

**ORDINANCE NO. OR-2050-17**

**AN ORDINANCE DELETING SECTION 011 OF CHAPTER 150 OF TITLE XV OF THE CITY CODE OF THE CITY OF MANSFIELD, AS AMENDED, BY INSERTING PROVISIONS REGARDING ESTABLISHING REGULATIONS APPLICABLE TO DANGEROUS AND SUBSTANDARD BUILDINGS; PROVIDING FOR THE REPAIR, DEMOLITION, REMOVAL, SECURING, AND VACATION OF DANGEROUS AND SUBSTANDARD BUILDINGS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Mansfield, Texas is a Home Rule Municipality located in Tarrant County, created and operating pursuant to and in accordance with Article XI, Section 5 of the Texas Constitution, the Local Government Code and prior statutes, and other enabling legislation of the State of Texas; and,

**WHEREAS**, the City Council of the City of Mansfield deems it necessary to adopt this ordinance providing minimum standards to safeguard the health, property and welfare of the citizens of Mansfield by regulating and controlling the use, occupancy, maintenance, repair, vacation, removal, demolition, and abatement of substandard or dangerous buildings within the City of Mansfield; and,

**WHEREAS**, Chapter 214 of the Local Government Code authorizes a municipality to regulate substandard buildings and establishes procedures thereof; and,

**WHEREAS**, it is the intention of the City Council of the City of Mansfield to establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction and to provide for the giving of proper notice to the owner of a building and to provide for a public hearing to determine whether a building complies with the standards set out in this ordinance; and,

**WHEREAS**, the City Council of the City of Mansfield previously adopted Section 150.011 of Title XV of the Mansfield City Code, which regulates the abatement of dangerous structures within the City of Mansfield; and,

**WHEREAS**, the City Council of the City of Mansfield now desires to provide updated and additional procedures and substantive provisions relating to the regulation and abatement of dangerous and substandard buildings, in compliance with state law.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS:**

## SECTION 1.

Section 150.011 of Chapter 150 of Title XV of the Mansfield City Code is hereby deleted and replaced with the following provisions to read as follows:

### § 150.011 DANGEROUS AND SUBSTANDARD STRUCTURES.

#### (A) Purpose and Scope.

(1) *Purpose.* It is the purpose of this Section to provide a just, equitable and practical method, to be cumulative with and in addition to any other remedy provided by the Building Code, Electric Code, Fire Code, Residential Code, Mechanical Code, Plumbing Code, Maintenance Code, other ordinances and regulations of the City of Mansfield, Chapter 214 of the Local Government Code, or otherwise available at law, whereby buildings, as defined herein, which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants and may be required to be repaired, vacated, demolished, removed or secured. The purpose of this Section is also to provide minimum standards for the continued use and occupancy of all structures to safeguard life, limb, health, property and public welfare.

(2) *Scope.* The provisions of this Section shall apply to all buildings which are hereinafter defined as dangerous or substandard buildings whether now in existence or whether they may hereafter become dangerous.

(3) *Designation.* The regulations set forth in this section may be referred to as the Mansfield Substandard Building Ordinance.

#### (B) Definitions.

(1) **Board** means the Board of Adjustment and Appeals as authorized to implement the Substandard Building Ordinance by Section 150.025 of the Mansfield Code, as amended.

(2) **Building** means and includes any building, fence, awning, canopy, sign, shed, garage, house, tent or other structure whatsoever, or any portion thereof, and the enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the sense and meaning of the provisions hereof in context reasonably have application.

(3) **Building Code** is the International Building Code as adopted and amended by the City of Mansfield.

(4) **Building Official** means the person designated by the City Manager to enforce this Section.

(5) **Council** means the City Council of the City of Mansfield.

(6) **Electric Code** is the National Electrical Code as adopted and amended by the City of Mansfield;

(7) **Fire Code** is the International Fire Code as adopted and amended by the City of Mansfield.

(8) **Maintenance Code** is the International Property Maintenance Code as adopted and amended by the City of Mansfield.

(9) **Mechanical Code** is the International Mechanical Code as adopted and amended by the City of Mansfield.

(10) **Plumbing Code** is the International Plumbing Code as adopted and amended by the City of Mansfield.

(11) **Residential Code** is the International Residential Code as adopted and amended by the City of Mansfield.

**C. Enforcement.**

(1) *General.*

(a) **Administration.** The building official is hereby authorized to enforce the provisions of this Section. The building official shall have the power to render interpretations of this Section and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this Section 150.011.

(b) **Inspections.** The building official and the fire marshal or their designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this Section 150.011.

(c) **Right of Entry.** When it is necessary to make an inspection to enforce the provisions of this Section, or when the building official or his designee has a reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this Section which makes the building or premises unsafe, dangerous, or hazardous, the building official or his designee may enter the building or premises at reasonable times to inspect or perform the duties imposed by this Section, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official or his designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry, including, but not limited to obtaining an administrative search warrant.

(2) *Abatement of Dangerous or Substandard Buildings.* All buildings or portions thereof which are determined after inspection by the building official to be dangerous or substandard as defined by this Section are hereby declared to be public nuisances and shall be abated by repair, vacation, demolition, removal or securing in accordance with the procedures specified in this Section.

(3) *Unlawful to Violate Section.* It shall be unlawful for any person, firm or corporation to erect, construct, or use, occupy or maintain any building that is deemed herein to be a nuisance or cause or permit the same to be done in violation of this Section 150.011.

(4) *Inspection Authorized.* All buildings within the scope of this Section and all construction or work for which a permit is required shall be subject to inspection by the building official.

**(D) Substandard Building Declared.**

(1) For the purposes of this Section, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described shall be deemed to be a substandard building, and a nuisance:

(a) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation and a hazard to the public health, safety and welfare in the opinion of the building official.

(b) Whenever any building, regardless of its structural condition, is unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children.

(c) Whenever any building is boarded up, fenced or otherwise secured in any manner if:

1. The building constitutes a danger to the public even though secured from entry; or

2. The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by paragraph (1)(b) of this Subsection.

(d) Whenever any building, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.

(e) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence.

(f) Whenever any portion of a building remains on a site after the demolition or destruction of the building.

(g) Whenever any building is abandoned so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(h) Whenever any building is defined as substandard by any provision of the Building Code, Maintenance Code, Electric Code, Fire Code, Plumbing Code, Mechanical Code, Residential Code or other ordinance or regulation of the City of Mansfield, or constructed and still existing in violation of any provision of any of said Codes of the City of Mansfield to the extent that the life, health or safety of the public or any occupant is endangered.

(2) For the purposes of this Section, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:

(a) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(b) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

(c) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.

(d) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

(e) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(f) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

(g) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(h) Whenever the building, or any portion thereof, because of (1) dilapidation, deterioration or decay; (2) faulty construction; (3) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (4) the deterioration, decay or inadequacy of its foundation; or (5) any other cause, is likely to partially or completely collapse.

(i) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(j) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

(k) Whenever the building, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 or more percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(l) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (1) an attractive nuisance to children; or, (2) a harbor for vagrants, criminals or immoral persons.

(m) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of this jurisdiction, as specified in the Building Code, Electric Code, Fire Code, Residential Code, Mechanical Code, Plumbing Code, Maintenance Code or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

(n) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (1) strength, (2) fire-resisting qualities or characteristics, or (3) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(o) Whenever a building, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the building official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease, but not limited to the following:

1. Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodging house.

2. Lack of, or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel.

3. Lack of, or improper kitchen sink in a dwelling unit.

4. Lack of hot and cold running water to plumbing fixtures in a hotel.

5. Lack of hot and cold running water to plumbing fixtures in a dwelling unit or lodging house.

6. Lack of adequate heating facilities.

7. Lack of, or improper operation of, required ventilating equipment.

8. Lack of minimum amounts of natural light and ventilation required by this Section or the Building Code, Electric Code, Fire Code, Residential Code, Mechanical Code, Plumbing Code, Maintenance Code or other ordinance or regulation of the City of Mansfield.

9. Room and space dimensions less than required by this Section or the Building Code, Electric Code, Fire Code, Residential Code, Mechanical Code, Plumbing Code, Maintenance Code or other ordinance or regulation of the City of Mansfield.

10. Lack of required electrical lighting.

11. Dampness of habitable rooms.

12. Infestation of insects, vermin or rodents.

13. General dilapidation or improper maintenance.

14. Lack of connection to required sewage disposal system.

15. Lack of adequate garbage and rubbish storage and removal facilities.

(p) Whenever any building contains structural hazards, including but not limited to the following:

1. Deteriorated or inadequate foundations.

2. Defective or deteriorated flooring or floor supports.

3. Flooring or floor supports of insufficient size to carry imposed loads with safety.

4. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.

5. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.

6. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration.

7. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

8. Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration.

9. Fireplaces or chimneys that are of insufficient size or strength to carry imposed loads with safety.

(q) Whenever any building is constructed or existing in violation of the Building Code, Fire Code, Plumbing Code, Mechanical Code, Electric Code, Residential Code, Maintenance Code or other ordinance or regulation of the City of Mansfield, or is defined as a dangerous building by any provision of said Codes of the City of Mansfield, or is constructed and still existing in violation of any provision of any of said Codes of the City of Mansfield to the extent that the life, health or safety of the public or any occupant is endangered.

**(E) Determination by Building Official.** When the building official has inspected or caused to be inspected any building and has found and determined that the building is substandard, the building official may take any or all of the following actions, as he or she deems appropriate:

(1) Issue notice to the record owner that the building is substandard and must be repaired or demolished; or

(2) Issue citation(s) for violation(s) of this Section; or

(3) Secure the building if permitted by Subsection (L)(1) of this Section; or

(4) Recommend to the Board that abatement proceedings be commenced pursuant to Subsection (F) of Section.

**(F) Public Hearing for Abatement of Substandard Buildings.**

(1) *Commencement of Proceedings.* When the building official has found and determined that a building is a substandard building, the building official shall commence proceedings to cause the repair, vacation, relocation of occupants, removal, demolition or securing of the building.

(2) *Public Hearing to be Held.* Except when the Council or the building official finds that a building is likely to immediately endanger persons or property, a public hearing before the Board shall be held to determine whether a building complies with the standards set out in Subsection (D) of this Section. If the Council or building official determines that the building constitutes an immediate danger, the procedures set forth in Subsection (L) of this Section shall be followed.

(3) *Notice.* Not less than ten (10) days prior to the date on which the hearing is set, the building official shall issue a notice of the public hearing directed to the record owner of the building, and to all mortgagees and lienholders. The city shall use diligent efforts to determine the



identity and address of any owner, lienholder or mortgagee of the building through searching the county real property records of the county in which the building is located; appraisal district records of the appraisal district in which the building is located; records of the Secretary of State; assumed name records of the county in which the building is located; tax records of the city; and utility records of the city. The notice shall contain:

- (a) the name and address of the record owner;
- (b) the street address or legal description sufficient for identification of the premises upon which the building is located;
- (c) a statement that the building official has found the building to be substandard or dangerous, with a brief and concise description of the conditions found to render the building dangerous or substandard under the provisions of Subsection (D) of this Section;
- (d) 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 the Section, and the time it will take to reasonably perform the work;
- (e) notice of the time and place of the public hearing; and
- (f) a statement that if the building is found to be in violation of this Section, the Board may order that the building be vacated, secured, repaired, removed or demolished within a reasonable time.

(4) *Additional Notice of Public Hearing.* Prior to the public hearing, the City may file a copy of the notice mailed pursuant to Subsection (3) of this subsection in the official public records of real property in the county in which the property is located. If such notice is not filed of record, each identified mortgagee and lienholder must be notified of any abatement order issued by the Board at the public hearing, prior to any remedial action by the City.

(5) *Burden of Proof.* At the public hearing, the owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this Section, and the time it will take to reasonably perform the work.

(6) *Conduct of Public Hearing.* At the public hearing, the owner of the building, and all other interested persons may make their appearance and be heard. Any evidence may be received and considered by the Board. The hearing may be adjourned from day to day or continued upon a majority vote of the Board, in compliance with the Open Meetings Act.

**(G) Order of Board Regarding Substandard Building.**

(1) *Findings of the Board.* If the Board, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in Subsection (D) of this Section, the Board may order that the building be repaired, vacated, removed or demolished, secured, or the occupants relocated, by the owner, mortgagee or lienholder within a reasonable time as provided herein.

(2) *Time Allowed to Complete Work.*

(a) The order must require the owner, lienholder or mortgagee of the building to within 30 days:

1. Secure the building from unauthorized entry; and/or

2. Repair, remove or demolish the building unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(b) If the Board allows the owner, lienholder or mortgagee more than thirty (30) days to repair, remove or demolish the building, the Board shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Board.

(c) The Board may not allow the owner, lienholder or mortgagee more than ninety (90) days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner lienholder or mortgagee:

1. Submits a detailed plan and time schedule for the work at the hearing;  
and

2. Establishes at the hearing that the work cannot be reasonably completed within ninety (90) days because of the scope and complexity of the work.

(d) If the Board allows the owner, lienholder or mortgagee more than ninety (90) days to complete any part of the work required to repair, remove or demolish the building, the Board shall require the owner, lienholder or mortgagee to regularly submit progress reports to the building official to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the Board or the building official to demonstrate compliance with the time schedules.

(3) *Contents of order.* The order of the Board must contain at minimum:

(a) An identification which is not required to be a legal description, of the building and the property on which it is located; and

(b) A description of the violation of minimum standards present in the building;  
and

(c) A description of the ordered actions, including a statement that the owner may repair, if feasible, or demolish or remove at his option; and

(d) 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 the time allowed, and charge the cost to the property; and

(e) If the Board has determined that the building will endanger persons or property and that the building is a dwelling with 10 or fewer dwelling units, a statement that the city may repair the building and charge the costs to the property if the ordered action is not taken within the time allowed.

**(H) Notice of Order of the Board.**

(1) *Order Shall be Mailed.* After the public hearing, the building official shall promptly mail, by certified mail, return receipt requested, a copy of the order to the record owner of the building, and each identified lienholder and mortgagee of the building.

(2) *Order Shall be Filed with City Secretary.* Within ten (10) days after the date that the order is issued by the Board, the building official shall file a copy of the order in the office of the City Secretary.

(3) *Order Shall be Published.* Within ten (10) days after the date the order is issued by the Board, the building official shall publish in a newspaper of general circulation within the City a notice containing:

- (a) The street address or legal description of the property; and
- (b) The date the hearing was held; and
- (c) A brief statement indicating the results of the order; and
- (d) Instructions stating where a complete copy of the order may be obtained.

(4) The order may be filed in the official public records of real property in the county in which the property is located.

**(I) Enforcement of the Order of the Board.**

(1) *If order not complied with, City may take action.* If the building is not vacated, secured, repaired, removed or demolished within the time specified by the order, the city may vacate, secure, repair, remove or demolish the building or relocate the occupants at its own expense, provided however:

(a) The city may not act to remove or demolish a building until after the Board has found:

1. That such defects or conditions exist to the extent that the life, health, property or safety of the public or the occupants of the building are endangered; and

2. The building is infeasible of repair; or

3. There is no reasonable probability that the building will be repaired within a reasonable period of time if additional time is given.

(b) The city may only repair a building as provided herein to the extent necessary to correct the conditions which render the building dangerous, and may not act to repair a building unless:

1. The Board has made a determination that the building is likely to endanger person or property; and

2. The building is a residential dwelling with ten (10) or fewer dwelling units.

3. In the event there are mortgagors or lienholders, the City may only repair, remove or demolish the building after allowing the lienholder or mortgagee an additional 30 days after the time prescribed in the order has expired to complete the required work.

(2) *Posting of Notice to Vacate Building.* If the order requires vacation or if compliance is not had with the order within the time specified therein, the building official is authorized to require that the building be vacated. Notice to vacate shall be mailed by certified mail, return receipt requested to the occupant of the building and it shall be posted at or upon each entrance to the building and shall be in substantially the following form:

"SUBSTANDARD BUILDING

DO NOT ENTER

UNSAFE TO OCCUPY

It is a misdemeanor to occupy this  
building or to remove or deface this notice.

---

Building Official  
City of Mansfield"

(3) *Remedial Action by City.* Any repair or demolition work, or securing of the building shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided. Any surplus realized from the sale of such building, or from the demolition thereof, over and above the cost of demolition and cleaning of the lot, shall be paid over to the person or persons lawfully entitled thereto.

(4) *Failure to Obey Order.* Any person to whom an order pursuant to Subsection (G) of this Section is directed who fails, neglects or refuses to comply with such order shall be guilty of a

misdemeanor and may be prosecuted in municipal court in addition to any other remedies available to the City provided herein.

(5) *Interference Prohibited.* No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City or with any person who owns or holds any estate or interest in the building which has been ordered repaired, vacated, demolished, removed or secured under the provisions of this Section; or with any person to whom such building has been lawfully sold pursuant to the provisions of this Section, whenever such officer, employee, contractor or authorized representative of the City, person having an interest or estate in such building, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing, removing or securing any such building pursuant to the provision of this Section, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Section.

(6) *Permit Required.* Any work of closure, repair, removal or demolition by the property owner or any lienholder or mortgagee or their agents must be performed pursuant to valid unexpired permits issued by the City. All permits issued pursuant to an order of the Board shall expire upon expiration of the time for compliance set forth in the order.

**(J) Performance of Work by the City.**

(1) *Procedure.* When any work of repair, removal, demolition or securing is to be performed by the City pursuant to the provisions of any order of the Board, the work may be accomplished by City personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.

(2) *Costs.* The cost of such work shall be paid from City funds and shall constitute a special assessment and a lien against such property to secure payment thereof, together with ten percent (10%) interest on such amount from the date on which the work is performed.

(3) *Repair to Minimum Standards Only.* The City may repair the building at its own expense and assess the expenses on the land on which the building stands or is attached to only to the extent necessary to bring the building into compliance with minimum standards.

**(K) Recovery of Cost of Securing, Repair, Removal or Demolition.**

(1) *Itemized Account and Notice of Lien.* The building official shall keep an itemized account of the expenses incurred by the City in the securing, repair, removal or demolition of any building pursuant to this Section. Upon completion of the work, the Building Official shall prepare and file with the City Secretary a sworn account and Notice of Lien containing the following information:

(a) The name and address of the owner if that information can be determined with a reasonable effort;

(b) A legal description of the real property on which the building is or was located;

(c) The type of work performed; and

(d) The amount of expenses incurred by the city in performing the work and the balance due.

(2) *Notice Filed in County Records.* The City Secretary shall file the Notice of Lien along with a copy of the order of abatement issued by the Board in the deed records of the county in which the premises are located.

(3) *Personal Obligation of Property Owner.* The expenses incurred by the City as set forth in the sworn account of the building official shall be a personal obligation of the property owner in addition to a priority lien upon the property. The City Attorney may bring an action in any court of proper jurisdiction against the owner or property to recover the costs incurred by the City.

(4) *Lien Shall be Valid and Privileged.* Upon filing of the Notice of Lien in the Deed Records of Tarrant, Ellis, or Johnson County, Texas, as applicable, the lien shall be valid against the property so assessed. The lien shall be privileged and subordinate only to tax liens, existing special assessment liens, and shall be paramount to all other liens. The lien shall continue until the assessment and all interest due and payable thereon has been paid.

(5) *Assessment Must be Paid.* No utility service, building permit or certificate of occupancy shall be allowed on any such property until the assessment is paid and such lien is released by the City.

(6) *Release of Lien.* After the expenses incurred by the City, as set forth in the sworn account of the building official, have been fully paid with interest of ten percent (10%) per annum from the date the work was performed, the building official shall execute a release of lien which shall be filed in the Deed Records of Tarrant, Ellis, or Johnson County, Texas, as applicable.

**(L) Additional Authority to Secure Certain Substandard Buildings Prior to Public Hearing and Secure, Demolish, Repair or Remove Certain Dangerous Buildings.**

(1) *Securing of Unoccupied, Substandard Building.* Notwithstanding any other provisions of this Section the City may secure a building if the building official determines:

(a) That the building violates the minimum standards set forth in Subsection (D) of this Section; and

(b) That the building is unoccupied or is occupied only by persons who do not have the right of possession to the building.

(2) *If Building Creates Immediate Danger.* Notwithstanding any other provisions of this Section, if the Board finds that a building is likely to immediately endanger persons or property the Board may:

(a) Order the owner of the building, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the dangerous part of the structure, within a specified time; or

(b) Repair, remove, or demolish the structure, or the dangerous part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(3) Before the eleventh (11th) day after the date the building is secured pursuant to Subsection (1) of this section, or action is ordered pursuant to Subsection (2)(a) of this subsection, or the building is repaired, removed or demolished pursuant to Subsection (2)(b) of this subsection, the building official shall give notice to the owner by:

(a) Personally serving the owner with written notice; or

(b) Depositing the notice in the United States mail addressed to the owner at the owner's post office address; or

(c) Publishing the notice at least twice within a ten (10) day period in a newspaper of general circulation in the county in which the building is located, if personal service cannot be obtained and the owner's post office address is unknown; or

(d) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown; and

(e) In addition to the above, depositing notice in the United States mail to all lienholders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the county clerk.

(4) The notice must contain:

(a) An identification, which is not required to be a legal description, of the building and the property on which it is located;

(b) A description of the violation of the minimum standards present in the building;

(c) A statement that the city will secure or has secured, as the case may be, the building, or that the City has taken or will take the action ordered pursuant to Subsection (2) of this subsection;

(d) An explanation of the owner's entitlement to request a hearing about any matter relating to the City's securing, removing, demolishing or repairing of the building.

(5) The Board shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the City's securing, repairing, removing or demolishing of the building, if, within thirty (30) days after the date the City has taken action pursuant to Subsections (2)(a) or (2)(b) of this subsection, the owner files with the City a written request for the hearing. The hearing shall be conducted within twenty (20) days after the date the request is filed.

(6) If the City incurs expenses under this section, such expenses incurred shall be a personal obligation of the property owner in addition to a priority lien upon the property, and costs shall be recovered as provided by Subsections (J) and (K) of this Section.

(7) It shall be unlawful to fail to comply with an order issued pursuant to this Section.

**(M) Civil Penalty.**

(1) *Civil Penalty Authorized.* In addition to any other enforcement authority provided for by law, the Board may, by order, at an administrative hearing assess a civil penalty against a property owner as provided for herein for failure to comply with an order issued by the Board pursuant to Subsection (G) of this Section.

(2) *Showing Required.* The civil penalty may be assessed if it shown at the administrative hearing that:

(a) the property owner was notified of the contents of the order issued pursuant to Subsection (G) of this Section; and

(b) the property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order.

(3) *Amount of Penalty.* The civil penalty may be assessed in an amount not to exceed \$1000.00 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10.00 a day for each violation.

(4) *Notice of Administrative Hearing.* Not less than ten (10) days prior to the date on which the administrative hearing is set, the property owner shall be sent a notice of the hearing by certified mail/return receipt requested. The notice shall contain:

(a) a copy of the order issued by the Board pursuant to Subsection (G) of this Section;

(b) a statement that the building official has determined that the property owner committed an act in violation of that order, or failed to take an action necessary for compliance with that order;

(c) a statement that at the administrative hearing the Board may assess a civil penalty not to exceed \$1000.00 a day for each violation or, if the owner shows that the property is the owners' lawful homestead, in an amount not to exceed \$10.00 a day for each violation; and



(d) notice of the time and place of the hearing.

(5) *Copy of Order Filed with District Clerk.* After the civil penalty is assessed, the city secretary shall file with the district clerk of the county in which the property is located, a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty.

(6) *Enforcement.* The civil penalty may be enforced by the city in a suit brought by the City in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this subsection is final and binding and constitutes prima facie evidence of the penalty in any suit.

**(N) Authority Not Limited.** Notwithstanding all other provisions of this Section, nothing herein shall be deemed a limitation on the duty of the City to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of such building or structure is necessary to the protection of life, property or general welfare of the people in the city.

## **SECTION 2.**

This ordinance shall be cumulative of all provisions of ordinances of the City of Mansfield, Texas except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances and such ordinances are hereby repealed. Ordinance No. 1143 is specifically repealed.

## **SECTION 3.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

## **SECTION 4.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

## **SECTION 5.**

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of any ordinance related to substandard or dangerous buildings as they may have been amended or any other ordinance or code provision which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation,

both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 6.**

The City Secretary of the City of Mansfield is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

**SECTION 7.**

The City Secretary of the City of Mansfield is hereby directed to publish the caption, penalty clause, publication clause and effective date clause of this ordinance of this ordinance at least once in the official newspaper of the City of Mansfield.

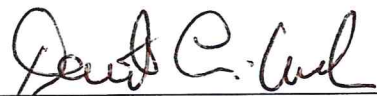
**SECTION 8.**

This ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.


**FIRST READING APPROVED ON THE 22<sup>ND</sup> DAY OF MAY, 2017.**

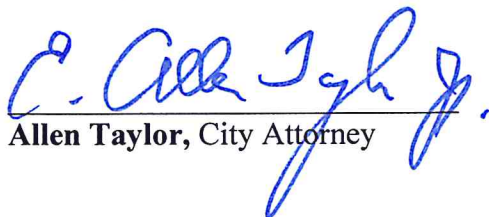
**SECOND READING APPROVED ON THE 23<sup>RD</sup> DAY OF MAY, 2017.**

**DULY PASSED ON THE THIRD AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 24<sup>TH</sup> DAY OF MAY, 2017.**

  
\_\_\_\_\_  
David L. Cook, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Jeanne Heard, City Secretary  
APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_  
Allen Taylor, City Attorney