

OFFICE OF  
PLANNING, ZONING AND  
HISTORIC PRESERVATION  
108 Sherman Street  
Telephone (605) 578-2082  
Fax (605) 578-2084

# DEADWOOD

*"The Historic City of the Black Hills"*  
Deadwood, South Dakota 57732

CHUCK TURBIVILLE  
Mayor, City of Deadwood  
Telephone: (605) 578-2082  
Fax: (605) 578-2084  
[mavor@cityofdeadwood.com](mailto:mavor@cityofdeadwood.com)

## BOARD OF APPEALS & EXAMINERS

September 10, 2013  
2:00 p.m. – Deadwood City Hall

### A G E N D A

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- I. Call meeting to order – Keith Umenthum, Building Inspector
- II. Welcome and Introductions
- III. Swear in Board of Appeals & Examiners – Terri Williams, City Attorney
- IV. Overview of the Board of Appeals & Examiners – City Staff
  - a. Deadwood Codified Ordinance(s)
  - b. 2012 International Building Code
  - c. 2012 International Property Maintenance Code
- V. Review and Adoption of By-Laws
- VI. Election of Officers
  - a. Chair
  - b. Vice-Chair
  - c. Secretary
- VII. Staff update – Keith Umenthum, Building Inspector
  - a. Process of notification(s) – sample
  - b. Statement of Violation(s) – sample
  - c. Appeal Process
- VIII. Schedule meeting(s) for appeals from the following:
  - a. 300 Main Street
- IX. Adjournment

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## BOARD OF APPEALS & EXAMINERS

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### MEMBERS

#### Leroy Stuen

34 Jackson  
PO Box 217  
Deadwood, SD 57732  
(605) 641-1930  
April Stuen (605) 641-1152  
Email: [leroystuen@yahoo.com](mailto:leroystuen@yahoo.com)  
Term Expires: May 31, 2014

#### Darin Derosier

850 ½ Main Street  
Deadwood, SD 57732  
Work: (605) 722-6466  
Email: [derosier@rushmore.com](mailto:derosier@rushmore.com)  
Term Expires: May 31, 2015

#### Ted Spencer

900 Governors Drive  
Pierre, SD 57501  
Work: (605) 773-6296  
Email: [Ted.Spencer@state.sd.us](mailto:Ted.Spencer@state.sd.us)  
Term Expires: May 31, 2015

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#### Mike Albertson

3202 W. Main Street, Suite C  
Rapid City, SD 57702  
Work: (605) 343-9606  
Email:  
[mike@albertsonengineering.com](mailto:mike@albertsonengineering.com)  
Term Expires: May 31, 2016

#### Jim Benning

PO Box 40  
Spearfish, SD 57783  
Work: (605) 642-4716  
Email:  
[jimbenning@ainsworthbenning.com](mailto:jimbenning@ainsworthbenning.com)  
Term Expires: May 31, 2016

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### CLERK

#### Keith Umenthum

City Building Inspector  
108 Sherman Street  
Deadwood, SD 57732  
Work: (605) 578-2082  
Cell: (605) 920-1282  
Email: [keith@cityofdeadwood.com](mailto:keith@cityofdeadwood.com)

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### MAYOR

#### Chuck Turbiville

Mayor, City of Deadwood  
108 Sherman Street  
Deadwood, SD 57732  
Work: (605) 722-6939  
Email: [chuck@deadwood.org](mailto:chuck@deadwood.org)

*As of May 20, 2013*

**Ordinance #1187**

**An ordinance amending  
CHAPTER 15.01**

**BUILDING CODE of the CITY OF DEADWOOD**

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Sections:

15.01.010	International Building Code – Adopted
15.02.020	Exceptions
15.03.030	Enforcement Agency
15.04.040	Board of Appeals and Examiners
15.05.050	Permit Requirements
15.06.060	Fee Scheduled
15.07.070	Severance

**15.01.010 INTERNATIONAL BUILDING CODES – ADOPTED**

Certain documents, one copy of each is on file in the office of the building inspector, being marked and designated as the International Building Code, 2012 edition, including Property Maintenance Code, 2012, International Existing Building Code, 2012, International Residential Code, 2012, International Mechanical Code, 2012, International Fire Code, 2012, and Appendix J of the International Building Code, 2012, and amendments or additions thereto, as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Deadwood, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupational use; and the condemnation of buildings and structures unfit for human occupancy; and use and the demolition, alteration, relocation or repair of such structures and considering the historical character and significance of any buildings as herein provided; providing for the issuance of all permits, the appeal of decision by the building official and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the building inspector are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in the following sections.

**15.02.020 EXCEPTIONS**

A. The following sections and subsections of the International Residential Code 2012 allows for unvented room heaters under conditions set forth in Section G2445 (621). This section is inconsistent with the safety and welfare of the citizens of the City of

Deadwood. This section shall therefore be deleted and accepted from the codes adopted by 15.01.010, and replaced by the following: No unvented or direct fired fuel-burning equipment shall be installed or used to provide comfort heating within any occupancy group other than Group S or U.

B. Section 313.2 of the International Residential Code 2012 requires a fire sprinkler system in one and two family dwellings. An automatic fire sprinkler system shall not be required in one and two family dwellings.

C. This ordinance shall not apply to mobile or manufactured homes as defined in chapter 32-7A of South Dakota Codified Laws which are constructed in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of construction.

D. This ordinance shall not apply to any specialty resort or vacation home establishment as defined in chapter 34-18 of South Dakota Codified Laws that is constructed in compliance with the requirements of Group R-3 of the 2012 edition of the International Building Code.

E. Specifically, the City of Deadwood prohibits non-metallic sheathed cable (defined as a factory assembly of two (2) or more insulated conductors having an outer sheath of moisture-resistant, flame-retardant, nonmetallic material) specifically Types NM, NMC and NMS cables, from being used in hotels, motels, gaming establishments, commercial, mercantile, industrial, institutional, and public buildings.

F. Any building within the city which has or needs an electrical service entrance of more than two hundred (200) amps single-phase or three-phase shall be equipped with an electrical disconnect device located on the exterior of the building in a location approved by the building inspector. Compliance with this requirement shall be required whenever a building permit is issued or whenever any major work is done on a building's electrical system.

#### 15.03.030 ENFORCEMENT AGENCY

The City of Deadwood Building Inspector is the official in charge of enforcing the Building Code of the City of Deadwood and shall be known as the building official.

#### 15.04.040 BOARD OF APPEALS AND EXAMINERS

A. Appointment. In order to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation on the inclusive Building Code of the City of Deadwood, to review all prospective changes to the respective codes and to submit recommendations to the responsible official and the city commission, to review requests for house moves, demolitions, repairs and maintenance, and to examine applicants for licensing and to investigate matters brought before the board, there shall be and is hereby created a

board of appeals and examiners, which shall not include any individual employed by the City of Deadwood. Members shall be appointed by the mayor with consent of the city commission and shall hold office for three-year terms. The board shall adopt rules of procedure for conducting its business and shall render all decisions in writing to the appellant with a duplicate copy to the building official.

- B. **Limitation of Authority.** An application for appeal shall be based on a claim that the true intent of the Building Code of the City of Deadwood, or the rules legally adopted thereunder, have been incorrectly interpreted, the provisions of the code do not fully apply or an equally good, or better form of construction, repair, and etcetera is proposed. The board shall have no authority relative to the administrative provisions of the code not shall the board be empowered to waive requirements of the code.
- C. **Prosecution of Violation.** If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of the Building Code of the City of Deadwood or of the order or direction made pursuant thereto.
- D. **Liability.** The building official, members of the board of appeals, or employees charged with the enforcement of this code, while acting for the City of Deadwood in good faith and without malice in the discharge of the duties required by the Building Code of the City of Deadwood, or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieve from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an office or employee because of the act performed by that officer or employee in the lawful discharge of duties and under the provisions of the Building Code of the City of Deadwood shall be afforded all the protection provided by the city's insurance pool and any immunities and defenses provided by the other applicable state and federal law. The building official or any subordinate shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

The Building Code of the City of Deadwood shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of inspection authorized by this code or any permits or certifications issued under this code.

#### 15.05.050 PERMIT REQUIREMENTS

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install or enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by the provisions set forth above, or to cause any such work to be done, shall first make application to the building official and obtain the required permit. In addition the building official shall comply with Deadwood City Ordinance 17.68.060.

#### 15.06.060 FEE SCHEDULE

Pursuant to International Residential Code for One- and Two-Family Dwellings Chapter 1, Section R108 and International Building Code, Chapter 1, Section 109, a fee based on the total valuation for each building permit shall be paid to the building official as follows:

Total Valuation	Fee
\$1.00 to \$500.00	\$15.00
\$500.01 to \$2,000.00	\$15.00 for the first \$500.00 plus \$3.00 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,000.01 to \$25,000.00	\$60.00 for the first \$2,000.00 plus \$12.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,000.01 to \$50,000.00	\$336.00 for the first \$25,000.00 plus \$6.00 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,000.01 to \$100,000.00	\$486.00 for the first \$50,000.00 plus \$5.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,000.01 to \$500,000.00	\$736.00 for the first \$100,000.00 plus \$4.20 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,000.01 to \$1,000,000.00	\$2,416.00 for the first \$500,000.00 plus \$3.60 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,000.01 and up	\$4,216.00 for the first \$1,000,000.00 plus \$2.40 for each additional \$1,000.00, or fraction thereof

#### Other inspections and fees.

1. Inspections outside of normal business hours (minimum charge—Two hours), per hour \$50.00
2. Re-inspection fees, per hour \$30.00

3. One-time inspection fee for change of occupancy in commercial buildings, per hour \$30.00

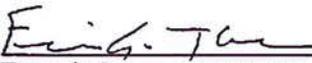
4. Additional plan review required by changes, additions or revisions to approved plans (minimum charge-One-half hour), an hour, per hour \$30.00

15.07.070 SEVERANCE

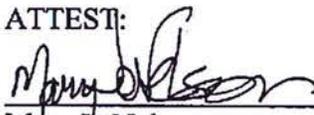
If any section, subsection sentence or clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance. The Deadwood City Commission hereby declares it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses and phrases be declared unconstitutional.

Dated this 8<sup>th</sup> day of April 2013.

CITY OF DEADWOOD

  
Francis Toscana, Mayor

ATTEST:

  
Mary Jo Nelson  
Finance Officer



First Reading: April 1, 2013  
Second Reading: April 8, 2013  
Published: April 11, 2013  
Effective: May 1, 2013

**CITY OF DEADWOOD BOARD OF APPEALS  
AND EXAMINERS BY-LAWS**

**Article 1: Membership of the Board**

The Board of Appeals shall consist of five (5) persons appointed by the Mayor and approved by the City Commission. Preferably, at least one (1) member shall be a structural engineer and another be a building contractor. Under no circumstances shall an employee of the City of Deadwood be a voting member of the Board of Appeals. Appointments shall be staggered at three (3), two (2), and one (1) year terms. If a vacancy occurs during a term of appointment, the vacancy shall be filled for the length of the unexpired terms. Members of the Board may be reappointed at the conclusion of the term.

**Article 2: Chairperson of the Board**

In the month of June of each year, the Board shall select one of its members as Chairperson and one as vice Chairperson, who shall serve one year or until their successors have been selected. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson on the Board. Appointments shall initially be at staggered terms for three (3), two (2), and one (1) year terms.

**Article 3: Clerk of the Board/Records**

The Building Official or his or her representative shall act as a Clerk of the Board. The Clerk shall keep all the records of the Board as required by South Dakota Law. The Clerk shall keep a minute book which shall be maintained to date. The Clerk shall enter the number of the appeal, the name of the applicant, a description of the street number or legal description of the premises, the nature of the application, and the final disposition of the case.

The Clerk shall, under the direction of the Board and as Chairperson, conduct all correspondence of the Board; send out all notices required by these rules and at the order of the Board; attend all meetings of the Board and all hearings; review all appeals and applications for variations for compliance with the Board's rules; keep the minutes of the Board's proceedings; comply with all the required records; shall maintain the necessary files and indexes and generally supervises all of the clerical work of the Board; and retain in the records the original papers acted upon by the Board.

The Clerk shall see that all maps, plans, and specifications are properly prepared, make a personal inspection of any premises involved, research codes standards, seek legal or professional opinions, and be prepared to advise the Board.

The Clerk shall obtain from the application such additional information and data as may be required to fully advise the Board with reference to any appeal, product, or method. Failure or

refusal on the part of the applicant to furnish such additional information shall be grounds for denial by the Board.

**Article 4: Meetings of the Board**

Upon the Clerk receiving an application for appeal and filed with the Clerk within twenty (20) days of the notice of the violation, a meeting shall be scheduled to occur within twenty-one (21) days of receipt of the application for appeal. Three (3) members of the Board shall constitute a quorum for the transaction of business. All meetings will be conducted according to an informal interpretation of Robert's Rules of Order.

**Article 5: Notice of the Meeting**

The scheduled meetings shall be posted at least twenty-four (24) hours prior to the scheduled meeting.

**Article 6: Open Meetings**

All hearings before the Board shall be open to the public. The Appellant, the Appellant's representative, the Building Official, and any person whose interest are effected shall be given an opportunity to be heard.

**Article 7: Postponement of Hearing**

When the five (5) voting members are not present to hear an appeal, either the Appellant or Appellant's representative shall have the right to request a postponement of the hearing.

**Article 8: Action by Resolution**

The final disposition of any appeal shall be in the form of a resolution affirming, modifying, or reversing any decision by the Building Official by a concurring vote of two-thirds ( $\frac{2}{3}$ ) of the Board's members.

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The final disposition of any appeal shall contain written findings of fact.

**Article 9: Compensation**

Members present at a scheduled meeting shall receive twenty-five (\$25.00) dollars as compensation for their time.

**Article 10: Amendment**

These rules may be amended by resolution at any meeting of the Board.

Adopted this \_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Chairperson

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KEITH UMENTHUM  
Building Inspector  
Telephone: (605) 578-2082  
Fax: (605) 578-2084  
[keith@cityofdeadwood.com](mailto:keith@cityofdeadwood.com)

## - NOTICE OF VIOLATION -

May 6, 2008

[Owner's Name]  
[Address]  
Deadwood, South Dakota 57732

RE: [Address of Structure]

Dear [Owner's Name]:

It has been called to the attention of the City of Deadwood that your property at [Address of Structure] in Deadwood, South Dakota, is in violation of Deadwood City Ordinance 15.01.010, adopting various international building and maintenance codes. The repairs and improvements needed to bring your property into compliance with the code requirements are attached hereto.

The City of Deadwood would like to offer assistance in resolving this situation. There are various programs, resources, and partnerships with other organizations and through the City that may be able to help you improve or resolve the violations of your property. Program details are accessible through this office or on the City's website at [www.cityofdeadwood.com](http://www.cityofdeadwood.com).

If you desire to have staff work with you or if you have any questions or need further information, you must contact this office within fourteen (14) days of receiving this letter. The City is interested in helping you resolve issues with your property at [Address of Structure]; however, if the repairs and improvements outlined in the attached document are not brought into compliance within [XX] days the City will pursue legal recourse, which may include seeking reimbursement on expenses incurred by the City in addressing the outlined violations, attorney fees and costs. Further, a lien for such costs may be placed upon your real property.

Should you desire to appeal this notice you may do so by completing the attached Notice of Violation Appeal Form and returning it to the Deadwood Building Inspector within twenty (20) days following the receipt of this letter.

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NOTICE OF VIOLATION  
Page 2

Thank you for your understanding, cooperation and support in preserving, protecting and promoting the rich and unique heritage of Deadwood – A National Historic Landmark Community. The City of Deadwood looks forward to working with you in resolving these concerns.

Sincerely,

Keith Umenthum, Building Inspector  
City of Deadwood

cc: Chuck Turbiville, Mayor  
Terri Williams, City of Deadwood Attorney  
Jim "JR" Raysor, Public Works Director  
Kelly Fuller, Chief of Police  
Kevin Kuchenbecker, Historic Preservation Officer  
Deadwood Historic Preservation Commission

Enclosure: Statement of Violation(s)

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## - NOTICE OF VIOLATION -

May 6, 2008

[Owner's Name]  
[Address]  
Deadwood, South Dakota 57732

RE: [Address of Structure]

Dear [Owner's Name]:

In a letter dated [Date], the City of Deadwood issued you a Notice of Violation that your property at [Address of Structure] in Deadwood, South Dakota, was in violation of Deadwood City Ordinance 15-01.010. An appeal has not been timely filed with the City nor has assistance been sought through the City's various programs.

The violations have not been addressed, as requested. Therefore, the City of Deadwood shall institute appropriate legal proceedings to address this matter. Again, the City of Deadwood will seek to remedy the violations and an award of all costs associated with the remedial measures. If you wish to avoid such action by the City of Deadwood, contact this office immediately.

Sincerely,

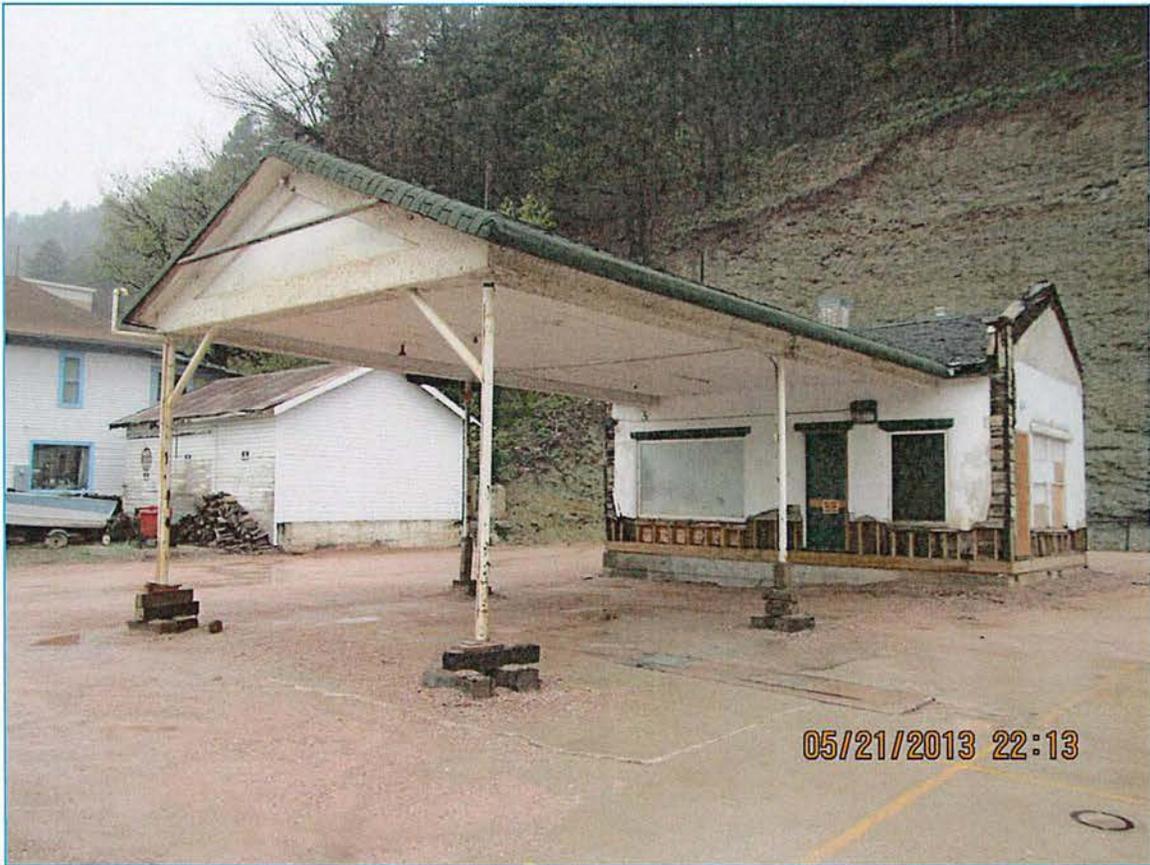
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Keith Umenthum, Building Inspector  
City of Deadwood

cc: Chuck Turbiville, Mayor  
Terri Williams, City of Deadwood Attorney  
Jim "JR" Raysor, Public Works Director  
Kelly Fuller, Chief of Police  
Kevin Kuchenbecker, Historic Preservation Officer  
Deadwood Historic Preservation Commission

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## 300 Main Street – Statement of Violation(s)



### **Background Information:**

Structure built ca. 1925  
Listed as a contributing structure  
Highly visible property in the historic district  
Currently vacant

### **Notification status:**

Building permit issued April 24, 2012 to restore the resource. New foundation completed. Some work done to stabilize floor and new framing to reinforce walls. Restoration work stopped in summer of 2012.

### **Owner:**

M.R. Gustafson Family Trust  
Michael Gustafson  
270 Main Street  
Deadwood, SD 57732

**Overview of issues:** Roof insufficient to keep out elements, exterior stucco in poor condition, wall studs exposed. Canopy resting on temporary blocks

**Summary:** The loss of this contributing resource would have an adverse effect on the National Historic Landmark District due to the location and history of the resource.

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## Inspection report for 300 Main Street

Visible issues regarding the exterior of structure according to Section 304 of the 2012 International Property Maintenance Code:

**304.2 Protective treatment** – Exterior surfaces, including but not limited to, doors, windows, cornices, porches and trim is in need of maintenance. Wood surfaces should be painted by removing peeling, flaking and chipped paint and then primed and painted. Siding and masonry joints should be maintained weather resistant and water tight. Metal surfaces subject to rust should be coated to inhibit rust or corrosion.

**304.4 Structural members** – Foundation work is unfinished with large openings into the basement level of the structure. Temporary supports need replaced with correct structural members free from deterioration and capable of supporting imposed loads.

**304.6 Exterior walls** – Exterior walls need to be free from holes, breaks and loose or rotting materials; and maintained weatherproof and proper surface coating.

**304.7 Roofs and drainage** – The roof and flashing needs to be made sound, tight and not have defects that admit moisture. Roof drains, gutters and downspouts are missing and need installed and kept maintained in good repair and free from obstructions.

**304.8 Decorative features** – All decorative features need to be maintained in good repair with proper anchorage and in a safe condition. Retaining wall has failed and needs reconstructed.

**304.9 Overhang extensions** – All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

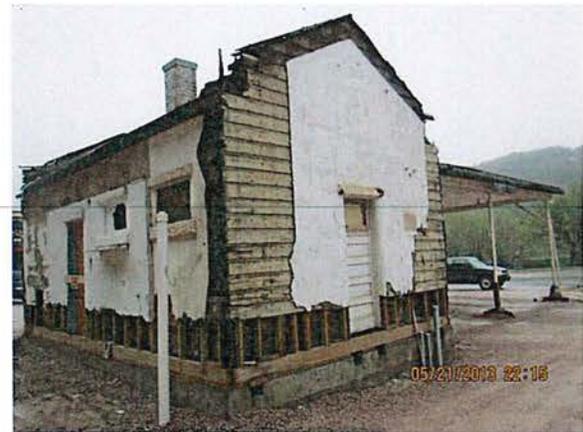
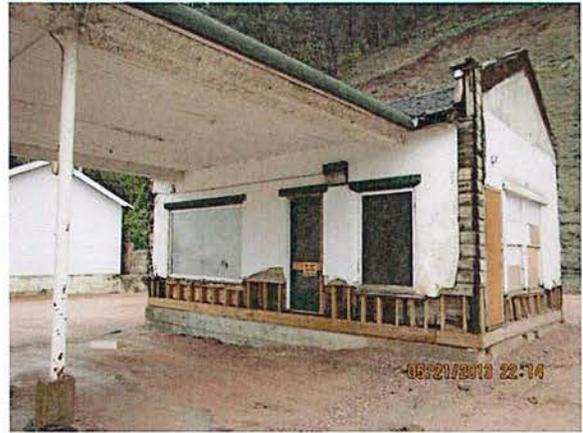
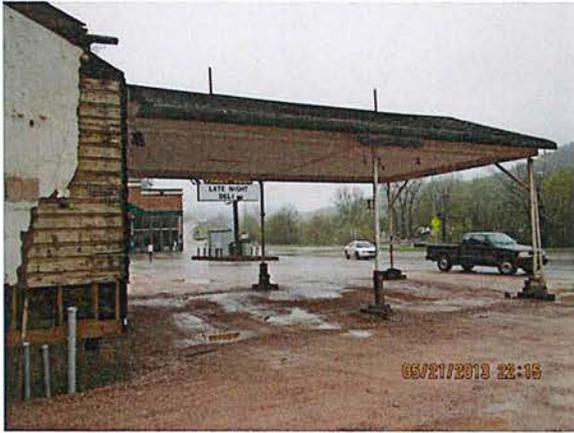
**304.10 Stairways, decks, porches and balconies** – Every exterior stairway, deck, porch and balcony and appurtenances attached thereto, needs to be maintained in good repair with proper anchorage and capable of supporting imposed loads. Rear stairs missing treads and need repaired.

**304.11 Chimneys and towers** – All chimneys and similar appurtenances needs to be maintained structurally safe and sound, and in good repair.

**304.13 Windows and door frames** – Windows, doors and frames need to be in sound condition, good repair and weather tight. Glazing materials need to be maintained free from cracks and holes.

**304.15 Doors** – Exterior doors, assemblies and hardware need to be maintained in good condition. Locks to all entrances shall tightly secure the door.

**Supporting photographic documentation for 300 Main Street**



# DEADWOOD

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## - NOTICE OF VIOLATION APPEAL FORM -

Property Owner Name: \_\_\_\_\_

Property Owner Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_

Email: \_\_\_\_\_

Property address that is the subject of appeal: \_\_\_\_\_  
(number) (street)

The property is: \_\_\_ OCCUPIED \_\_\_ VACANT

The property is: \_\_\_ RENTAL \_\_\_ OWNER OCCUPIED

Do you intend to make repairs to this property? \_\_\_ YES \_\_\_ NO

Describe and include the date of when you expect these repairs to be completed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What is the reason for your appeal? Please explain.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you need more space, please use the back of this form.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date