

RBC112.3.10.6 Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to the appellant at the address set forth in the appeal by certified mail, postage prepaid, return receipt requested.

RBC112.3.10.7 Effective Date of Decision. The effective date of the decision shall be as stated therein.

RBC112.3.11 Enforcement of Order. After any order of the Building Official or the Board of Appeals made pursuant to Section RBC112 of this Code becomes final, no person to whom the order is directed shall fail, neglect or refuse to obey the order. Any person who fails to comply with the order shall be deemed guilty of a misdemeanor.

RBC112.3.12 Failure to Obey Order.

RBC112.3.12.1 Prosecution or Abatement. If, after any order of the Building Official or Board of Appeals made pursuant to Section RBC112 of this Code becomes final, the person to whom the order is directed fails, neglects or refuses to obey the order, the Building Official may:

1. Cause the person to be prosecuted under Section RBC112.3.11 of this Code above; or
2. Institute any appropriate action to abate the building in question as a public nuisance.

RBC112.3.12.2 Timely Action. Whenever the required repair or demolition is not commenced within thirty (30) calendar days after any final notice and order issued under this Section becomes effective:

1. The Building Official shall cause the

building described in the notice and order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING

DO NOT OCCUPY

It is a misdemeanor to occupy the building or to remove or deface this notice.

Building Official

Pikes Peak Regional Building Department

2. No person shall occupy any building that has been posted as specified in this subsection. No person shall remove or deface any notice so posted until the repairs, demolition, or removal ordered by the Building Official have been completed and a certificate of occupancy issued pursuant to the provisions of this Code.
3. The Building Official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions that 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 or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this Code. Any surplus realized from the sale of the 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.

RBC112.3.13 Extension of Time. Upon receipt of an application from the person required to conform to the order and an agreement by this person that this person comply with the order if allowed additional time, the Building Official may, with discretion, grant an extension of time, not to exceed an additional one hundred twenty (120) calendar days within which to complete ordered repair, rehabilitation, or demolition, if the Building Official determines that an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Official's authority to extend time is limited to the physical repair, rehabilitation, or demolition of the

premises and will not in any way affect or extend the time to appeal any notice or order.

RBC112.3.14 Work Performance on Repair or Demolition.

RBC112.3.14.1 Procedure. When any work or repair demolition is to be done pursuant to Section RBC112.3.12 of this Code, the Building Official shall issue an order to the City Engineer and the work shall be accomplished by City personnel or by private contract under the direction of the City Engineer. Construction documents may be prepared by the City Engineer, or any design professional approved by the Building Official, as deemed reasonably necessary, on a contract basis. If any part of the work is to be accomplished by private contract, standard contractual procedures shall be followed.

RBC112.3.14.2 Cost. The cost of this work shall be paid from the General Fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, or both, whichever the governing body of the Jurisdiction shall determine is appropriate.

RBC112.3.15 Interference with Repair or Demolition. No persons shall obstruct, impede or interfere with any person who owns or holds any estate or interest in any building that has been ordered repaired, vacated or demolished under the provisions of Section RBC112 of this Code, or with any person to whom the building has been lawfully sold pursuant to the provisions hereof whenever an officer, employee, contractor or authorized representative of the City, person having an interest or estate in the building or structure, or purchaser is engaged in the work of repairing, vacating, and repairing, or demolishing of the building, pursuant to the provisions of Section RBC112 of this Code, or in performing any necessary act preliminary to or incidental to any work or authorized or directed pursuant to Section RBC112 of this Code.

RBC112.4 RECOVERY OF COSTS

RBC112.4.1 Report Account of Expenses. The City Engineer shall keep an itemized account of the expenses incurred by the City in the repair or demolition of any building done pursuant to the provisions of Section RBC112.3.12.2 Item 3 of this Code. Upon the completion of the work of repair or demolition, the City Engineer shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to

notice pursuant to Section RBC112.2.5 of this Code.

Upon receipt of this report, the City Clerk shall fix a time, date and place for hearing the report, and any protest of objections thereto. The City Clerk shall cause notice of the hearing to be posted upon the property involved, published once in a newspaper of general circulation in the City, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the assessment roll of the County Assessor, if it so appears or is known to the Clerk. The notice shall be given at least ten (10) calendar days prior to the date set for hearing, and shall specify the day, hour, and place when the Council will hear and pass upon the City Engineer's report, together with any objections or protests that may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

RBC112.4.2 Protest and Objections. Any person interested in or affected by the proposed charge may file written protests or objections with the City Clerk at any time prior to the time set for the hearing on the report of the City Engineer. Each protest or objection shall contain a description of the property in which the signer thereof is interested and the grounds of the protest or objection. The City Clerk shall endorse on every protest or objection the date it was received by the Clerk and shall present protests or objections to the Governing body of the Jurisdiction at the time set for the hearing. No other protests or objections shall be considered.

RBC112.4.3 Hearing on Report; Protests. Upon the day and hour fixed for the hearing, the City shall hear and pass upon the report of the City Engineer together with any objections or protests. The City may make revision, correction, or modification in the report or the charge as deemed just; and when the City is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge shall be confirmed or rejected. The decision of the City on the report and the charge, and on protests or objections, shall be final and conclusive.

RBC112.4.4 Personal Obligation or Special Assessment. The City may thereupon order that the charge shall be made a personal obligation of the property owner, or assess the charge against the property involved, or both.

RBC112.4.4.1 Personal Obligation. If the City orders that the charge shall be a personal obligation of the property owner, it shall direct the city attorney to collect the same on behalf of the City by use of all appropriate legal remedies.

RBC112.4.4.2 Special Assessment. If the City orders that the charge shall be assessed against the property, it shall confirm the assessment roll, and thereafter this assessment shall constitute a special assessment against and a lien upon the property, and shall be collected in the same manner as other special assessments of the City.

RBC112.4.4.3 Authority for Installment Payments. Eligible persons who are determined to have a marginal income such that they cannot pay an assessment or personal obligation levied under this Section, either against the property on which they reside or against themselves personally, may be afforded relief as hereinafter provided.

1. Within thirty (30) calendar days after the assessment or the personal obligation is ordered by the City, the application for relief shall be filed with the City Clerk.
2. The Hardship Committees shall review the application for the relief from the assessment or personal order. In order to determine the applicant's eligibility, the Committee shall use the criteria established in the applicable City Code, except that ownership of real property need not be required.
3. If it is determined that the applicant is eligible and that any person would probably default on the assessment, the Committee may authorize the execution with the applicant of an installment note for the payment of the assessment or personal obligation. The note shall be secured by a deed of trust, or if not available, by some other security reasonably available or appropriate. If no security is reasonably available or appropriate, then none shall be required. The installment note shall provide that the property owner shall make monthly payments to the City Treasurer; that the payments shall not be less than five dollars (\$5.00) and shall be sufficient to repay the amount within a period of not more than twenty-five (25) years; that interest shall be charged at a rate of three percent (3%) per annum on the unpaid balance; that the entire outstanding balance shall become due and payable upon the death of the obligor or the sale or transfer of the property; that if at any time the City determines that the obligor is financially able to pay the outstanding balance, or that the obligor has willfully misrepresented the obligor's financial condition on the obligor's application, it

may upon sixty (60) calendar days notice declare the entire balance due and payable.

RBC112.4.5 Contest Assessment. The validity of any assessment made under the provisions of Section RBC112 of this Code shall not be contested in any action or proceeding unless the same is commended within thirty (30) calendar days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in the action or proceeding must be perfected within thirty (30) calendar days after the entry of the judgment.

RBC112.4.6 Lien of Assessment.

RBC112.4.6.1 Priority. Immediately upon its being placed on the assessment roll, 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 lien 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 Municipal 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.

RBC112.4.6.2 Interest. Any assessments remaining unpaid after thirty (30) calendar days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of one percent (1%) per month from and after this date.

RBC112.4.7 Report to Assessor and Tax Collector. After confirmation of the report, certified copies of the assessment shall be given to the County Treasurer on or before October 15.

RBC112.4.8 Collection of Assessment. The amount of the assessment shall be collected at the same time and in the same manner as general taxes are collected; and shall be subjected to the same penalties and procedure and sale in case of delinquency as provided for general municipal taxes. All laws applicable to the levy, collection and enforcement of general municipal taxes shall be applicable to the assessment.

If the City has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as general and municipal taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for general municipal taxes.

RBC112.4.9 Repayment of Repair and Demolition Fund. All money recovered by payment of the charge or assessment or from the sale of property at foreclosure sale shall be paid to the City Treasurer, who shall credit the same to the Repair and Demolition Fund.