

ORDINANCE NO. 34-2017

AN ORDINANCE AMENDING CHAPTER 8, CONSTRUCTION REGULATIONS, DIVISION 6, MINIMUM STANDARDS FOR BUILDINGS AND STRUCTURES, SECTION 8-557 REMEDIES AS SET OUT BELOW; PROVIDING FOR SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, various properties exist within the city that must be secured to protect the public health, safety and welfare; and

WHEREAS, it is in the best interest of the public to secure structures contributing to unsafe, unhealthy conditions, structures that could be entered or used by vagrants or other uninvited persons, or that otherwise constitutes a danger to the public; and

WHEREAS, pursuant to Tex. Loc. Gov't Code Sections 214.001 and 214.0011, the City has the authority to secure the aforementioned structures without first condemning said structures, upon proper notification to the owner and an opportunity for a hearing; and

WHEREAS, under the city's current ordinances, before a structure may be legally secured, a structure must first be condemned as provided for in Section 8-557;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS

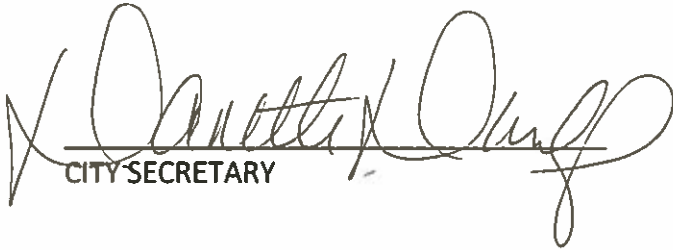
- PART 1: That the Abilene Code of Ordinances, Chapter 8, Construction Regulations, Division 6, Minimum Standards for Buildings and Structures, Section 8-557 Remedies be amended as set forth in Exhibit "A" attached hereto and made a part of this Ordinance for all purposes.
- PART 2: That if the provision of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of the ordinance.
- PART 3: That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1, Section 1-9 and Chapter 8, Section 8-3 of the Code of Ordinances.
- PART 4: 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 publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene, Texas.


PASSED ON FIRST READING this 10th day of August, 2017.

A notice of time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the city of Abilene, said publication being on the 20th day of August 2017, the same being more than 24 hours prior to a public hearing being held in the Council Chambers of City Hall in Abilene, Texas, at 8:30 a.m. on the 24th day of August, 2017, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 24th day of August, 2017

ATTEST:


CITY SECRETARY


MAYOR
Pro-tem

APPROVED:


CITY ATTORNEY

EXHIBIT "A"

Sec. 8-557. Remedies.

(a) The city may require the vacating, relocating of occupants, securing, nuisance abatement, repair of a building, or condemn a building that is:

(1) Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare;

(2) Regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and 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; or

(3) Boarded up, fenced, or secured, but:

a. 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 by vagrants, children, or other uninvited persons;

(b) Costs borne by the city pursuant to this division shall be assessed against the property and shall constitute a lien against the property in accordance with state law. The City Manager or his or her designee shall cause a written notice of such imposition of a lien to be filed in the office of the county clerk in the county in which the property is located. The amount of such debt shall accumulate interest at the rate of ten (10) percent per annum from the date on which payment was due.

(c) In addition to the authority given above, the city may secure a building that the City Manager or his or her designee determines:

(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.

(d) For any building which the city secures to which subsection (c) applies, the city shall give notice to the owner, before the 11th day after the date the building is secured, 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 the 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.

(e) The notice provided under subsection (d) 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 city 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 city's securing of the building.

(f) A hearing shall be conducted at which the owner may testify or present witnesses or written information about any matter relating to the securement of the building if, within 30 days after the date the building is secured, the owner files with the city manager a written request for the hearing. The hearing shall be conducted before the board of building standards within 20 days after the date the request is filed.