

ORDINANCE NUMBER 2016-60

AN ORDINANCE BY AND FOR THE CITY OF SANDY OAKS, TEXAS REGARDING THE TREATMENT OF DANGEROUS AND UNSAFE BUILDINGS; OUTLYING PROCEDURES FOR DECLARATION OF DANGEROUS BUILDINGS, DEFINITIVE LANGUAGE AND ABATEMENT PROCEDURES; AND REPEALING ORDINANCE NO. 2016-46. (STATE LAW REFERENCE – *UNSAFE BUILDINGS, V.T.C.A., LOCAL GOVERNMENT CODE 214.001 – 214.004*)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS:

SECTION 1. DEFINITIONS.

The following words, terms, and phrases, when used in this ordinance, shall have the following meaning:

“Dangerous premises” or “dangerous building” means all premises, buildings or structure which have any or all of the following defects:

- (1) Those buildings or structures, whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) Those buildings or structures which, exclusive of the foundation, show 33 percent or more, of damage or deterioration of the supporting member or members, or 50 percent damage or deterioration of the nonsupporting enclosing or outside walls covering.
- (3) Those buildings or structures which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Those buildings or structures which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the city.
- (5) Those buildings or structures which have become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or, the condition of which is likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein or to persons or property in the vicinity.
- (6) Those having light, air, and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who occupy or live or may live therein.
- (7) Those having inadequate facilities for egress in case of a fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of evacuation.
- (8) Those which have parts thereof which are so attached that they may reasonably be expected to fall and injure members of the public or property.
- (9) Those which because of their condition are unsafe, or dangerous to the health, safety or general welfare of the people of the city.

SECTION 2. REPAIR, VACATION AND/OR DEMOLITION STANDARDS.

The following standards shall be followed in substance by the building inspector in ordering repair, vacation, and/or demolition:

- (1) If the dangerous premises can be feasibly repaired or the condition remedied so that it will no longer exist in violation of the terms of this ordinance, it shall be remedied or repaired. Repairs shall be deemed feasible only if less than 50 percent of the value of the structure of the building must be repaired or replaced.
- (2) If the dangerous premises is in such condition as to make it dangerous to the health and safety of its occupants, it shall be vacated.
- (3) In any case where a dangerous building is more than 50 percent (or more) damaged or decayed, or deteriorated from its value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of then terms of this ordinance it shall be demolished.

SECTION 3. DUTIES OF THE BUILDING INSPECTOR.

The building inspector shall:

- (1) Inspect or cause to be inspected periodically, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial manufacturing, or loft buildings or tents for the purpose of determining whether any condition exists which render any such place a dangerous premises within the terms of this ordinance.
- (2) Inspect any premises, building, wall or structure which is or may be existing in violation of this ordinance.
- (3) Inspect any premises, building, wall or structure reported (as provided in this section) by health, fire or marshal of this city as possibly existing in violation of the terms of this ordinance.
- (4) Inspect any premises, building, wall or structure which he/she has reason to believe may be in violation of this ordinance.
- (5) Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons known as having an interest in such premises at the last known address as shown by the records of the assessor-collector of taxes of the city:
 - a. The owner must vacate, and/or repair, or demolish such building in accordance with the terms of the notice and this ordinance;
 - b. The occupant or lessee must vacate such building or may have it repaired in accordance with the notice and remain in possession;
 - c. The mortgagee, agent or other persons having interest in such building may at his own risk repair, vacate, or demolish such building or have such work or act done; provided, however, that any person notified under this subsection to repair, vacate, or demolish any building shall be given any reasonable time, not exceeding 30 days, as may be necessary to do, or have the work done, the work or act required by the notice herewith.
- (6) Set forth in the notice provided in subsection (5) of this section, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding 30 days, as is reasonable.

- (7) If the owner, occupant, mortgagee, or lessee fail to comply with the notices provided in subsection (5) of this section within 10 days, the building inspector shall report the condition to the city attorney giving him/her a copy of the notice described in subsection (5) and (6) of this section.
- (8) The city attorney shall then take any necessary action to secure compliance with the notice of the building inspector provided in subsection (5) of this section, and in particular shall proceed taking additional steps to determine names and addresses of persons having interest in the premises.

SECTION 4. HEARING AND NOTICE.

- (a) The city attorney shall prepare a notice to the owner, lienholder, if any, occupants and any other person known as having interest in such dangerous premises notifying such person that a hearing on the matter will be held by the city council at a certain time on a certain day, not less than 5 days and not more than 30 days after receipt thereof, at city hall, or at a location otherwise provided in the notice if city hall is not available. A notice of a hearing sent to an owner, lienholder, or mortgagee must include a statement that the 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 this ordinance and the time it will take to reasonably perform the work.
- (b) Such notice shall be served by delivery to such person or by United States Postal Service (certified or registered mail). Where any such person is a corporation, service upon an officer thereof or designated agent shall be deemed sufficient. Where such person's principal place of business is located outside Bexar County, Texas, service upon the person in charge of the local office shall be deemed sufficient. Notices to owners other than occupants shall be deemed sufficient if addressed to the address shown on the city tax rolls. Such notice shall be published one time in the city's official publication if any person having interest in such premises, or their heirs, cannot be located after reasonable efforts. If a notice mailed is in accordance with this section to a property owner, lienholder, mortgagee, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," or otherwise undeliverable, the validity of the notice is not affected, and the notice is considered delivered.
- (c) The building inspector shall present at such hearing reports by personnel of the departments of fire, public health, housing and inspections or other city departments and other facts as to the condition of the premises.
- (d) Any person having an interest in the property shall have the opportunity to defend and appear at such hearing, in person or by attorney, to present any relevant facts as to the condition of the premises and hear the reports of any city personnel or of any other persons which may be presented.
- (e) The city council shall, after consideration of the foregoing, determine by order whether the premises in question contain or constitute a condition in violation of this ordinance which should be deemed a nuisance, a hazard to the public health or safety or both, which should be vacated, secured, repaired, removed, demolished or otherwise abated by the owner within a reasonable time, but not to exceed thirty (30) days. If the owner does not take the ordered action within the allotted time, the city shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or in the property on which the building is located. The city shall personally deliver, send by certified mail with return receipt requested, or deliver by the United States Postal Service using signature

confirmation service, to each identified mortgagee and lienholder a notice containing: (1) an identification, which is not required to be a legal description, of the building and the property on which it is located; (2) a description of the violation of municipal standards that is present at the building; and (3) a statement that the city will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

- (f) As an alternative to the procedure prescribed by subsection (e), the city may make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and may give them a notice of and an opportunity to comment at the hearing. In addition, the city may file notice of the hearing in the Official Public Records of Real Property in the county in which the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined, a legal description of the affected property, and a description of the hearing. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice. If the city operates under this subsection, the order issued by the city council may specify a reasonable time as provided by this section for the building to be vacated, secured, repaired, removed, or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time as provided by this section for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner. Under this subsection, 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.
- (g) Within 10 days after the date that the order is issued, the city shall: (1) file a copy of the order in the office of the City Clerk; (2) publish in a newspaper of general circulation in the municipality in which the building is located a notice containing: (A) the street address or legal description of the property; (B) the date of the hearing; (C) a brief statement indicating the results of the order; and (D) instructions stating where a complete copy of the order may be obtained.
- (h) After the hearing, the municipality shall promptly mail by certified mail with return receipt requested, deliver by the United States Postal Service using signature confirmation service, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The municipality shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building. If the order is mailed in accordance with this section to the owner of the building and to any lienholder or mortgagee of the building and the United States Postal Service returns the order as "refused" or "unclaimed," or otherwise undeliverable, the validity of the order is not affected, and the notice is considered delivered.
- (i) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the city may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense.
- (j) If the city incurs expenses under subsection (i), the city may assess the expenses on, and the city has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the building was 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 in the county in which the property is located. 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, the amount of expenses incurred by the city, and the balance due.

SECTION 5. EMERGENCY VACATION, REPAIR OR DEMOLITION NOTICE.

- (a) In cases where it reasonably appears that there is immediate danger to life or safety of any person unless a dangerous building is immediately vacated and /or repaired, or demolished, the building inspector shall cause the immediate vacation and/or repair or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as described earlier in this ordinance.
- (b) In such emergency cases the building inspector shall cause to be posted at each entrance to such dangerous building a notice to read: "DO NOT ENTER. THIS STRUCTURE TO BE DEMOLISHED BY THE DEPARTMENT OF HOUSING AND INSPECTIONS, CITY OF SANDY OAKS". Such notice shall remain posted until the required demolition is completed. Such notice shall not be removed without written permission of the building inspector, and no unauthorized person shall enter the building for any purpose.

SECTION 6. LIABILITY OF CITY OFFICERS, AGENTS AND EMPLOYEES.

No officer, agent or employee of the city shall render himself/herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties. Any suit brought against any officer, agent, or employee of the city as a result of any act required or permitted in the discharge of his duties under this ordinance shall be defended by the city attorney until the final determination of the proceedings therein.

SECTION 7. REPORTS BY CITY EMPLOYEES OF DANGEROUS PREMISES.

The employees of the fire, marshal, public health and other city departments shall make prompt reports in writing to the building inspector of all buildings or structures which are, may be, or are suspected to be dangerous premises within the terms of this ordinance.

SECTION 8. DISCONNECTION OF UTILITIES FOR DEMOLITION.

The building inspector may request that public utilities are disconnected in order that demolition may be accomplished without delay in those cases where the structure is open, vacant, and dilapidated.

SECTION 9. JUDICIAL REVIEW.

Any owner, lienholder, or mortgagee aggrieved by an order of the City Council issued under this ordinance shall be entitled to appeal the decision to a Texas district court pursuant to Local Government Code section 214.0012.

SECTION 10. REPEAL.

Ordinance No. 2016-46 is hereby repealed in its entirety and replaced with this ordinance upon its effective date.

PASSED AND APPROVED by the City Council of the City of Sandy Oaks, Texas on the 11th day of August, 2016.


Micki L. Ball, Mayor

Attest:


Charlotte Rabe, City Clerk