

ARTICLE 3.12 SUBSTANDARD BUILDINGS

Sec. 3.12.001 Definitions

Applicable building codes. Any and all building codes which are applicable to the particular condition or component of a structure or building which is being addressed.

Building. Any structure used, or intended for, supporting or sheltering any use or occupancy and shall include:

- (1) Any structure classified as a "building" pursuant to section 202 of the International Building Code, adopted by section 3.02.051 of this Code; and
- (2) A dwelling.

Building codes. The technical building codes adopted pursuant to article 3.02, technical and construction codes and standards, of this Code.

Dwelling. A building designed or intended for human habitation and shall include those structures that are classified as a "dwelling" under section 202 of the International Building Code adopted by section 3.02.051 of this Code and all structures described in, and referred to, in section 310.1 of the International Building Code adopted by section 3.02.051 of this Code.

Owner. The person or firm that owns a building or structure shall include any person that has legal or equitable interest in the building or structure. Each owner of a building or structure shall be jointly and severally responsible for compliance with all provisions of this article. It shall not be a defense to prosecution or any other sanctions or the use of the city's remedies under this article if a joint owner is not prosecuted, sanctioned or required to perform remediation or assessed penalties and/or expenses.

Structure. Any improvement which is built, constructed or located on real property other than a dwelling or building and shall include any fence, shed, or awning.

Sec. 3.12.002 Buildings and structures regulated

The following buildings or structures, regardless of their date of construction, are subject to the regulations in this article and may be referred to in this article by the titles set forth in subsection (1), (2) and (3) below:

- (1) *Substandard building or structure.* Any building or structure that is dilapidated, substandard, or unfit for human habitation or a hazard to public health, safety, or welfare. A building or structure is presumed to be a substandard building or structure if it does not meet the following minimum standards:
 - (A) A dwelling must have an adequate water closet, lavatory, bathtub or shower, kitchen sink, hot and cold running water to plumbing fixtures, as required by the applicable building codes.
 - (B) A dwelling must have adequate heating facilities and ventilating equipment.
 - (C) A dwelling must have lighting that is properly installed and that is operating in accordance with any applicable building codes.
 - (D) All electrical wiring in any building or structure must be installed and operating in accordance with all applicable building codes.
 - (E) A dwelling must not have dampness in any portion used, or constructed for use, as a human habitation.

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- (F) Buildings and structures must be free of hazardous or unsanitary items or conditions including any accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, stagnant water or conditions likely to harbor or promote the breeding or infestation of insects, snakes, vermin or rodents.
 - (G) Buildings and structures and components thereof must be maintained in accordance with all applicable building codes, including, without limitation, the following codes adopted under article 3.02, technical and construction codes and standards, of this Code: the International Building Code, the International Residential Code, the International Existing Building Code, the International Mechanical Code, the National Electrical Code, the International Commercial Energy Code, the International Plumbing Code, the International Property Maintenance Code; and the International Fire Code as adopted under article 5.04, fire code, of this Code.
 - (H) Dwellings must be properly connected to the city's sanitary sewer system unless they are connected to an on-site sewer system which has been approved by the city's health department.
 - (I) A building or structure with a water closet, lavatory, bathtub, shower, or clothes washer or dishwasher must be properly connected to the city's sanitary sewer system unless they are connected to an on-site sewer system which has been approved by the city's health inspector.
 - (J) A building must not have garbage, rubbish or other unsightly material in or around its location.
 - (K) A building must have a foundation which is adequate to support the building and loads imposed on the foundation in a safe manner.
 - (L) A building must have flooring and floor supports of sufficient size, structure and condition to carry loads imposed in a safe manner.
 - (M) The walls, partitions or other vertical support members of a building or structure must be adequate to carry the imposed loads in a safe manner and support the roof of the building or structure; and must not be split, must not lean, must not list or must not buckle.
 - (N) The ceilings, roofs, and ceiling and roof supports of a building or structure must be of sufficient size, structure and condition to carry imposed loads in a safe manner and must not sag, split or buckle.
 - (O) Chimneys and ventilation systems for fireplaces and stoves must be of sufficient size, structure and condition to effectively remove smoke and other gases created from combustion in the fireplace or stove in a safe manner and must be sufficiently insulated so that they do not create a risk or hazard of fire to adjacent structures within the building in which they are installed.
 - (P) Chimneys and ventilation systems for fireplaces and stoves and fireplaces must have sufficient strength, structure and condition to carry the structural loads imposed on them in a safe manner.
 - (Q) All plumbing in any building or structure shall be installed and in a condition that complies with the International Plumbing Code adopted pursuant to article 3.02, technical and construction codes and standards, of this Code.
 - (R) All mechanical systems in a building or structure shall be installed in a condition that complies with the International Mechanical Code adopted pursuant to article 3.02, technical and construction codes and standards, of this Code.
 - (S) All buildings shall have effective waterproofing on exterior walls, roofs, foundations or floors. The following are examples of ineffective waterproofing: deteriorated, crumbling or loose plaster on exterior walls or foundations, broken or missing exterior windows or doors, lack of paint on exterior walls, broken, rotted, split or buckled exterior wall coverings or roof coverings.

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- (T) All buildings and structures shall be free of combustible waste or vegetation or from any substance which could be an accelerant to a fire or likely to cause an explosion unless the substance which could accelerate a fire or cause an explosion is properly stored in accordance with applicable law.
 - (U) All buildings must have adequate exits as required by applicable building codes.
 - (V) When any portion of a building is used as a living or sleeping quarters or a place where food is cooked for human consumption, such building shall comply with the building codes applicable to dwellings with respect to its plumbing, electrical and heating systems.
 - (W) A building that is damaged by fire, windstorm, hail, or acts of vandalism shall be immediately secured to avoid it being an unsecured building or structure or a dangerous building or structure and work to bring the building or structure into compliance with the regulations of this article must be commenced within 30 days unless a longer time period is permitted by the building official, code enforcement official or fire code official.
- (2) *Unsecured building or structure.* Any building or structure that, regardless of its structural condition, is 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 children.
 - (3) *Dangerous building or structure.* Any building or structure that is boarded up, fenced, or otherwise secured in any manner if:
 - (A) The building or structure constitutes a danger to the public even though secured from entry; or
 - (B) The means used to secure the building or structure is inadequate to prevent unauthorized entry or use of the building in the manner described in subsection (2) unsecured building or structure.

Sec. 3.12.003 Offenses; penalty

- (a) *Maintaining a nuisance.* A substandard building or structure, an unsecured building or structure or a dangerous building or structure, as defined by section 3.12.002 is hereby declared a nuisance. It shall be unlawful for the owner of a building or a structure to allow it to exist in a condition in which it is a substandard building or structure, an unsecured building or structure or a dangerous building or structure, as defined by section 3.12.002.
- (b) *Failure to comply with city council order.* It shall be unlawful for any person to fail to timely comply with an order of the city council entered pursuant to section 3.12.007, requiring the vacation, relocation of occupants, securing, repair, removal or demolition of a substandard building or structure, an unsecured building or structure or a dangerous building or structure as defined by section 3.12.002.
- (c) *Penalty.* Any person, firm or corporation who shall fail to comply with any of the provisions of section 3.12.002 commits an offense and shall, upon conviction thereof, be punished by a fine in accordance with the general penalty provision found in section 1.01.009 of this Code.

Sec. 3.12.004 City authority to require remediation

The city may require the vacation, relocation or occupants, securing, repair, removal or demolition of a substandard building or structure, an unsecured building or structure or a dangerous building or structure as defined by section 3.12.002.

Sec. 3.12.005 Complaint and notice

- (a) *Complaint.* The building official, code enforcement official or fire code official of the city shall prepare a written complaint with respect to any building or structure that is a substandard building or structure, an unsecured building or structure or a dangerous building or structure, as defined by section 3.12.002. The complaint shall contain the following:
- (1) Identification of the building or structure (which shall not require a legal description of the property);
 - (2) A description of the manner in which the building or structure is a substandard building or structure, an unsecured building or structure or a dangerous building or structure, as defined by section 3.12.002;
 - (3) The name, office address and phone number of the building official, code enforcement official or fire code official that can be contacted during regular office hours to discuss the complaint;
 - (4) Direction to the owner, lienholder or mortgagee that they must by either: (A) remedy the violations in the complaint by a date certain; or (B) present the building official, code enforcement official or fire code official with a detailed plan stating the manner in which each violation will be remedied and the time by which all work necessary to remedy the violations will be completed, which plan shall be presented to the city manager or code enforcement officer by a date certain specified in the complaint;
 - (5) A statement that a public hearing will be held in accordance with section 3.12.006 herein, if the owner fails to comply with subsection (4) above, on or before the deadlines stated therein or if the owner or lienholder or mortgagee desires to contest the allegations in the complaint;
 - (6) The date, time and place of the public hearing.
- (b) *Notice of the complaint and hearing.* The complaint shall be mailed to the owner and any lienholder or mortgagee of the building or structure. The following procedures shall govern the mailing of such notice.
- (1) *Method of mailing.* The complaint and notice of hearing shall be mailed to the owner and any lienholder or mortgagee of the building or structure by certified mail with return receipt requested, delivered by the United States Postal Service using signature confirmation service or by personal delivery to the owner, lienholder or mortgagee of the building or structure. If a notice or complaint is mailed in accordance with this subsection to a property owner, lienholder, mortgagee, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

Sec. 3.12.006 Public hearing; procedure

- (a) *Hearing before city council.* The public hearing on the complaint may be held before the city council.
- (b) *Evidence; burden of proof.* At the public hearing on a complaint, the city council shall consider any verbal or written evidence presented by the building official, code enforcement official, or fire code official and by the owner, lienholder or mortgagee; however, the presentation of evidence shall be subject to any procedural rules applicable to public hearings or proceedings before the city council. In the public hearing 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 ordinance and the time it will take to reasonably perform the work.

Sec. 3.12.007 Notice of city council's order

Notice of the city council's order shall be given as follows:

- (1) It shall be promptly mailed to the owner and any lienholder or mortgagee of the building or structure by certified mail with return receipt requested, delivered by the United States Postal Service using

signature confirmation service or by personal delivery to the owner, lienholder or mortgagee of the building or structure.

- (2) A copy of the order shall be filed with the city secretary within ten days after the date the order is issued.
- (3) A notice shall be published in a newspaper of record in the city within ten days after the date the order is issued. The published notice shall state the street address or legal description of the property, the date of the public hearing, a brief statement of the results of the order and instructions on where a complete copy of the order may be obtained.

Sec. 3.12.008 Remediation by the city; civil penalty

- (a) *Securing the building or structure.* If the building or structure is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time in the city council's order, the city may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense.
- (b) *Repairing the certain buildings.* If the building is a residential building with ten or fewer dwelling units and is not repaired within the allotted time in the city council's order, the city may repair the building and assess the expenses on the land on which the building or structure stands or to which it is attached. The city may repair the building only to the extent necessary to bring it into compliance with the minimum standards set forth in this article. The repairs may not improve the building to the extent that the building exceeds those minimum housing standards.
- (c) *Civil penalty.* If the building or structure is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time in the city council's order, the city may assess a civil penalty against the property owner for failure to repair, remove, or demolish the building or structure and provide for that assessment, the mode and manner of giving notice, and the means of recovering the assessment. The civil penalty shall only be imposed if the owner does not complete the action required by the city council's order within the time period specified in such order. Any civil penalty shall be specified in the city council's order but shall not to exceed \$1,000.00 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10.00 a day for each violation, if the city council finds:
 - (1) That the property owner was notified of the requirements of this article and the owner's need to comply with the requirements; and
 - (2) After notification, the property owner committed an act in violation of this article or failed to take an action necessary for compliance with this article.

Sec. 3.12.009 Additional authority to secure certain buildings or structures

- (a) *Authority to secure.* The city may secure a substandard building or structure, an unsecured building or structure or a dangerous building or structure, as defined by section 3.12.002 and the building or structure is unoccupied or is occupied only by persons who do not have a right of possession to the building or structure.
- (b) *Notice to owner.* Before the eleventh day after the date the building or structure is secured, the city will give notice to the owner by:
 - (1) Personally serving the owner with written notice;
 - (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;

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- (3) Publishing the notice at least twice within a ten-day period in a newspaper of record in the city if personal service cannot be obtained and the owner's post office address is unknown; or
 - (4) Posting the notice on or near the front door of the building or structure if personal service cannot be obtained and the owner's post office address is unknown.
- (c) *Contents of notice.* The notice will contain:
- (1) An identification, which is not required to be a legal description, of the building or structure and the property on which it is located;
 - (2) A description of the violation of the city standards that is present at the building or structure;
 - (3) A statement that the city will secure or has secured, as the case may be, the building or structure; and
 - (4) An explanation of the owner's right to request a hearing before the city council about any matter relating to the municipality's securing of the building or structure.
- (d) *Hearing.* The city will conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building or structure if, within 30 days after the date the city secures the building or structure, the owner files with the city secretary a written request for the hearing. The city shall conduct the hearing within 20 days after the date the request is filed.
- (e) *Assessment of expenses as lien.* The city shall have the authority to assess expenses under this section.
- (f) *Authority to secure is cumulative.* The authority granted to the city by this section is in addition to the city's authority to require remediation by the owner, lienholder or mortgagee pursuant to other provisions of this article or its authority to impose civil penalties or criminal sanctions.

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