

COPY

ORDINANCE NO. 2003-6

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CUMBY, TEXAS, PROVIDING FOR SUBSTANDARD OR UNSAFE STRUCTURES REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AFTER THE 6th DAY OF May, 2003.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CUMBY, TEXAS:

SUBSTANDARD OR UNSAFE STRUCTURES

DIVISION 1. SUBSTANDARD STRUCTURES

Sec. 1 Definitions

For the purposes of this division, the following definitions shall apply:

Building means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.

Structure means anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including, but not limited to, signs, fences, walls, poles, and buildings, whether of a temporary or permanent nature

Sec. 2 Substandard conditions.

Any building or structure which has any of the following defects shall be deemed a substandard building or structure and constitutes a hazard to the health, safety, and welfare of the citizens:

- (a) Any building or structure that has become deteriorated or damaged through exposure to the elements, including, without limitation, flood, wind, hail, or rain, or damage through fire, or damage by any other cause, to the extent that either the roof, windows or doors, or portions of the house, building or structure which protect from the weather will no longer protect form the weather.
- (b) Any building or structure which is so structurally deteriorated or damage that it is a danger of collapse or which cannot be expected to withstand the reasonable anticipated storms or hurricanes.

- (c) Any building used for the occupancy of one or more persons which is not connected to an approved public sanitary sewer or does not provide connection to a properly installed and approved septic system.
- (d) Any building or structure not constructed or maintained in conformity with the fire code of the city, when such nonconformity constitutes a serious hazard to the safety of persons or property.
- (e) Any building or structure not wired in conformity with the electrical code of the city, when such nonconformity constitutes a serious hazard to the safety of persons or property.
- (f) Any building or structure not constructed in conformity with the plumbing code of the city, when such nonconformity constitutes a serious hazard to the safety of persons or property.
- (g) Any building or structure not constructed in conformity with the building code of the city, when such nonconformity constitutes a serious hazard to the safety of persons property.
- (h) Any building or structure or any portion thereof which has settled to such an extent that the walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of new construction.
- (i) Any building or structure which by reason of obsolescence, dilapidated condition, deterioration, damage, electric wiring, gas connections, heating apparatus, or other causes, is in such condition to be a fire hazard and is so situated as to endanger life or other buildings or property in the vicinity or provide a ready fuel supply to augment the spread and intensity of fire arising from any cause.
- (j) Any building or structure so constructed or maintained as to constitute a menace to health or safety, including:
 - (1) All conditions conducive to the harboring of rats, snakes, mice, other disease carrying animals, or insects reasonably calculated to spread disease;
 - (2) Conditions hazardous to the safety of persons or property, such as inadequate bracing, structural support, construction, or the presence of deteriorated materials; or
 - (3) Conditions constituting an attractive nuisance creating a hazard to the health or safety of minors.

Sec. 3 Declaration of nuisance.

All substandard buildings or structures within the provisions of this division which shall constitute a hazard to the health, safety, or general welfare of its occupants, the citizens of the city or to the public are declared to be public nuisances and shall be ordered to be repaired, vacated, or demolished as hereinafter provided.

Sec. 4 Inspections; report.

It shall be the duty of the city building official or other representative designated by the city council to inspect all buildings or structures reported to be or believed to be substandard, to present a report of such inspection to the city council, and to give notice of the intention of city council to hold hearings and follow the procedures hereinafter provided.

Sec. 5 Issuance of orders--Procedures

Substandard buildings or structures may be ordered to be, and pursuant to order shall be, repaired, vacated, or demolished under the following conditions, regulations, and procedures:

- (a) *Emergency measures.* When there exists an emergency as defined in subsection (a)(1) of this section, certain measures may be taken, notification given, and procedures followed as set forth in this subsection:
 - (1) When it shall appear that a building or structure in the city is a substandard building or structure under the terms of this division and that such building or structure or the manner of its use constitutes an immediate and serious danger to life or property, the condition shall be deemed a hazard justifying the use of emergency measures, and the city council may order any of the following emergency measures to be taken:
 - a. Immediate vacation of such building, structure, or adjoining buildings or structures.
 - b. Vacation of the danger area around such building or structure.
 - c. Such temporary emergency shoring and bracing of walls, roofs, and supports as are required to eliminate the immediate and serious threat of damage to life or property.
 - d. Post notices on or near such building or structure, notifying the public of such orders and ordering all persons to keep out of such building or structure and the surrounding areas of danger.
 - (2) When any of the above emergency measures are ordered to be taken, notice of such order shall be given by personal service on the owner and/or occupant of the building or structure or his representative or, if such premises is

unoccupied, by attaching a copy of such notice in a place of prominence on such building mailed to the owner or his representative by certified mail, return receipt requested. Upon the adoption of such emergency order the city council shall schedule a public hearing and cite the owner or his representative to appear and show cause why such building or structure would not be declared a substandard building or structure and why he should not be ordered to repair, vacate, or demolish such building or structure. Such citation shall be served with the notice of emergency order in accordance with the provisions of this subsection (a)(2). Such hearing shall be conducted in accordance with the provisions of subsection (b) of this section.

(b) *Normal procedure.*

- (1) When it shall come to the attention of the city council that a building or structure in the city is substandard under the provisions of this division, the city council shall schedule a public hearing and send notice to the owner of the building or structure or his representative of the date, place and time to appear and show cause why such building or structure should not be declared to be a substandard building or structure and why he should not be ordered to repair, vacate, or demolish the building or structure. The date of such hearing shall be not less than ten (10) days after such notice shall have been made. A copy of the building inspector's report shall accompany the notice.
- (2) Such notice may be served by delivery of a copy thereof to the owner and occupant or, if such premises is unoccupied, by attaching a copy of such notice in a place of prominence on such building or structure and casing a copy of such notice to be mailed to the owner or his representative by certified mail, return receipt requested.
- (3) In addition to the notice provided to the owner or owners, notice shall likewise also be given to the owners of any lien hold interest in the property.
- (4) Notice of the public hearing shall be published in the newspaper one time, at least fifteen (15) days prior to the date set for hearing.
- (5) On the day set in such notice the hearing shall be conducted, and on the basis of such hearing the city council shall finally determine whether or not the building or structure is a substandard building or structure, and shall issue such orders as shall appear reasonably necessary to prevent the building or structure from begin a hazard to life or property and to eliminate the substandard qualities.

Sec. 6 Same-Standards.

The following standards may be followed by the city council in ordering the repair, vacation, or demolition of a substandard building or structure:

- (a) If the substandard building or structure can reasonably be repaired so that it will no longer be in a condition which is in violation of the provisions of this division, it shall be ordered repaired.
- (b) If the substandard building or structure can reasonably be repaired so that it will no longer be in a condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, the citizens of the city, or to the public, it shall be ordered to be vacated.
- (c) In any case where a substandard building or structure cannot be repaired so that its existence will no longer be in violation of the provisions of this division, it shall be ordered demolished.

Sec. 7 Notice of orders.

After the city council makes its orders in accordance with section 6, it shall cause copies of such order to be:

- (1) Posted on the substandard building or structure; and
- (2) Sent to the owner and occupant and any lien holder by certified mail, return receipt requested.

Sec. 8 Demolition by city; assessment of costs.

- (a) After the hearing, if the building or structure is found to be substandard, the city council may direct that the building or structure be repaired or removed within a reasonable time. If such repair or removal has not been made at the expiration of the allotted time, the city may demolish and remove the building or structure at the expense of the city and assess the expenses by filing a lien on the land on which the building or structure stood or to which it was attached.
- (b) Notice of the assessment of the lien shall be signed in the name of the city by the mayor. It shall state that the city council has ordered or directed the removal of a building or structure determined to be substandard, after notice to the owner and public hearing in accordance with the ordinances of the city, and that the failure of the owner to remove such substandard building or structure has resulted in the removal thereof at the expense of the city, which expense has been assessed by the city council on the land on which the building or structure stood or to which it was attached. Such notice shall further designate and describe the property against which the lien is assessed and the amount of the assessment.
- (c) Such lien notice shall be filed with the clerk of the court in which such property is located with a copy served on the owner of such property or his representative by personal service or certified mail, return receipt

requested.

Sec. 9 Service of notice.

Any and all notice or service required herein to be by certified mail, return receipt requested, shall be complete when such notice is deposited in the United State mail, postage prepaid. Any and all notice or service required herein upon an owner or his representative shall be deemed complied with when such notice is sent to such owner or representative as shown on the latest tax records of the city at the address as shown on such tax records.

Sec. 10 Violations; penalty.

Any person who refuses or fails to repair or demolish a building or structure when ordered to repair or demolish such building or structure under the terms of this division or who refuses or fails to leave a building which has been ordered vacated under the terms of this division, or who enters an area around such building that has been declared to be dangerous and notice of which declaration shall have been posted, or who interferes with or hinders the repair, vacation, or demolition of any building under the terms of this division, or who otherwise violates any order of the city council as provided for herein, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine in an amount not to exceed two thousand dollars (\$2,000.00), and each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

Sec. 11 Enforcement; court action.

It shall be the duty of the city attorney or attorney for the city to enforce the orders of the city council, when authorized, by bringing an action in a court of competent jurisdiction.

DIVISION 2. ABATEMENT OF UNSAFE BUILDINGS

Sec. 12 Standard Unsafe Building Abatement Code adopted.

The Standard Unsafe Building Abatement Code, 1985 edition, a copy of which has been exhibited to and approved by the city council, is hereby adopted and declared operative and binding within the corporate limits of the city, except as otherwise set out in chapter 17 of this code.

ARTICLE IV. NUISANCES

Sec. 13 Enumerated.

(a) *Obstruction, pollution of watercourses.* It shall be unlawful for a person,

firm or corporation to obstruct or pollute any watercourse or source of water supply in the city.

(b) *Pools of stagnant water.* Any stagnant pool of water in the city is hereby declared to be a nuisance. It shall be unlawful for any person, firm, or corporation to permit any such nuisance to remain or exist on any property under his or its control.

IF ANY SECTION, CLAUSE, OR PHRASE OF THIS ORDINANCE SHALL BE HELD FOR ANY REASON TO BE ILLEGAL, ULTRA VIRES OR UNENFORCEABLE FOR ANY REASON, THEN SUCH INVALIDITY SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF THIS ORDINANCE.

THIS ORDINANCE SHALL SUPERSEDE ANY ORDINANCES IN CONFLICT HEREWITH AND SUCH PRIOR CONFLICTING ORDINANCES OR PARTS THEREOF ARE HEREBY REPEALED TO THE EXTENT THAT THEY CONFLICT WITH THIS ORDINANCE.

THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER THE 11th DAY OF May, 2003.

PASSED AND APPROVED THIS THE 6th DAY OF May, 2003.

Gary Cline
Mayor

ATTEST:

Mary Grace
City Secretary