

UNSAFE BUILDINGS

§ 150.30 ESTABLISHMENT OF REGULATIONS.

The City Council hereby establishes the requirements contained herein for the regulation of unsafe buildings located in the city.

(Ord. 103-95, passed 10-25-94)

§ 150.31 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

RESPONSIBLE PARTY. The owner, occupant or person in custody of the building or structure.

UNSAFE BUILDING.

- (1) Any building or structure in or about which any or all of the following conditions exist:
 - (a) Walls or other vertical structural members list, lean or buckle;
 - (b) Damage or deterioration exists to the extent that the building is unsafe;
 - (c) Loads of floors or roofs are improperly distributed or the floors or roofs are of insufficient strength to be reasonably safe for the purposes used;
 - (d) Damage by fire, wind or other cause has rendered the building or structure dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city;
 - (e) The building or structure is so dilapidated, substandard, decayed, unsafe, unsanitary or otherwise lacking in the amenities essential to decent living that the same is unfit for human habitation or is likely to cause sickness, disease or injury or otherwise to constitute a detriment to the health, morals, safety or general welfare of those persons assembled, working or living therein or is a hazard to the public health, safety and welfare;
 - (f) Light, air and sanitation facilities are inadequate to protect the health, morals, safety or general welfare of persons who assemble, work or live therein;
 - (g) Stairways, fire escapes and other facilities of egress in case of fire or panic are inadequate;
 - (h) Parts or appendages of the building or structure are so attached that they are likely to fall and injure persons or property; and/or
 - (i) A condition exists in violation of the standards set forth in this subsection (1) which condition renders the building or structure unsafe, unsanitary or otherwise detrimental to the health, safety, morals or welfare of the people of the city.
- (2) A responsible party may continue to use and occupy any building located within the city, regardless of the date the building was constructed if the building meets the applicable minimum standards for buildings prescribed in this subchapter.

(Ord. 103-95, passed 10-25-94)

§ 150.32 DECLARATION OF NUISANCE; ENFORCEMENT.

(A) It shall be unlawful for any person to maintain or permit the existence of any unsafe building in the city and it shall be unlawful for any person to permit same to remain in the condition.

(B) All unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures provided in this subchapter.

(C) The Building Official shall enforce the provisions of this subchapter.

(Ord. 103-95, passed 10-25-94) Penalty, see § 10.99

§ 150.33 INSPECTION OF BUILDINGS.

The Building Official shall inspect, or cause to be inspected, every building, or portion thereof, reported to be unsafe. If the building, or any portion thereof, is determined to be unsafe, the Building Official shall give the responsible party notice in accordance with the requirements set forth in this subchapter.

(Ord. 103-95, passed 10-25-94)

§ 150.34 NOTICE TO REPAIR.

(A) Whenever the Building Official determines that a building is unsafe, he or she shall give notice of the determination to the responsible party.

(B) The notice shall:

- (1) Be in writing;
- (2) Identify the specific conditions upon which the determination was based;
- (3) Specify the corrective measures required;
- (4) Provide a reasonable time for compliance;

(5) Advise the responsible party that there will be conducted a public hearing before the City Council to determine whether a building complies with the standards set out in this subchapter; and (The notice shall inform the responsible party of the date, time and place of the hearing.)

- (6) The notice be served upon the responsible party as set out in this subchapter.

(Ord. 103-95, passed 10-25-94)

§ 150.35 SUFFICIENCY OF NOTICE.

Notice given pursuant to this subchapter shall be deemed properly served upon the responsible party if a copy thereof is:

- (A) Served upon him or her personally;

(B) Sent by registered or certified mail, return receipt requested, to the last known address of the person, as shown on the records of the city; or

- (C) Posted in a conspicuous place in or about the building affected by the notice.

(Ord. 103-95, passed 10-25-94)

§ 150.36 PUBLIC HEARING.

(A) The purpose of the public hearing is to determine whether or not the building is unsafe in accordance with the standards set forth in this subchapter.

(B) The matter shall be set for hearing before the City Council at the earliest practicable date and notice of the hearing shall be served on the responsible party and the Building Official not less than ten days prior to date of the hearing. All interested persons shall have the opportunity to be heard and may introduce evidence to the City Council for its members' consideration.

- (C) After the public hearing, the City Council shall make findings and orders as it shall deem appropriate.

(D) After the public hearing, if a building is found in violation of standards set out in this subchapter, the City Council may order that the building be vacated, secured, repaired, removed or demolished by the owner within a reasonable time. The City Council also may order that the occupants be relocated within a reasonable time. If the responsible party does not take the ordered action within the allotted time, the City Council shall make a diligent effort to discover each mortgagee and penholder having an interest in the building or in the property on which the building is located. The City Secretary shall send to each identified mortgagee and lienholder a notice containing:

- (1) An identification and address of the building and the property on which it is located;
- (2) A description of the violation of this code of ordinances that is present at the building; and

(3) A statement that the municipality will vacate, secure, remove or demolish the building or relocated the occupants of the building if the ordered action is not taken within a reasonable time.

(E) As an alternative to the procedure prescribed by division (D) above, the City Council shall make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and shall give them a notice of and an opportunity to comment at the hearing. If the city proceeds under this division, the order issued by the City Council shall specify a reasonable time for the building to be vacated, secured, repaired, removed or demolished by the responsible party or for the occupants to be relocated by the responsible party and an additional reasonable time for the ordered action to be taken by any of the mortgagees or lienholders in the event the responsible party fails to comply with the order within the time provided for action by the responsible party. Under this division, 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 responsible party fails to timely take the ordered action.

(F) 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.

(G) If the city incurs expenses under division (F) above, the city 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 or 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. 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.

- (H) 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 divisions (D) or (E) above, 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. 103-95, passed 10-25-94)

§ 150.37 ASSESSMENT OF EXPENSES AND PENALTIES.

(A) If the City Council has held a hearing pursuant to §150.36(B) and the time allotted for the repair, removal or demolition of a building under § 150.36(D) or (E) has expired, then the City Council may, in addition to the authority granted under Tex. Loc. Gov't Code § 214.001 and this code's § 150.36:

(1) Order the repair of the building at the city's expense and assess the expenses on the land on which the building stands or to which it is attached or assess a civil penalty against the responsible party for failure to repair, remove or demolish the building; and

(2) The city's Building Official shall invite at least two or more building contractors to make estimates pertaining to the needed repair, removal or demolition of a building. The Building Official shall cause to be made an assessment of expenses or civil penalty based on the estimates. The Building Official shall endeavor to minimize the expenses of any building repairs, removal or demolitions order pursuant to this subchapter.

(B) The city may repair a building under division (A) above only to the extent necessary to bring the building into compliance with the minimum standards of the city and only if the building is a residential building with ten or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum standards prescribed by the city.

(C) The city shall impose a lien against the land on which the building stands or stood unless it is a homestead as protected by the State Constitution, to secure the payment of the repair, removal or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the city shall file for record, in recordable form in the office of the County Clerk, a written notice of the imposition of the lien. The notice shall contain a legal description of the land.

(D) Except as provided by § 150.36 above, the city's lien to secure the payment of a civil penalty or the costs of repairs, removal or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the city's lien attaches if the mortgage lien was filed for record in the office of the County Clerk before the date the civil penalty is assessed or the repair, removal or demolition is begun by the city. The city's lien is superior to all other previously recorded judgement liens.

(E) Any civil penalty or other assessment imposed under this section accrues interest at the rate of 10% a year from the date of the assessment until paid in full.

(F) In any judicial proceeding regarding enforcement of municipalities under this section, the prevailing party is entitled to recover reasonable attorney's fees from the non-prevailing party.

(G) A lien acquired under this section by the city for repair expenses may not be foreclosed if the property on which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.

(Ord. 103-95, passed 10-25-94)

§ 150.38 POSTING WARNINGS.

(A) In the event the City Council makes a determination after the public hearing that the building is deemed to be an unsafe building, the Building Official shall cause to be posted at each entrance to the building a notice to read as follows:

DANGEROUS DO NOT ENTER, UNSAFE TO OCCUPY

Building Official of the City of Sweeny

(B) The notice shall remain posted until required repairs, demolition or removal is completed and the premises have been rendered safe. The notice shall not be removed without written permission of the Building Official and no person shall enter the building except for making inspections or required repairs or to demolish the building.

(Ord. 103-95, passed 10-25-94) Penalty, see § 10.99