

**ORDINANCE NO. 406**

**AN ORDINANCE ENACTED TO PROMOTE THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF WEST ORANGE, TEXAS BY REQUIRING THE REPAIR OR DEMOLITION OF BUILDINGS WHICH ARE DILAPIDATED, SUBSTANDARD OR WHICH ARE UNFIT FOR HUMAN HABITATION; PROVIDING DEFINITIONS; PROVIDING PRESCRIPTIVE NOTICES TO BE GIVEN; PROVIDING FOR PENALTY FOR VIOLATION HEREOF**

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

Section 1. This ordinance is enacted to promote the health, safety and welfare of the citizens of West Orange by requiring the demolition or repair of buildings or structures which are dilapidated, substandard or which are unfit for human habitation.

Section 2. For the purpose of this ordinance certain words, phrases and terms shall be defined as follows:

- (1) Building: Any structure built for the support, shelter or enclosure of persons, animals, or property of any kind which has enclosing walls for fifty (50) per cent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof" (for the purpose of this article each portion of a building separated from other portions by a fire wall shall be considered a separate building).
- (2) Building Inspector: The officer charged with the administration and enforcement of this ordinance, namely, the City Building Inspector or the City Fire Marshal.
- (3) City: The City of West Orange, Texas.
- (4) City Council: The governing body of the City of West Orange, Texas.
- (5) Dilapidated building: A building which by reason of neglect or misuse has been allowed to deteriorate into a condition of decay or partial ruin.
- (6) Owner: Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
- (7) Person: An individual, corporation, partnership or any other group acting as a unit.
- (8) Substandard building: A building which by reason of faulty construction, age or lack of repair, fails to meet the minimum standards of the International Property Code.
- (9) Structure: That which is built or constructed, a building of any kind.

Section 3. It shall be unlawful to maintain or occupy any building or property that does not meet the standards of the International Property Maintenance Code.

Section 4. An inspection shall be made of every building or structure located within the City which is suspected of being in violation of this Ordinance. The Building Inspector, or his/her designee, is hereby authorized to conduct inspections of buildings/structures suspected of being in violation of this Ordinance and take such actions as may be required to enforce the provisions of this Ordinance.

Pursuant to the Texas Local Government Code §214.001:

Section 5. Upon the opinion of the City's Building Inspector or Fire Marshal that a building is substandard and constitutes a hazard to the health, safety and welfare of the citizens of the City of West Orange, he may:

- (1) Require owner to board up, fence up or otherwise secure property to secure the building from entry;
- (2) Submit written request to City Secretary that the substandard property be placed on Public Hearing agenda.

Section 6. Upon request for placement on Public Hearing agenda, City Secretary shall send a notice of the Public Hearing to an owner (or last known owner, or owner as shown by the Orange County Appraisal District), lienholder or mortgagee. (The date of the hearing shall not be less than ten [10] days after notice is made.)

Notice shall include the following:

- (1) The name(s) of all persons to whom notice is being served;
- (2) The street address or legal description of the property;
- (3) The nature of the violation;
- (4) The date, time and location of the Public Hearing;
- (5) A statement that said owner, lienholder or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the ordinance(s) and the time it will take to reasonably perform the work.

Section 7. After considering the evidence submitted at such hearing should the City Council determine that the building concerned is dilapidated or substandard and constitutes a hazard to the health, safety and welfare of the citizens, it shall, by resolution, so find. Depending upon the magnitude of such defects, the resolution shall provide a reasonable time not to exceed ninety (90) days in which the owner may repair or remove the building as the case may be.

Section 8. After the hearing, the City shall promptly mail by certified mail with return receipt requested or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building.

If the notice is returned "refused" or "unclaimed," the validity of the notice is not affected and the notice shall be deemed delivered.

Section 9. In addition to the order, each owner of the building and to any lienholder or mortgagee of the building shall be sent a notice containing:

- (1) An identification of the building and property on which it is located (this does not have to be a legal description);
- (2) A description of the violation(s) of the Ordinance; and
- (3) A statement that the City may demolish the building/structure if the ordered action is not taken.

If the notice is returned "refused" or "unclaimed," the validity of the notice is not affected and the notice shall be deemed delivered.

Section 10. The owner, lienholder or mortgagee shall have the right to appeal the decision made at the hearing to a district court. A notice of appeal must be filed with the district court within thirty (30) calendar days from the date the order is mailed to the owner, lienholder or mortgagee, as provided herein.

Section 11. Within 10 days after the order is issued, a copy of the order shall be filed in the office of the City Secretary, who shall then publish notice of the following:

- (1) The street address or legal description of the property;
- (2) The date of the Public Hearing;
- (3) A brief statement indicating the results of the order;
- (4) Instructions stating where a complete copy of the order may be obtained.

Section 12. If, after the expiration of the allotted time, the owner has neither repaired nor removed the building in accordance with the terms of the resolution, the City Council, by motion, may order the removal of the building at the expense of the owner thereof.

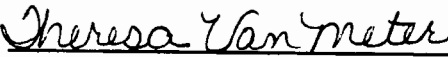
Section 13. If the building is ordered demolished by the City Council and is not done so by the owner within the allotted time, the City may do so at its own expense. It may then assess the expenses on as a lien against said property, unless it is a homestead as protected by the Texas Constitution, the property on which the building is located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the City for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the 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 on which the building was located, and the amount of expenses incurred by the City and the balance due.

Section 14. Any person, firm, partnership, association or corporation violating any provisions of this ordinance shall be fined an amount not to exceed State Law.

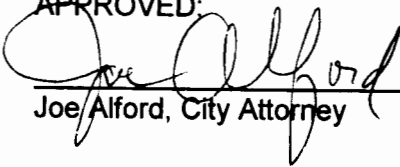
PASSED AND APPROVED this 14<sup>th</sup> day of April, 2014.

  
\_\_\_\_\_  
Roy McDonald, Mayor

ATTEST:

  
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Theresa Van Meter, City Secretary

APPROVED:

  
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Joe Alford, City Attorney

