

ORDINANCE NO. 406-A

AN ORDINANCE REPEALING ORDINANCE NO. 406 AND ESTABLISHING ORDINANCE NO. 406-A; ESTABLISHING STANDARDS AND REGULATING THE REHABILITATION AND MAINTENANCE OF BUILDINGS WITHIN THE CITY; DEFINING DELAPIDATED AND SUBSTANDARD BUILDINGS WHICH MAY BE DECLARED A NUISANCE; PROVIDING FOR THE VACATING, SECURING, REPAIRING, REMOVING OR DEMOLISHING OF SUBSTANDARD BUILDINGS WHICH ARE A HAZARD TO THE PUBLIC SAFETY; PROVIDING A PENALTY AND PROVIDING FOR SEVERABILITY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST ORANGE, TEXAS that:

The City Council of the City of West Orange, Texas hereby repeals Ordinance No. 406 in its entirety and replaces it with Ordinance No. 406-A; and

The City of West Orange, Texas does, in all things, adopt the following Ordinance for the regulation of the rehabilitation and maintenance of structures within the city.

Section 1. Dangerous Structures Defined

A.) **Generally.** All vacant structures, dwellings, dwelling units and accessory structures which have any or all of the following defects shall be deemed dangerous structures:

- 1.) All vacant buildings or structures whose walls or other vertical structural members list, lean or buckle in excess of three-fourths inch (3/4") of horizontal measurement for each foot of vertical measurement;
- 2.) All vacant buildings or structures which show thirty-three percent (33%) or more damage or deterioration of the supporting members, or fifty percent (50%) or more damage or deterioration of the non-supporting or outside walls or coverings;
- 3.) All vacant buildings or structures which have parts thereof which are so attached that they may fall or injure members of the public or property;
- 4.) All vacant buildings and structures which, by reason of dilapidated or deteriorated conditions, have unsafe or defective electrical wiring devices or equipment, unsafe or defective gas piping, or appliances which are liable to cause or promote fires;
- 5.) All vacant buildings and structures which have been damaged by fire, explosion, wind, vandalism or elements of nature so as to have become dangerous to the life, safety or the general health and welfare of the occupants thereof or inhabitants of the City;
- 6.) Those vacant structures which have become so dilapidated, decayed, unsafe, unsanitary or which utterly fail to provide amenities essential to decent living such that they are unfit for human habitation or likely to cause sickness or disease so as to work injury to the health, safety or general welfare of those living thereabout;
- 7.) Those buildings and structures existing in violation of any provision of the building code of the City or any provision of the City fire code or other ordinances of the City, to such an extent that they are dangerous to the health, safety and welfare of the citizens of the City.

B.) **Substandard Suitable for Rehabilitation.** Dwellings, which in the opinion of the Code Enforcement Officer and/or Building Official or their duly-appointed representative, can be brought into compliance with the current housing code adopted by the City, at a total cost of no more than fifty percent (50%) of the fair market value of the dwelling.

Criteria for determination of suitability – If, in the opinion of the Code Enforcement Officer and/or Building Official, rehabilitation of the structure shall be more than fifty percent (50%) of the fair market value of the dwelling, rehabilitation shall not be permitted.

It is the opinion of the City such expenditures will take lease and rent rates out of the low-to-moderate income range. Also, in determining suitability for rehabilitation, the twenty-five percent (25%) to fifty percent (50%) rule shall come into play, (i) when the rehabilitation of the dwelling is twenty-five percent (25%) or less of the total structure, the rehabilitation can

be performed to the level of the codes in place at the time of original construction, or (ii) if the rehabilitation will affect 25 percent (25%) to fifty percent (50%) of the total dwelling, the rehabilitation shall comply to all codes in place to-date. It is the City's opinion that the twenty-five percent (25%) to fifty percent (50%) rule is necessary to insure the health, safety and welfare of tenants of rehabilitated properties.

Exception for criteria of suitability – In the case of an owner-occupied substandard dwelling, the twenty-five percent (25%) to fifty percent (50%) rule shall not apply. The fifty percent (50%) fair market value may be exceeded upon request of the Code Enforcement Officer and/or Building Official.

C.) **Form of Appeal.** If an owner of a substandard dwelling wishes to appeal the decision of the Code Enforcement Officer and/or Building Official on the suitability for rehabilitation ruling, he may do so by the following procedure:

- 1.) Present the Code Enforcement Officer and/or Building Official with appraisal of property by a licensed real estate appraiser;
- 2.) Present the Code Enforcement Officer and/or Building Official with signed estimates for work to be done by licensed and bonded contractors for the full cost of the rehabilitation;
- 3.) Exception to (#2): For owners of a substandard dwelling who are going to live in the rehabilitated dwelling, the Code Enforcement Officer and/or Building Official will consider owner's written estimates for rehabilitation.

Section 2. Dangerous Buildings Declared Nuisances

All "dangerous buildings" within the terms of Section 1 are hereby declared to be public nuisances and shall be repaired, removed or demolished as herein provided.

Section 3. Standard for Repair, Removal or Demolition

The following standards shall be followed in substance by the Code Enforcement Official and/or Building Official or their designee and the City Council in ordering repair, removal or demolition of a "dangerous structure" within the terms of Section 1:

- A.) If, after inspection by the Code Enforcement Officer and/ or Building Official or their designee, and support inspections from other concerned departments or divisions, if necessary, a determination is made that the building is a dangerous structure, the owner shall be ordered by a certified letter to contact the Code Enforcement Officer within fifteen (15) days from the date of said letter. The owner shall be ordered, by letter, to repair, remove or demolish said structure within thirty (30) days.
- B.) If a permit to repair, remove or demolish said structure is not obtained from the City and repairs, removal or demolition are not completed within forty-five days of the date of the letter provided for in subsection (A) above, the Code Enforcement Officer shall give notice, by letter, to the owner of said structure to appear before the City Council to show cause why said structure should not be demolished at the cost of the owner.
- C.) If a structure is to be repaired such that it is no longer a "dangerous structure" under the terms of this Ordinance, said structure shall be brought into compliance with the provisions of the current housing code adopted by the City. Repairs to such structures shall be completed within a period not exceeding one hundred-twenty (120) days from the date of initiating a work program. Failure to comply with the provisions within said one hundred-twenty (120) day period or any extension approved by the City Council may be brought before the City Council for a condemnation order without further notice to the owner. Owner who initiates a work program hereunder shall agree that unless the structure is brought into compliance with the City's current housing code, it may immediately be brought before the City Council for a condemnation order without further notice.
- D.) Any vacant structure found to be a "dangerous structure" as defined herein or substandard under Article I shall be posted to prevent occupancy. It shall be unlawful for any person to occupy a structure that has been tagged as a "dangerous structure" in accordance with this section.
- E.) All notices, as provided herein, shall be served by delivering same to the owner or agent in person, or by mailing the same certified to the residence or business address, if known, of

such owner or agent, or by posting the same in a prominent place upon such building or structure.

- F.) If, upon hearing, the City Council finds that the building or structure is in violation of Section 1 hereof, the City Council shall order the structure to be razed, removed or repaired at such time and under such conditions as the City Council may, in its discretion, stipulate at said hearing. Such owner or agent shall forthwith comply with said order of the City Council, and any owner or agent of such building or structure failing to comply with such order within the time therein stipulated shall be deemed guilty of a misdemeanor and punished as provided in this Code. If the owner obtains a permit and voluntarily demolishes his/her structure under this program, such owner shall be responsible for the payment of the landfill disposal fee for the debris resulting from such demolition and any other fees necessary for the demolition.
- G.) If any such building or structure condemned by the order of the City Council as provided herein is not razed, removed or repaired within the time and under the condition specified in such order, the City Council may, at its discretion, proceed to have the same, razed and charge the actual expense to the owner of the real estate or lot as shown on the tax roll. A statement of expenses incurred by the City in the demolition or removal of such building or structure under this Section shall be mailed to the property owner shown on the tax roll at the time of service. The statement of expenses shall, in addition to giving the amount of such expense, provide the date upon which such work was done and description of the lot or premises upon which such work was done. Payment is due and is considered delinquent if not received by the City within thirty (30) days. If payment is not made within thirty (30) days, the City's authorized agent is hereby authorized to charge such costs and expenses as a special tax to the property upon which such building and/or structure is situated. The City, at its discretion, may place a lien for unpaid amounts, as a result of the demolition and/or associated costs, on the property and may use collection efforts to recover any debts due to the City.

Section 4. Abatement of Building(s) or Structure(s) Constituting a Clear and Present Danger to the Public Safety

Notwithstanding all other provisions of this Ordinance, nothing herein shall be deemed a limitation on the duty of the City to summarily order the demolition of any vacant building or structure where it is apparent that the immediate demolition of such building or structure is necessary for the preservation of life and property in the City.

Section 5. Enforcing Officer – Powers and Duties

The Code Enforcement Officer and/or Building Official or their designee, hereinafter referred to as "enforcing officer," is charged with the duty of enforcing this Ordinance.

- A.) Neither the enforcing officer nor any employee of the City shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building or in the making of plans and specifications therefore for a profit unless such person is the owner of such structure.
- B.) Neither the enforcing office nor any employee of the City shall engage in any work which is in conflict with the duties or the interest of the City.
- C.) The enforcing officer shall enforce this Ordinance in the following manner:
- 1.) The enforcing officer shall inspect of cause to be inspected, when necessary, all buildings or structures of any kind which are unoccupied or apparently abandoned, for the purpose of determining whether any condition exists which renders such place a "dangerous structure" within the terms of Section 1.
 - 2.) The enforcing officer shall inspect any building or structure about which complaints are filed by any person to the effect that a building, wall or structure is, or may be existing, in violation of this Ordinance.

The enforcing officer shall notify in writing, by certified mail, the owner and/or all persons having an interest, as shown by the tax rolls of the City, in any building found by the enforcing officer to be a "dangerous structure" within the standards set forth in Section 1. Said notice shall state (i) a description of the building or structure; (ii) a statement of the particulars which make the building or structure a "dangerous structure;" (iii) that the

owner must repair, remove or demolish said building or structure; (iv) that any person notified under this subsection to repair, remove or demolish any building or structure shall be given reasonable time, as provided in this Ordinance, to do or have done the work required by the notice; and (v) that the owner of said structure shall appear before the City Council to show cause why said structure should be not be repaired, removed or demolished.

The enforcing officer shall also file a "Notice of Declaration of Dangerous Structure" in the deed records of Orange County, Texas. Such notice will provide lawful notice to any proposed purchaser of the property that the structure thereon has been declared a dangerous structure, may not be lawfully occupied, is subject to demolition and may be eligible for building permits necessary to rehabilitate the structure.

Section 6. Assistance by Other Departments

The enforcing officer may seek assistance of other City departments in order to effectively enforce the terms of this Ordinance, and City departments are to assist the enforcing officer in any way possible in said enforcement.

Section 7. No Utilities to Vacant Dwellings

No water, gas, electricity or sewer services shall be provided to any dwelling unit or rooming unit found to be substandard which is or becomes vacant until such dwelling or rooming unit has been brought into compliance with the provisions of this Ordinance.

Section 8. Notices

All notices provided for herein shall be deemed sufficient if sent by United States certified mail, return receipt requested, to the last known address of the occupant, owner or persons having an interest in a structure as required above and if copy of such notice is posted in a conspicuous place on the substandard building, dwelling unit, rooming house or rooming unit to which it relates.

Section 9. Securing of Unoccupied Buildings

- A.) **Purpose.** An owner or person in control of an unoccupied building shall insure that the building is in such condition that an unauthorized person cannot enter into it through missing or unlocked doors or windows, or through other openings into the building. The City of West Orange may secure unoccupied, unsecured structures after the owner(s) fail to do so after reasonable notice. A lien may be filed on the property and/or structures to assure recovery of the cost of securing.
- B.) **Definitions.** An unsecured, unoccupied building is hereby defined to be any structure that currently has no legitimate occupant or tenant and which has missing or unlocked doors or windows, or other unsecured openings into the building through which persons can enter. Any unoccupied, unsecured building hereby declared to be a danger to the public health and safety.
- C.) **Notice.** Whenever it is found that an unoccupied building is in such condition that an unauthorized person can enter it through missing or unlocked doors or windows or other openings, the City shall cause a written notice or "Notice to Secure" to be given to the owner of the property as such owner appears on the tax rolls of the City or to the person having control over the property. Such notice shall be in writing and shall be given by depositing the notice in the United States mail addressed to the owner at the owner's post office address. If personal service cannot be obtained and the owner's post office address is unknown, notice may be given by publishing such notice at least once in a newspaper of general circulation in West Orange, Orange County. If personal service cannot be obtained and the owner's post office address is unknown, notice may be obtained by posting the notice on or near the front door of the building.

The notice must contain the following information:

- 1.) An identification which is not required to be a legal description of the building and property on which it is located;
- 2.) The description of the violation of the municipal standards that are present at the building;
- 3.) A statement that the municipality may secure the building within ten (10) days of the date of notice; and

4.) An explanation that the owner is entitled to request a hearing within such ten-day period concerning any matter relating to the municipality's proposed securing of the building.

D.) **Compliance** with the provisions concerning the securing of unoccupied structures does not relieve the owner or occupant of the structure from the requirement to comply with other provisions of the dangerous structures ordinance, nor does it abate or in any way conflict with any other Court proceedings.

E.) **Appeal.** If the owner requests a hearing about the structure, the City shall set a hearing at which time the owner may testify or present witnesses or written information about any matter relating to the proposed securing of the building by the City. The hearing shall be set within twenty (20) days after the day the owner files a written request for such hearing. The hearing shall be before the City Council unless delegated to the Public Works Director by the City Council.

F.) **Offenses.** An owner who fails to timely comply with a notice to secure as set out herein shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000.00). Each day's failure to comply after the expiration of the notice period shall constitute a separate offense.

G.) If the owner fails to comply with a notice to secure, the City may order the boarding up of all openings so as to prevent entry or the reasonable securing of the structure by another reasonable fashion and may assess the expenses of such securing as a lien on the property as allowed by Section 214.0011 (f) of the Local Government Code.


Section 10

All ordinances of the City heretofore adopted that may be in conflict with provisions of this Ordinance are hereby repealed or amended as may be necessary to conform such ordinances to the requirements of this Ordinance.

Section 11


Any person, firm, partnership or corporation violating any provision of this article shall be fined for each offense an amount not to exceed that allowed by State Law for the enforcement of City Ordinance violations, and each and every day's violation shall constitute a separate and distinct offense.

READ, PASSED AND APPROVED by the City Council of the City of West Orange, Texas on this, the 13th day of July, 2020.



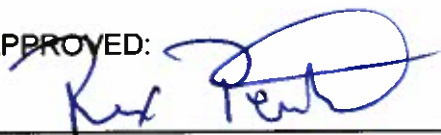
Roy McDonald
Mayor

ATTEST:



Theresa Van Meter
City Secretary

APPROVED:



Rex Peveto
City Attorney

