

DILAPIDATED REMOVAL ORDINANCE 84-1

AN ORDINANCE OF THE CITY OF NEWTON, TEXAS, REQUIRING THE DEMILITION OR REMOVAL OF VACANT AND DANGEROUS BUILDINGS, DEFINING CERTAIN TERMS, PROVIDING FOR INSPECTION OF PRIVATE PREMISES, PROVIDING FOR CITATION, PROVIDING FOR HEARING, PROVIDING FOR REMEDY AND POSTING OF ORDERS, PROVIDING FOR ESTABLISHMENT OF LIENS, AND PROVIDING PENALTIES FOR VIOLATION.

Whereas, the City of Newton has need for procedures by which to demolish or remove structures which are vacant and unfit for human habitation.

Now, therefore, be it ordained by the City Council of Newton, Texas, as follows:

Section 1. Definitions:

For the purpose of this ordinance, certain abbreviations, terms, phrases, words and their derivations shall be construed as set forth in this section.

Words used in the present tense include the future. The singular number includes the plural, and the plural number includes the singular.

The following definitions shall apply in the interpretation and enforcement of this Ordinance.

- A. **BUILDING INSPECTOR:** The legally designated inspection authority of the City, or his authorized representative.
- B. **CITY COUNCIL:** The governing body of the City of Newton.
- C. **DANGEROUS STRUCTURES:** Any building or dwelling, found by the building inspector to have any of the following defects and be unfit for human habitation.
 - 1. Lacking illumination, ventilation, sanitation, heat or other facilities adequate to protect the health and safety of occupants or the public.
 - 2. Be damaged, decayed, dilapidated, unsanitary, vermin infested or otherwise unsafe to such extent as to create a serious threat to the well-being of occupants or the public.
- D. **VACANT STRUCTURES.** Any building or dwelling to which utility services have been disconnected and/or which has been continuously unoccupied for as long as sixty days.
- E. **OWNER:** Owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation, in control of a structure.
- F. **PREMISES.** A lot or parcel of land, including a building or dwelling, and auxiliary structures thereon.

Section 2.ENFORCEMENT OFFICER

The provisions of this ordinance shall be administered and enforced by the building inspector, or his duly authorized representative, or the City of Newton.

Section 3.RIGHT OF ENTRY:

The building inspector shall enforce the provisions of this ordinance, and he, upon presentation of proper identification to the owner of such property, and in such a manner as to cause the least possible inconvenience to the person in possession, may enter any building, structure, or premises during all reasonable hours, to make inspections or examinations thereof in order to perform the duties imposed on him by this Ordinance.

Section 4.WARRANT TO INSPECT PREMISES:

If the owner of any building or dwelling refuses admittance, thereto of the building inspector, or his agent or representative, for the purpose of making an examination or inspection of the premises, the building inspector may make an affidavit before any judge or a court of competent jurisdiction that the building inspector believes or has reason to believe, that by an inspection of certain premises designated in the affidavit, he will obtain evidence tending to reveal the existence of violations of this Ordinance. Upon receiving this affidavit, the judge may issue a warrant authorizing the building inspector to inspect the premises named in the affidavit as designated in the warrant, or to obtain evidence tending to reveal the existence of violations of this ordinance.

Section 5.CITATION:

When it shall be determined by the building inspector that a building or structure is vacant and dangerous, within the terms of this Ordinance, the building inspector shall cite the owner of such building or structure, or his authorized agent or representative, to appear before the city council and show cause why such building should not be declared to be a public nuisance and why the owner should not be ordered to remove or demolish and clear such building or structure from its premises. The date of such hearing shall not be less than (10) days after such citation shall have been made.

Section 6.SERVICE OF CITATION

Citation may be served by personal delivery of a copy thereof to the owner of the property, as such ownership appears on the last city tax role; or by depositing such citation properly addressed and certified mail in the United States Post Office; or by attaching a copy of such citation to a place of prominence on such building or structure. Notice shall also be given by publishing the same in the official publication of the City at least ten (10) days prior to the date set for a hearing which notice shall state the time and place of such hearing.

Section 7.HEARING:

On the date set in such citation for hearing, hearing shall be had and on the basis of such hearing, the City Council shall determine whether or not such building, the City Council shall determine whether or not such building or structure is vacant and dangerous.

Section 8.REMEDY

When, upon proper hearing, the City Council determines that a building or structure is vacant and so dilapidated, damaged or decayed as to be beyond repair, it shall issue such orders, by the adoption of a proper resolution, as shall appear reasonable necessary to prevent that building or structure from continuing as a hazard to life and property. Such orders shall ordinarily be to demolish and clear or remove the building or structure, and such orders shall include the specifying the owner may voluntarily comply with the provisions of this ordinance.

Section 9.POSTING OF ORDER:

Any order issued by the City Council for the demolition or remove of a building or structure shall be immediately and prominently posted by the building inspector on the premises, in the form of a placard. Such placard shall declare the premises unfit for human habitation and contain other information as to the order in force.

Any person who shall use, enter or occupy such premises and/or any person who shall interfere or hinder the demolition or removal of any building or structure under the terms of this Ordinance, shall be deemed guilty of a misdemeanor and shall be subject to a fine as prescribed herein.

Section 10.FAILURE TO COMPLY:

In any case where the City Council orders a building or structure demolished and cleared or removed, and the owner of any such building or structure fails to comply within the time period allowed in the order the city council may cause the same to be done, and pay therefore, and charge the expenses incurred thereby to the owner of such premises. Such expenses shall be assessed against the lot or real estate upon which the work is done. The doing of such work by the City or the ordering of the same by the city council may not relieve of this or other Ordinances.

SECTION 11.ESTABLISHMENT OF LIEN:

Whenever any work is done on any building or structure by the City under the provisions above, the building inspector on behalf of the city shall file a statement of the expenses incurred with the county clerk. Such statement shall give the amount of such expenses and the date or dates on which the work was done, or the expenses and the date or dates on which the work was done, or the expenses incurred, and costs of demolishing, cleaning, or removing the building or structure. When this statement is filed with the County Clerk, the city shall have a privileged lien on the lot or real estate upon which the work was done to secure the expenses involved. Such lien shall be second only to tax liens and liens fir street improvements, and the amount thereof shall bear interest at the rate of ten percent, per annum from the date the statement was filed with the county clerk, or a certified copy thereof, shall be prima facie proof of the amount expended for such repairs, demolition, clearance ore removal.

SECTION 12.LIABILITY

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

SECTION 13.PENALTIES:

Any person violating the terms of this ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than five dollars nor more than two hundred dollars; and upon conviction shall be fined in any sum not exceeding two hundred dollars; and each and every day's violation shall constitute a separate and distinct offense.

SECTION 14.SEVERABILITY:

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