

ORDINANCE NO. 39

AN ORDINANCE ESTABLISHING MINIMUM STANDARDS FOR BUILDINGS, STRUCTURES OR PREMISES FOR THE CITY OF ZAVALLA, TEXAS, SPECIFYING THE DUTIES OF THE BUILDING STANDARDS COMMISSION; PROVIDING FOR NOTICES OF HEARING; PROVIDING FOR APPEALS; PROVIDING FOR PENALTY; PROVIDING FOR SEVERABILITY OF THE PROVISIONS HEREOF; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Zavalla finds that the identification of potential hazards and the prevention and mitigation of their effects must be an on-going concern of the City if the health, safety, and property of the populace are to be protected; and

WHEREAS, the City Council hereby declares that the preparation of minimum standards for buildings, structures or premises and the means for their implementation, for the protection of health, safety, and property in the City of Zavalla is immediately essential.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Zavalla that the following Ordinance be approved as follows:

SECTION I

Dilapidated and Substandard Buildings, Structures or Premises

(1) Defined

Buildings, structures, or premises as hereinafter described shall be deemed to be dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare:

- (a) All buildings or structures which have pit privies where the same are not permitted by law, or which are not connected to the City sewer when required by law, or where inadequate and unsanitary pit privies or septic tanks are maintained.
- (b) All buildings or structures that have become deteriorated through natural causes or by damage through exposure to the elements, especially wind, hail or rain, or damage through fire to the extent

that the roof, windows and doors, or portions of the house, building or structure which protect from the weather, will no longer reasonably protect from the weather.

- (c) All buildings or structures which are so structurally deteriorated that they are in danger of collapse, or which cannot be expected to withstand the reasonably anticipated storms or tornados.
- (d) All premises surrounding buildings and structures, including vacant lots, covered with weeds, growth and underbrush, trash, debris and personal property of no reasonable value.
- (e) All buildings, structures or premises permitted to exist to constitute a menace to health or safety, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects reasonably calculated to spread disease.

(2) Remedy

Buildings, structures and premises described in paragraph (1) hereinbefore shall constitute dilapidated, substandard and unfit for human habitation structures, and are declared to be a hazard to health, safety and welfare of the citizens and are public nuisances and shall be ordered to be vacated, secured, repaired, removed, demolished and/or cleaned up as provided for in this subsection.

(3) Building Standards Commission Created

There is hereby created a Building Standards Commission to be composed of three (3) members, each of whom shall be a resident of the City. They shall be appointed and hold office at the pleasure of a majority of the City Council. As near as practical, they shall be qualified in one or more fields of fire prevention, building construction, sanitation, health and public safety. Such Commission may appoint ex officio, non-voting members to such Commission to advise it as it deems necessary. It shall be the duty of the ex officio members of such Commission, if any, to inspect all buildings or structures reported to be or believed to be substandard and to present a report of such inspection to the Building Standards Commission, which Commission shall, except in cases of emergency, notify the proper party of the intention of the Commission to hold its hearing and follow the procedure provided in this subsection.

(4) Standards Which May Be Followed in Repairing, Vacating, or Demolishing

The following standards may be followed in substance by the Building Standards Commission in ordering repairing, vacating, or demolishing:

- (a) If the substandard building, structure or premise can reasonably be repaired so that it will no longer be in a condition which is in violation of the terms of this subsection, it shall be ordered repaired.
- (b) If the substandard building, structure or premise is in such condition that it cannot be reasonably repaired or conformed to the terms of this subsection, then it shall be demolished.
- (c) In any case, where a substandard building, structure or premise is fifty (50%) percent damaged or decayed, it shall be demolished, and in all cases where a building or structure cannot be repaired so that its existence will no longer be in violation of the terms of this subsection, it shall be demolished.

(5) Conditions for Vacating, Securing, Repairing, Removing or Demolishing Dilapidated and Substandard Buildings, Structures or Premises

Substandard buildings, structures, or premises may be ordered to be, and shall be, vacated, secured, repaired, removed or demolished under the following conditions, regulations, and procedure:

- (a) Emergency Measures. When there exists an emergency, as defined in the following paragraph, certain measures may be taken, notification given, and procedure followed as set forth in this subsection:
  - (i) When it shall appear that a building, fence, shed, awning, or other structure, or part of a structure, is likely to fall and endanger persons or property, the condition shall be deemed a condition justifying the use of emergency measures, and such Commission or a majority of the commissioners may, with the consent and approval of the City Council, order any of the following emergency measures to be taken:
    - . Immediate vacating such building, structure, or adjoining buildings or structures;
    - . Vacating the danger area around such building, fence, shed, awning or structures;
    - . Such emergency shoring-up and bracing of walls, roofs, and supports as are required to render such building, fence, shed, awning or structure safe;
    - . The destruction of such walls, roofs, and supports or the entire building, fence, shed, awning and structure or so much thereof as cannot be braced or made secure with safety;

- . Post notices on or near such building, fence, shed, awning, or structure, notifying the public of such orders and ordering all persons to keep out of such building or structure and the areas of danger surrounding it;
  - . Cleaning up of the premises and removal of weeds, growth, trash and personal property of no reasonable value.
- (ii) When any of the above-mentioned measures are ordered to be taken, notice of such order shall be given as follows:
- . Such order shall be directed to the owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located. Where notification can be accomplished without increasing the danger to life or property, notice shall be given by personal service on the owner of the building, structure or premise, or the owner's agent;
  - . In the event that such notification would create such delay as would materially increase the danger of life or property, then a reasonable effort to notify such owner or agent shall be deemed sufficient.
- (iii) In the event that such notification is unnecessary or in the event such notice is given and the owner or his agent shall refuse or fail to carry out the orders of such member of the Building Standards Commission or shall fail to carry out such order satisfactorily then, in either such event, the Building Standards Commission, upon approval of the City Council, may proceed to carry out such orders, either by private contract or through an agency of the private contract or through an agency of the City, and the cost thus incurred shall constitute a valid lien against the property so repaired under the procedures delineated in subpart 6 below.

(b) Normal Procedure

Where an emergency as defined in the immediate preceding subsection does not exist, the following steps may be taken:

- (i) When it shall come to the notice of the Building Standards Commission that a building, structure or premise in the City is substandard under the terms of this subsection, the Commission may cite the owner of such building, structure or premise, or his authorized agent or representative, and all mortgagees and lienholders discovered by reasonable diligence, to appear and show cause why such building should not be declared to be a substandard building or premise and why they should not be

ordered to vacate, repair, clean up, or destroy such building, structure or premise. The date of such hearing shall be not less than ten (10) days after such citation shall have been made.

- (ii) Such citation may be served by delivery of a copy thereof to the owner or the person in possession or, if such premises be unoccupied, by attaching a copy of such citation in a place of prominence on such building, structure or premise, and advertising same by publication thereof in a newspaper of general circulation in the County. The notice must contain an identification, which is not required to be a legal description, of the building, and the property on which it is located; a description of the violation of municipal standards that is present; and a statement that the municipality will vacate, secure, remove or demolish the building or relocate the occupant of the building if the ordered action is not taken within a reasonable time.
- (iii) On the day set in such citation for hearing, hearing shall be had and on the basis of such hearing the Building Standards Commission shall determine whether or not such building, structure or premise is a substandard building, structure or premise, and, if it is determined that such is a substandard building, structure or premise, then in that event, the Building Standards Commission shall issue orders as shall appear reasonably necessary to eliminate the building, structure or premises' substandard qualities and a reasonable time within which the ordered action shall be completed. If applicable, the Building Standards Commission must also specify an additional reasonable time within which the mortgagees or lienholders must comply with the order in the event the owner fails to comply with the orders within the time provided for action by the owner. 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.
- (iv) The owner of any substandard building, structure or premise, or his authorized representative, may appeal from the decision of the Building Standards Commission by giving written notice thereof within ten (10) days from date of the hearing and file with the City Clerk a fee of one hundred (\$100.00) dollars. Such appeal shall be to the City Council, and upon the perfection of appeal, the City Council shall set a date for a hearing before it and such appeal shall be by trial de novo. The decision of the City Council following the trial de novo shall be final.

- (v) Pending appeal, such orders of the Building Standards Commission as shall require vacation of the alleged substandard building, structure or premises or such emergency measures as may have been ordered shall remain in effect, but all other orders of the Commission shall be suspended in their operation.

(6) Assessment of Expenses

If, under normal or emergency procedures followed in Subpart 5 above, the owner or his agent refuses or fails to carry out the orders given under this Ordinance and the City Council proceeds to carry out such orders, then such costs incurred may be assessed as a lien against the property, unless it is a homestead as protected by the Texas Constitution, where the orders are carried out if the owner fails to pay the cost within thirty (30) days after a statement of expenses is sent to the owner, sent to the address of the premises, or posted at the premises if such addresses are unknown. Notice of the lien must be recorded in the office of the Angelina 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 in question, the amount of expenses incurred by the municipality, and the balance due.

(7) Civil Penalty

Failure to correct a problem when notified to do so by this Ordinance shall be punished by a fine not to exceed \$200.00, and each day that such problem exists as herein set out shall constitute a separate offense. Any civil penalty or other assessment as provided for in paragraph (6) hereinabove shall accrue interest at the rate of ten (10) percent a year from the date of the assessment until paid in full.

(8) Owner's Voluntary Request for Demolition or Clean-Up

The owner of a dilapidated substandard building, structure or premise as defined herein may voluntarily execute an agreement requesting the demolition of such building or the clean-up of such premises. If the Building Standards Commission authorizes said demolition or clean-up, then the procedures set forth herein for notice and hearing shall not be required. The Building Standards Commission may authorize the expenditure of public funds for such demolition and/or clean-up if, in its judgment, the same is justified and necessary.

(9) Liability of City

Neither the City nor any authorized agent acting under the terms of this subsection shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this subsection.

(10) Authority

The provisions set forth herein are as authorized by Section 214.001, 214.0015, & 214.002 of the Texas Local Government Code, and the City expressly adopts the provisions of said sections herein.

SECTION II.

If any section, paragraph, subdivision, clause, phrase, or provisions of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the parts so decided to be invalid or unconstitutional.

SECTION III.

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance shall be, and the same are hereby repealed.

SECTION IV.

This ordinance shall become effective ten (10) days after its final adoption by the City Council.

PASSED AND APPROVED by the City Council on the 12 day of Novem-  
ber, 1990.

*Published 11/19/90*

ATTEST:

*Brenda D. King*  
CITY SECRETARY

*Opal C. Gant*  
MAYOR, City of Zavalla