

## ARTICLE VII. - DANGEROUS OR UNFIT BUILDINGS<sup>[5]</sup>

Footnotes:

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**Cross reference**— Nuisances, ch. 13.

**State Law reference**— Unsafe building, etc., V.T.C.A., Local Government Code § 214.001 et seq.

Sec. 4-196. - Scope.

This article is cumulative to all other city ordinances and does not prevent the city from acting pursuant to V.T.C.A., Local Government Code §§ 214.0015, 214.002 or any other statute.

Sec. 4-197. - Determination.

- (a) For the purpose of this article, any dwelling, building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be dilapidated, substandard, unfit for human habitation, or a hazard to the health, safety, and welfare of the city, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its possible occupants are endangered:
  - (1) Whenever the exterior walls or other vertical structural members of such building, dwelling or structure 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 of the base.
  - (2) Whenever the building, dwelling or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
  - (3) Whenever the building, dwelling or structure has improperly distributed loads upon the foundations or roofs or when such foundations or roofs are overloaded or have insufficient strength to be reasonably safe for the purpose used, the general public or possible occupants.
  - (4) Whenever the building, dwelling or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:
    - a. An attractive nuisance to children,
    - b. A harbor for vagrants, criminals or immoral persons, or
    - c. As to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
  - (5) Whenever, for any reason, the building, dwelling or structure, or any portion thereof, is manifestly unsafe and dangerous to the life, safety or general health and welfare of possible occupants or the general public.
  - (6) Whenever the building, dwelling or structure, intended to be used for habitation, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light and air (artificial or natural) or inadequate sanitary facilities, or otherwise, is determined by the public works director, or someone acting under his authority, to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
  - (7) Whenever the building, dwelling or structure has inadequate facilities for egress in case of fire or panic or the 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 for such purposes.

- (8) Whenever any portion or member of an appurtenance of the building, dwelling or structure is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
  - (9) Whenever the building, dwelling or structure, or any portion thereof, because of:
    - a. Dilapidation, deterioration or decay;
    - b. Faulty construction;
    - c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
    - d. The deterioration, decay or inadequacy of its foundation; or
    - e. Any other cause;is likely to partially or completely collapse.
  - (10) Whenever the building, dwelling or structure has a floor, exterior wall or roof with holes, cracks or loose, rotten, warped or protruding boards therein so as not to give reasonable protection to any occupants or possible occupants thereto from weather elements or danger of collapse.
  - (11) Whenever the building, dwelling or structure has interior walls, or ceilings with holes, cracks, loose plaster, defective materials or structural deterioration to the extent that same is manifestly unsafe for the purpose for which it is being used or so as not to give reasonable protection to any occupants of the same from danger of collapse or fire.
  - (12) Whenever any building, dwelling 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 public works director, or someone acting under his authority, to be a fire hazard.
  - (13) Whenever any portion of the building, dwelling or structure remains on a site after the demolition or destruction of the building, dwelling or structure by natural causes or otherwise, so as to constitute such building, dwelling or structure, or portion thereof, an attractive nuisance to children or hazard to the public or their property.
- (b) A controlling factor of definition will be that all buildings, dwellings or structures designated as dilapidated, substandard, unfit for human habitation, or a hazard to the health, safety and welfare of the city must be clearly in substantial violation of city construction or housing codes.

Sec. 4-198. - Compliance required.

All buildings within the city (including but not limited to dwellings, apartment houses, rooming houses, or any other buildings or structures), which are dilapidated, substandard, unfit for human habitation, or a hazard to the health, safety and welfare of the citizens of the city, shall be rectified or demolished as provided by this article.

(Ord. No. 203, § 3, 10-8-85)

Sec. 4-199. - Enforcement officer.

The city council hereby designates the public works director as the administrator to oversee the provisions of this article, and to ensure that the provisions of this article are complied with by any individual.

(Ord. No. 203, § 4, 10-8-85)

Sec. 4-200. - Notice of violation.

Whenever the public works director determines that there are reasonable grounds to believe that any building within the city is dilapidated, substandard, unfit for human habitation, or a hazard to the health, safety and welfare of the citizens of the city, he shall give notice of such alleged violation to the person responsible therefore and to the owner of the building indicating that there is an alleged violation of this article, and that such violation in his opinion constitutes a nuisance. Such notice shall:

- (1) Be put in writing.
- (2) Include a statement of the reasons why it is being issued.
- (3) Provide that a public hearing before the city council shall be held at a time, date and place specified which shall be at least ten days following the date of service of the notice.

(Ord. No. 203, § 5, 10-8-85)

Sec. 4-201. - Order to vacate, repair, etc.

- (a) After the public hearing provided for in section 4-200, if a building is found in violation of standards in section 4-197, the city council may order that the building be vacated, secured, repaired, removed or demolished by the owner within a reasonable time. The council also may order that the occupants be relocated within a reasonable time. If the owner does not take the ordered action within the allotted time, the city shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or in the property on which the building is located. The city shall send to each identified mortgagee and lienholder a notice containing:
  - (1) An identification, which is not required to be a legal description, of the building and the property on which it is located;
  - (2) A description of the violation of city standards that is present at the building; and
  - (3) A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.
- (b) As an alternative to the procedure prescribed by subsection (a), the city may make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and may give them a notice of and an opportunity to comment at the hearing. If the city operates under this subsection, the order issued by the city may specify a reasonable time for the building to be vacated, secured, repaired, removed or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner. Under this subsection, the city is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

(Ord. No. 203, §§ 5, 8, 10-8-85)

**State Law reference**— Similar provisions, V.T.C.A., Local Government Code § 214.001(c), (d).

Sec. 4-202. - Immediate implementation of order; placarding.

- (a) Pursuant to the order entered by the city council, if necessary, the order shall also require the building, or a portion thereof, to be vacated immediately and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the public works director.
- (b) The public works director may cause to be posted at each entrance to such building a notice stating as follows:

"THIS BUILDING IS UNSAFE AND ITS USE FOR OCCUPANCY HAS BEEN PROHIBITED BY THE CITY COUNCIL OF THE CITY OF RICHWOOD, TEXAS"

- (c) The notice will remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person to remove such notice without written permission of the public works director, or for any person to enter the building except for the purpose of making the required repairs or of demolishing the building.

(Ord. No. 203, § 9, 10-8-85)

Sec. 4-203. - Compliance with order.

The property owner shall in all respects comply with the order of the city council.

(Ord. No. 203, § 8, 10-8-85)

Sec. 4-204. - Enforcement at city expense.

If the building is not vacated, secured, repaired, removed or demolished, or the occupants are not relocated within the allotted time, the public works director after determining the costs may vacate, secure, remove, or demolish the building or relocate the occupants at the city's expense.

(Ord. No. 203, §§ 7, 10, 10-8-85)

**State Law reference**— Similar provisions, V.T.C.A., Local Government Code § 214.001(e).

Sec. 4-205. - Imposition of lien.

- (a) If the city incurs expenses under section 4-204, it may assess the expenses on, and the city has a lien against, unless it is a homestead as protected by the state constitution, the property on which the building was 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. 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.
- (b) If the notice is given and the opportunity to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as authorized by section 4-201, the lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property to which the city's lien attaches.

(Ord. No. 203, §§ 10, 11, 10-8-85)

**State Law reference**— Similar provisions, V.T.C.A., Local Government Code § 214.001(f), (g).

Secs. 4-206—4-229. - Reserved.