

ORDINANCE 76

AN ORDINANCE REGULATING DANGEROUS BUILDINGS

WHEREAS, the City Council finds it is necessary to preserve and maintain the public health, safety and welfare of the citizens of Coahoma, Texas, and

WHEREAS the City Council finds that dangerous buildings are hazardous to the public well being and are nuisances in the city; and

WHEREAS the City Council finds that said nuisances need to be removed or repaired; therefore the City of Coahoma, Texas hereby adopts the following regulations related to dangerous buildings in the city;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF COAHOMA, TEXAS: THAT THE FOLLOWING REGULATIONS SHALL BE EFFECTIVE ON THIS DATE, JANUARY 1, 2010.

ARTICLE I. DANGEROUS BUILDINGS

Section 1. Application.

This Ordinance shall apply to all dangerous buildings or structures and shall apply equally to new and existing conditions. This Ordinance is adopted pursuant to Chapter 214 of the Texas Local Government Code, to protect life, health, property, safety and the welfare of the general public from the hazards and dangers of substandard structures.

ARTICLE II.

Section 1. Definitions.

In this Ordinance:

City Official or Official means the designated City Official or his duly authorized representative as directed by the Mayor.

City means the City of Coahoma, Texas.

Dangerous building or structure means any premises, building or structure that is:

1. Regardless of the structural condition of the building or structure, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by minors; or
2. Boarded up, fenced, or otherwise secured in any manner if:
 - a. The building constitutes a danger to the public even though secured from entry; or
 - b. The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described in section (1) of this definition; or
3. Dilapidated, substandard or unfit for human habitation and a hazard to the public health, safety and welfare. A building, premises or structure that contain the following defects shall be considered a dangerous building or structure under this definition:
 - a. Those buildings or structures 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 of the middle third of its base.
 - b. Those buildings or structures which, exclusive of the foundations, show 33 percent or more damage or deterioration to the supporting member or members, or 50 percent damage or

deterioration to the nonsupporting enclosing or outside walls or covering;

c. Those buildings or structures:

- i. Which have improperly distributed loads upon floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used; or
- ii. In which the stress in any material, member or portion thereof, due to all imposed loads is dangerous.
- iii. Those buildings or structures which have been damaged by fire, flood, earthquake, wind, or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the general public;
- iv. Those buildings or structures which have been damaged by fire, flood, earthquake, wind, or other causes to the extent that the structural integrity of the building or structure is less than it was prior to the damage;
- v. The condition of the structure or building is likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein or to persons or property in its vicinity;
- vi. A building, structure, or portion thereof which, as a result of decay, deterioration or dilapidation, is reasonably likely to fully or partially collapse;
- vii. Those buildings or structures having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who occupy the building or structure;
- viii. Those buildings or structures having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication in order to evacuate in a timely and expedient manner in order to avoid injury or peril from within;
- ix. Those buildings or structures which have:
 - i. Parts thereof which are detached that they may reasonably be expected to fall and injure members of the public or property, or
 - ii. Any exterior appendage or portion of the building or structure that is not securely fastened, attached or anchored such that it is capable of resisting wind or similar loads;
- x. Those buildings, structures, or a portion thereof, that do not contain sufficient space for sleeping or occupation of the building;
- xi. Those buildings or structures which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare;
- xii. Those buildings or structures that are unsafe, unsanitary or having inadequate egress, or which constitute a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment;
- xiii. Those buildings or structures that have been constructed or maintained in violation of a specific requirement of any State law.

Structure means a building or other structure, or part of a building or structure, including fences.

Vacate means to leave the premises and not return until further allowed by the City Official or the City Council.

Section 2. Public Nuisance Declared.

All "dangerous buildings or structures" within the terms of Section are declared to be public nuisances, and shall be abated as provided in this Ordinance.

Section 3. Standards for repair, vacation or demolition.

The following standards shall be followed in ordering repair, vacation and/or demolition:

- a. If the dangerous building or structure can be feasibly repaired or the condition remedied so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered remedied or repaired. Repairs shall be deemed feasible only if less than 50 percent of the structure of the

building must be repaired or replaced or the value of the structure is reduced by less than 50 percent because of the violations. Value shall be determined by comparing the most recent valuation for the building or structure by the Howard County Appraisal District with the valuation of the building or structure two years prior to the most recent valuation by the Howard County Appraisal District.

b. If the dangerous building or structure is in such a condition as to be hazardous to the health, safety or general welfare of its occupants or the public, it shall be ordered vacated and secured, and the order may also require the occupants to be relocated.

c. In any case where more than 50 percent of a building or structure is damaged, decayed or deteriorated, it shall be ordered demolished or removed, unless the City Council deems that the structure can be feasibly repaired or the condition remedied. In all cases where a building cannot be repaired, it shall be ordered demolished within a reasonable time.

Section 4. Minimum standards for continued use or occupancy.

In this Ordinance, the minimum standards that shall determine the suitability of a building for continued use or occupancy, regardless of the date of construction must result in the building(s) no longer being declared a public nuisance as described above.

Section 5. Commencement of proceedings.

Whenever the Official has determined that a building or structure is a dangerous building or structure, he shall obtain a date and time for a public hearing before the City Council to determine whether the building complies with the standards set out in this Ordinance. The Official may seek voluntary compliance with this Ordinance with the owner, lienholder or mortgagee of the building or structure before seeking a hearing before the City Council. If the Official receives voluntary compliance from the owner, lienholder or mortgagee, the Official need not seek a public hearing from the City Council.

Section 6. Notice of hearing.

a. Notice of the public hearing required under this Section shall be sent to the owner of record, lienholder and mortgagee of the affected property. The notice shall be served at least ten calendar days prior to the hearing date. The notice may be served personally or by certified mail, return receipt requested. The executed return receipt shall be prima facie evidence of service. If the owner of record, lienholder or mortgagee of the building cannot be identified, the City shall make a diligent effort, use its best efforts, or make a reasonable effort to determine the identity and address of an owner, a lienholder or mortgagee. If a notice is mailed according to this subsection and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice shall be deemed to be delivered.

b. The City must post a notice of the public hearing on the front door of each improvement situated on the affected property or as close to the front door as practicable on or before the 10th day before the date fixed for the public hearing.

c. The City must publish a notice of the public hearing in a newspaper of general circulation in the municipality on one occasion on or before the 10th day before the date fixed for the public hearing.

d. The City may file a notice of the hearing in the Official Public Records of Real Property for Howard County.

e. The filing of the notice of hearing in the Official Public Records of Real Property for Howard County is binding on subsequent grantees, lienholders or other transferees of an interest in the property who acquire such interest after the filing of the notice and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

Section 7. Contents of notice.

The notice must contain:

- a. The name and address of the owner of the affected property if that information can be determined;
- b. A legal description of the affected property; and
- c. A description of the hearing.
- d. A notice of a public hearing required by Section 6 sent to an owner, lienholder or mortgagee:
- e. A statement that the owner, lienholder or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this Ordinance and the time it will reasonably take to perform the work;
- f. May contain a description of each violation which allegedly exists, a statement that the City may perform the required work to abate the violation if the owner fails to do so, and an explanation of the owner's right to a hearing before the Council.

Section 8. Public hearing.

At the hearing the Official shall present evidence of the condition of the structure and may recommend a course of action. The owner, lienholder, mortgagee or any other interested party may present evidence on any relevant issues.

Section 9. Council orders.

- a. After the public hearing, if a building is found in violation of standards set out in this Ordinance or any other applicable Ordinances, the Council may:
 1. Find the building or structure to be a dangerous building or structure and order that the building be vacated, secured, repaired, removed or demolished by the owner within a reasonable time. The Council may order that the owner relocate the occupants within a reasonable time; or
 2. Grant a variance in order to avoid the imposition of an unreasonable hardship; or
 3. In the case of a single-family dwelling occupied by the owner where the health, safety and welfare of other persons will not be affected, grant an exception to any provision of this Ordinance to avoid the imposition of an unreasonable hardship.
- b. The mortgagees and lienholders shall be provided an additional reasonable amount of time to comply with the ordered action in the event the owner fails to comply with the order within the time provided for action by the owner.
- c. The Council order shall require the owner, lienholder or mortgagee of the building to within 30 days:
 1. Secure the building from unauthorized entry; or
 2. Repair, remove or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.
- d. If the Council allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the Council shall set specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Council.
- e. The Council may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:
 1. Submits a detailed plan and time schedule for the work at the hearing; and
 2. Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.
- f. If the Council allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the Council will require the owner, lienholder or mortgagee to regularly submit progress reports, as defined by the Council, to the Official to demonstrate compliance with the time schedules established for commencement

and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the Council or the Official to demonstrate compliance with the time schedules.

g. If the Council allows the owner, lienholder or mortgagee to repair, remove or demolish the building, the work shall be done in compliance with all permitting requirements of the City, Howard County and State of Texas. Any repair work must comply with the applicable codes for the work to be completed.

h. If the owner, lienholder or mortgagee owns property, including structures and improvements on property, within the City limits of the City with a value that exceeds \$50,000.00 in total value, the Council may require the owner, lienholder or mortgagee to post a cash or surety bond in an amount adequate enough to cover the cost of repairing, removing or demolishing a building or structure under subsection f. of this section. In lieu of a bond, the Council may require the owner, lienholder or mortgagee to provide a letter of credit from a financial institution or guaranty from a third party approved by the Council. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the Council issues the order. Value may be determined by using the appraised value of real property and improvements as determined by the Howard County Appraisal District, or its successor in interest.

i. The owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with the applicable City Ordinances and the time it will take to reasonably perform the work.

Section 10. Actions subsequent to Council order.

a. Within ten days after the date the order is issued, the City shall:

b. File a copy of the order in the office of the City Secretary; and

c. Publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:

1. The street address or legal description of the property;

2. The date of the hearing;

3. A brief statement indicating the results of the order; and

4. Instructions stating where a complete copy of the order may be obtained.

d. The Official shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The municipality shall use its best efforts to determine the identity and address of any owner, lienholder or mortgagee of the building. If a copy of the order is mailed according to this subsection and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the mailing is not affected, and the copy of the order shall be deemed to be delivered.

Section 11. Compliance with Council order.

a. If the building is not vacated, secured, repaired, removed or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense.

b. If the City incurs expenses under subsection a. of this section, the City may assess the expenses on, and the City has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the building is located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the City for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the County Clerk of Howard County. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the City, and the balance due. Interest on any lien placed by the City shall be accrued at ten percent per annum.

c. This section does not limit the City's ability to collect on a bond or other financial guaranty that may have been required by Section 9.

Section 12. City's authority to secure a dangerous building; notice requirement.

- a. The City may secure a building the Official determines;
- b. Violates the minimum standards; and
- c. Is unoccupied or is occupied only by persons who do not have a right of possession to the building.
- d. Before the 11th day after the date the building is secured, the Official shall give notice to the owner by:
 - e. Personally serving the owner with written notice;
 - f. Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
 - g. Publishing the notice at least twice within a ten-day period in a newspaper of general circulation if personal service cannot be obtained and the owner's post office address is unknown; or
 - h. Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.
- i. The notice must contain:
 - j. An identification, which is not required to be a legal description, of the building and the property on which it is located;
 - k. A description of the violation of the municipal standards that is present at the building;
 - l. A statement that the municipality will secure or has secured, as the case may be, the building; and
 - m. An explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building.
- n. The Council shall conduct a hearing at which the owner may testify or present witnesses or written information about any manner relating to the City's securing of the building if, within 30 days after the date the City secures the building, the owner files with the Official a written request for the hearing. The Council shall conduct the hearing within 20 days after the date the request is filed.
- o. The authority granted by this Section is in addition to any other remedy provided by state law.

ARTICLE III

Section 1. Diligent or best efforts by the city.

Under this Ordinance, the City is deemed to have made a diligent effort, used its best efforts, or made a reasonable effort to determine the identity and address of an owner, a lienholder, or mortgagee if it searches the following records:

- a. County real property records of the county in which the building is located;
- b. Appraisal district records of the appraisal district in which the building is located;
- c. Records of the secretary of state;
- d. Assumed name records of the county in which the building is located;
- e. Tax records of the City; and
- f. Utility records of the City.

Section 2. Placing of placard on structure.

The Official may place a red placard on the building or structure that is unsanitary or unsafe warning of its dangerous condition. A person commits an offense if:

- a. Without authority from the Official, he removes or destroys the red placard;
- b. He occupies a vacant structure on which the Official has placed a red placard;
- c. As owner of a building or structure, he allows a person to occupy or continue to occupy a building on which the red placard has been placed by the City Official.

Section 3. Timely vacation of structure.

- a. Each occupant of a structure or dwelling unit that has been ordered vacated shall vacate the

structure or dwelling unit within the time specified in the order. It is unlawful for any person to occupy a structure or dwelling unit that has been ordered vacated.

b. A person who is ordered to vacate a structure shall not be considered a displaced person and shall not be eligible for relocation assistance if:

1. The person is ordered to vacate a structure as a consequence of his own intentional or negligent conduct;
2. The person began occupying the structure after the Official placed a red placard on the structure warning of its dangerous condition.

Section 4. Disconnecting public utilities.

The Official may request that public utilities be disconnected in order that demolition may be accomplished without delay when an order for demolition has been issued or when an emergency situation exists.

Section 5. Violation/Penalty.

Any violation of any provision of this Ordinance constitutes a misdemeanor and upon conviction thereof is subject to a fine of up to \$200 per day or as otherwise provided by a court of competent jurisdiction. Each and every day a violation continues constitutes is a separate offense.

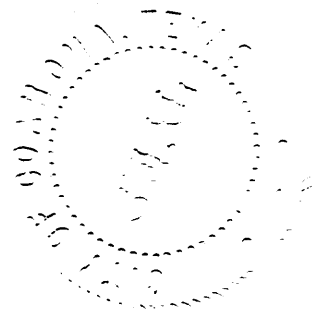
Sections 6-8. Reserved.

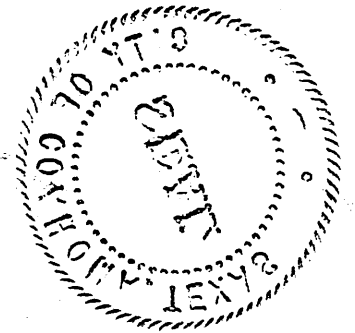
ARTICLE IV.

Section 1. Savings and severability.

(a) The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinances are hereby expressly repealed to the extent of any such inconsistency or conflict.

(b) If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Coahoma hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.





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