

AN ORDINANCE AMENDING CHAPTER 8, "CONSTRUCTION REGULATIONS," ARTICLE VI, "UNIFORM CODES AND OTHER REGULATIONS," DIVISION 2, "BUILDING CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 8, Article VI, Division 2, "Building Code," of the Abilene Municipal Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3. That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2,000). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 23 day of April, A.D. 19 92.

PASSED ON SECOND AND FINAL READING this 14 day of May, A.D. 19 92.

ATTEST:

[Signature]
CITY SECRETARY

[Signature]
MAYOR

APPROVED:

[Signature]
CITY ATTORNEY

EXHIBIT "A"

Ordinance No. 20-1992

PART 1. Amend Chapter 8, Section 8-561 of the Abilene City Code by deleting the current section in its entirety and substituting therefore the following:

Sec. 8-561. Code adopted.

"The 1991 Uniform Code for the Abatement of Dangerous Buildings is hereby adopted by reference subject to certain changes, additions, and deletions. Copies of the 1991 Uniform Code for the Abatement of Dangerous Buildings as amended and adopted are on file in the Building Official's and City Secretary's offices."

PART 2. The following chapters of the 1991 Code for Abatement of Dangerous Buildings are adopted in their entirety:

1, 2, and 3.

PART 3. The following chapters of the 1991 Uniform Code for Abatement of Dangerous Buildings are deleted in their entirety:

4, 5, 6, 7, 8, and 9.

PART 4. Chapter 4 of the 1991 Uniform Code for Abatement of Dangerous Buildings is replaced by a new Chapter 4 as follows:

AMENDMENT TO THE
1991 UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS

Delete Chapter 4 in its entirety.

Add a new Chapter 4 to read as follows:

Chapter 4
NOTICES AND ORDERS OF BUILDING OFFICIAL

Sec. 401. Notice of Conditions. Whenever the building official determines, or has reasonable grounds to believe, that any existing building or portion thereof, is substandard, as defined in Chapter 3 of this code, the Housing Code and/or the Building Code, he shall give written notice thereof to the owner of such building. Such notice shall specify the conditions causing such building, or portion thereof, to be substandard, shall specify the corrective measures required, shall provide a reasonable time for such corrective measures to be commenced and completed, and shall prohibit occupancy of such building, or portion thereof, until completion of such corrective measures, except as provided in Section 403 of this code. If it is not practical to correct such conditions by repair or renovation, such notice shall order the removal or demolition of such building, or portion thereof. Such notice shall also inform the owner that he may appeal from the determination and order of the building official by filing written notice of appeal with the office of the building official within ten (10) days after service of such notices as provided herein.

Such notice shall be deemed properly served if a copy is served to the owner personally, or if a copy thereof is sent by certified mail, return receipt requested, to the last known address of the owner of such building, as shown by the tax rolls of the city, and if a copy is posted in a conspicuous place in or about the building affected by the notice.

Sec. 402. Ownership. The record owner of property shall submit an affidavit to the City stating that the record owner no longer owns the property if such an assertion is made by the owner. The affidavit must state: (1) that the record owner no longer owns the property; and (2) the name and last known address of the person who acquired the property from the record owner. The record owner must deliver the affidavit to the City not more than 20 days after receiving the notice. If the City receives an affidavit from the record owner, the City must send proper notice to the person named in the affidavit as being the owner of the property. Such subsequent notice must require the person to execute an affidavit that the person is not the owner of the property if such a claim is made. If the City does not receive an affidavit in response to the notification, the record owner or the person subsequently notified is presumed to be the owner of the property for purposes to which the notice relates.

Sec. 403. Occupancy. Upon service of notice, as provided for in Sec. 401, the building official shall cause to be posted at each entrance to such building, or applicable portion thereof, a notice to the effect that such building has been condemned and is unsafe for occupancy. Such notice shall remain posted until the required repair, renovation, demolition, or removal has been completed, and it shall be unlawful to remove, destroy or deface same without the written approval of the building official. No person shall occupy such building, or applicable portion thereof, after such posting of notice until written approval therefore is given by the building official. Provided, if such building, or applicable portion thereof, is occupied at the time notice is served, the building official may allow a reasonable time for the occupants to vacate same.

Sec. 404. Appeal From Decision of Building Official. Within ten days after service of notice has been perfected, as provided in Section 1101, any person aggrieved thereby may appeal the determination or requirements made by the building official. If such appeal is properly filed within such ten day period, compliance with the notice of the building official shall not be required pending hearing of such appeal by the board. Provided, that in cases of emergency, where a delay would, in the opinion of the building official, result in eminent peril to life or property, compliance with the notice of the building official shall not be stayed by such appeal.

Failure to appeal within such ten day period shall make the determination and requirements of the building official final except as to any building ordered by the building official to be removed or demolished.

Sec. 405. Failure to Comply with Notice. If (a) the corrective measures specified in the notice of substandard conditions are not commenced or completed within the times specified in such notice, or if, after commencement, such measures are not prosecuted diligently; and (b) no appeal has been perfected, as provided in Sec. 404, the owner of such building shall be cited to appear before the Board of Building Standards. Such citation shall be served in the manner provided for service of notice of substandard conditions in Sec. 401.

Sec. 406. Hearing Before Board of Building Standards. Upon hearing before the board, either after appeal or due to failure to comply with the notice of the building official, the board may make such order as it shall determine necessary; provided, that such order is not contrary to or inconsistent with any provisions of this code, the Housing Code and/or the Building Code. The orders contained in the notice of the building official may be modified or overruled, and the board may order the building, or applicable portion thereof, repaired, renovated, demolished, or removed, or other corrective measures taken within such time limitations as it may set.

All findings and orders of the board shall be reduced to writing, and a copy thereof mailed to the owner and occupants, if any, of such building, or applicable portion thereof.

Sec. 407. Costs for Work Performed by City. To secure the payment of the cost of demolition or other corrective measures, pursuant to Section 406, there shall be a lien against the real estate in favor of the City when said removal or demolition is performed by the City; provided that such lien shall not be established on a homestead, as defined under the constitution and laws of this state. If the building, or portion thereof, is removed or demolished, the building official shall keep an accurate record of the demolition costs together with a record of any salvage recovered, which shall be applied against such demolition costs.

When such work or improvements have been completed, the building official shall cause a property verified and acknowledged statement to be filed with the county clerk, showing the cost and expense of such work and the amount of money due and owing to the City, a legal description sufficient to identify the property and the name of the owner thereof, if known. From the date of filing, the amount shown by such statement to be due and owing to the City, together with ten percent interest thereon from the date of completion of such work or improvements, shall be a privileged lien on such property, second only to tax liens and liens for street improvements. A suit may be instituted, and recovery and foreclosure of the lien for any such amount and interest may be had in the name of the City in any court having jurisdiction, and the statement of the building official provided in this section, or a certified copy of such statement, shall be prima facie proof of the amount due and owing to the City and the substantial evidence rule, insofar as applicable, shall be applied in the trial of such cases.

Sec. 408. Emergencies. Whenever the building official finds that an emergency exists, which requires immediate action to protect the public welfare, health and safety, he may, without notice or hearing, issue an order reciting the existence of such an emergency, and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the provisions of this code, the Housing Code and/or the Building Code, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but, upon petition to the building official, shall be afforded a hearing as soon as possible. After such hearing, depending upon his finding as to whether the provisions of this code, the Housing Code and/or the Building Code have been complied with, the building official shall continue such order in effect, modify it, or revoke it.

Sec. 409. Additional Authority to Secure Substandard Buildings.

- (a) The building official may secure a building that has been determined
 - (1) violates the minimum standards; and
 - (2) is unoccupied or is occupied only by persons who do not have a right of possession to the building.
- (b) Before the 11th day after the date the building is secured, the municipality shall 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;
 - (3) publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and owner's post office address is unknown; or
 - (4) 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.
- (c) The notice must contain:
 - (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 the municipal standards that is present at the building;
 - (3) a statement that the municipality will secure or has secured, as the case may be, the building; and
 - (4) an explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building .
- (d) The municipality shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the

municipality's securing of the building if, within 30 days after the date the municipality secures the building, the owner files with the municipality a written request for the hearing. The municipality shall conduct the hearing within 20 days after the date the request is filed.

- (e) A municipality has the same authority to assess expenses under this section as it has to assess expenses under Sec. 407. A lien is created under this section in the same manner that a lien is created under Sec. 407 and is subject to the same conditions as a lien created under that section.
- (f) The authority granted by this section is in addition to that granted by Sec. 401.

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