

ORDINANCE NO. 418

AN ORDINANCE OF THE TOWN OF LAKESIDE, TEXAS, AMENDING CHAPTER 150 OF THE CODE OF ORDINANCES OF LAKESIDE, BY ADDING SECTIONS 150.50.001 THROUGH 150.50.008 (SUBSTANDARD BUILDINGS); ADOPTING REGULATIONS FOR THE SECURING OF VACANT STRUCTURES AND THE REPAIR, REMOVAL, OR DEMOLITION OF SUBSTANDARD OR UNINHABITABLE BUILDINGS OR STRUCTURES; PROVIDING FOR PROCEDURES, PURPOSE, DEFINITIONS, DECLARATION, INSPECTION, NOTICE OF VIOLATION, APPLICATION OF STANDARDS, HEARINGS, ORDERS, NOTICE OF REPAIR, REMOVAL, OR DEMOLITION, APPEAL, DEMOLITION, REMOVAL, AND REPAIR EXPENSES, ASSESSMENT OF LIEN; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE (\$2,000 per day per violation); PROVIDING FOR SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the Town of Lakeside, based on certain complaints and related investigations, finds that, in order to protect the health, safety, and welfare of persons and property within its jurisdiction from the dangers and harms posed by dangerous, dilapidated, abandoned, or substandard structures as described below, and pursuant to Chapter 214 of the Texas Local Government Code, it is necessary and appropriate to adopt this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF LAKESIDE, TEXAS:

SECTION 1

(Adoption and addition of Sections 150.50.001 through 150.50.008 (SUBSTANDARD BUILDINGS) to the Town's Code of Ordinances)

The following ordinance provisions are hereby adopted and shall be added as Sections 150.50.001 through 150.50.008 to the Town's Code of Ordinances to read as follows:

“SUBSTANDARD BUILDINGS

§ 150.50.001 Purpose

These regulations are enacted pursuant to the authority granted by chapter 214, Texas Local Government Code, and are intended to establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction.

§ 150.50.002 Substandard buildings defined; Building Official defined

(a) Generally. Any building or portion thereof which is determined to be an unsafe building in accordance with the building code, or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there

exists any of the conditions referenced in this section 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 are declared to be substandard buildings.

(b) Inadequate sanitation. Buildings or portions thereof shall be deemed substandard when they are unsanitary. Inadequate sanitation shall include but not be 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 or cold running water to plumbing fixtures in a dwelling unit or apartment complex required by other city codes.

(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 city codes.

(9) Room and space dimensions less than required by city codes.

(10) Lack of required electrical lighting.

(11) Dampness of habitable rooms.

(12) Infestation by insects, vermin or rodents as determined by the health officer.

(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.

(16) Partial destruction or damage by fire unrepaired for more than ninety (90) days.

(c) Structural hazards. Buildings or portions thereof shall be deemed substandard when they are or contain structural hazards. Structural hazards shall include but not be limited to the following:

(1) Deteriorated or inadequate foundation;

(2) Defective or deteriorated flooring or floor supports;

(3) Flooring or floor supports of insufficient size to carry imposed load 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 which 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 which list, bulge or settle due to defective material or deterioration;

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety;

(10) Heating flues and exhausts which list, bulge or settle due to defective material or deterioration.

(d) Nuisances. Buildings or portions thereof in which there exists any nuisance as defined by ordinance are deemed substandard buildings.

(e) Hazardous electrical wiring. Electrical wiring which was installed in violation of code requirements in effect at the time of installation or electrical wiring not installed in accordance with generally accepted construction practices in areas where no codes were in effect or which has not been maintained in good condition or which is not being used in a safe manner shall be considered substandard.

(f) Hazardous plumbing. Plumbing which was installed in violation of code requirements in effect at the time of installation or plumbing not installed in accordance with generally accepted construction practices in areas where no codes were in effect or which has not been maintained in good condition or which is not free of cross-connections or siphonage between fixtures shall be considered substandard.

(g) Hazardous mechanical equipment. Mechanical equipment which was installed in violation of code requirements in effect at the time of installation or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no codes were in effect or which has not been maintained in good and safe condition shall be considered substandard.

(h) Faulty weather protection. Buildings or portions thereof shall be considered substandard when they have faulty weather protection, which shall include but not be limited to the following:

(1) Deteriorated, crumbling or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, missing, split or buckled exterior walls or wall coverings or roof coverings.

(i) Fire hazards. Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the chief of the fire department or the fire marshal, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause shall be considered a substandard building.

(j) Faulty materials of construction. The use of materials of construction except those which are specifically allowed or approved by the housing code and the building code and which have been adequately maintained in good and safe condition shall cause a building to be substandard.

(k) Hazardous or insanitary premises. The accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials or conditions on premises constitutes a nuisance to be abated as provided by this article.

(l) Inadequate exits. Except for those buildings or portions thereof which have been provided with adequate exit facilities conforming to the provisions of this code, buildings or portions thereof whose exit facilities were installed in violation of code requirements in effect at the time of their construction or whose exit facilities have not been increased in number or width in relation to any increase in occupant load due to alterations, additions or change in use or occupancy subsequent to the time of construction shall be considered substandard. Notwithstanding compliance with code requirements in effect at the time of their construction, buildings or portions thereof shall be considered substandard when the building official finds that an unsafe condition exists through an improper location of exits, or a lack of an adequate number or width of exit, or when other conditions exist which are dangerous to human life.

(m) Inadequate fire protection or firefighting equipment. Buildings or portions thereof shall be considered substandard when they are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by the codes of the city, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) Improper occupancy. All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies shall be considered substandard.

(o) Building Official. For purposes of these sections 150.50.001 through 150.50.008, any of the following officials may act as the Town's "Building Official": the Town Administrator or his or her designee; the Chief of Police or his or her designee; the Town's Fire Marshal; the Town's Code Enforcement Officer; or the Town's Building Inspector.

§ 150.50.003 Notices and orders of building official

(a) Commencement of proceedings. Whenever the building official has inspected or caused to be inspected any building, and has found and determined that such building is:

(1) Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;

(2) Regardless of its structural condition, 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; or

(3) Boarded up, fenced, or otherwise secured in any manner if:

(A) The building constitutes a danger to the public even though secured from entry; or

(B) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (a)(2) of this section,

the building official shall commence proceedings to cause the repair, rehabilitation, vacation, removal or demolition of the building. The Building Official may seek an administrative search warrant to effect any such inspection.

(b) Issuance of notice. The building official shall issue a notice directed to the record owner of the building. The notice shall contain:

(1) The street address and description (legal or other) sufficient for identification of the premises upon which the building is located;

(2) A statement that the building official has found the building to be substandard, with a brief and concise description of the conditions found to render the building dangerous;

(3) A statement of the action required to be taken as determined by the building official;

(4) A requirement that the owner or person in charge of the building or premises secure required permits and commence the required action within fifteen (15) days from the date of such notice and that all work be completed within 90 days, or as the building official determines is reasonable;

(5) If the building official has determined that the building or structure must be vacated, the notice shall contain a requirement that the building be vacated within such time from the date of the notice as determined by him to be reasonable;

(6) A statement advising that, if any required repair or demolition work is not commenced within the time specified, the building official will, without further notice, order the building vacated and posted to prevent further occupancy until the work is completed; and

(7) A statement advising that, if any required repair or demolition work is not commenced or completed within the time specified, proceedings will be commenced to have the building repaired, removed or demolished and the cost of such assessed as a charge against the land.

(c) Service of notice. The notice and any amended notice shall be served upon the record owner.

(d) Method of service. Service of notice shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last tax roll of the city, or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be published twice within ten (10) consecutive days in a newspaper of general circulation in the city. Failure to receive such notice or order shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner provided in this section shall be deemed effective on the date of mailing. Service by publication shall be deemed effective on the date of the second publication.

(e) Order to vacate. An order to vacate immediately may be issued only if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or of the occupants.

(f) Posting. Every notice to vacate shall, in addition to being served as provided in subsection (d), be posted at or upon each exit of the building, and shall be in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

It is a Misdemeanor to Occupy this Building

or to Remove or Deface this Notice

Building Official

Town of Lakeside, Texas

§ 150.50.004 Violations

No person shall remain in or enter any building which has been posted as provided by section 150.50.003, except that entry may be made to repair, demolish or remove such building under substandard building repair permit. No person or animal shall remain in or on the property between 10:00 p.m. and 6:00 a.m. No person shall remove or deface any such notice after it is posted until the required repair, demolition or removal has been completed and a certificate of occupancy issued pursuant to the provisions of the building code. Any person violating this

section shall be guilty of a class C misdemeanor, and any person who fails to meet the requirements made in any notice duly served as provided in this article shall be guilty of a misdemeanor for each day such failure continues after the date the notice requires compliance.

§ 150.50.005 Public hearing; order by Council

If the required repair or demolition has not been commenced within fifteen (15) days from the date of any notice served pursuant to this article, or if required action has not been completed within 90 days or as required by such notice, the building official shall commence proceedings as follows:

(1) The building official shall cause such building to be vacated by posting at each entrance thereto a notice reading:

SUBSTANDARD BUILDING

It is a Misdemeanor to Occupy this Building

or to Remove or Deface this Notice

Building Official

Town of Lakeside, Texas

(2) The City Council shall be notified and requested to consider holding a public hearing to decide whether to order the repair, removal or demolition specified in such notice to be done and whether to cause the cost of such work to be paid and levied as a special assessment against the property.

(3) The City Council may set a date and time for a public hearing to consider ordering the improvement and assessment of any property the owner has failed to improve as required by notices described in this article. Such public hearing shall be held not less than fifteen (15) nor more than sixty (60) days from the date such hearing is set.

(4) (A) A title search shall be conducted to discover each owner, mortgagee and lienholder, and notice of the public hearing to be held before the city council shall be given by causing a notice thereof to be served on the owner of such property and upon each mortgagee and lienholder having an interest in the building or in the property on which the building is located. A diligent search shall be made by searching the following records:

- (i) County real property records;
- (ii) Appraisal district records;
- (iii) Records of the secretary of state;
- (iv) Assumed name records of the county;
- (v) Tax records of the city; and
- (vi) Utility records of the city.

(B) Such notice shall be mailed to such owner, mortgagee and lienholder by certified mail, return receipt requested. The notice shall include the date, time and place of such hearing and shall state that the owner, lienholder or mortgagee will be required to submit proof of the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work together with:

(i) The name and address of the record owner;

(ii) The street address of the premises;

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

(iv) A description of the violation of city standards that is present at the building; and

(v) 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.

(5) The town secretary shall, at the time notices are mailed, file a notice of the hearing in the county clerk's office, stating the name and address of the owner, if such can be determined, and a legal description of the land, and stating the purpose, time and place of the hearing.

(6) After conducting a hearing authorized under this section, if the Council finds that the allegations are true, the Council shall require the owner, lienholder, or mortgagee of the building to, within thirty (30) days:

(A) Secure the building from unauthorized entry; or

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

(7) If the Council allows the owner, lienholder, or mortgagee more than thirty (30) days to repair, remove, or demolish the building, the council 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 council.

(8) The owner, lienholder, or mortgagee shall not be allowed 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:

(A) Submits a detailed plan and time schedule for the work at the hearing; and

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

(9) If the Council 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 owner,

lienholder, or mortgagee shall be required to regularly submit progress reports to the city 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 council or its designee to demonstrate compliance with the time schedules.

(10) In a public hearing to determine whether a building complies with the standards set out in this article, 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 article and the time it will take to reasonably perform the work. The council shall specify a reasonable time 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 for the ordered action to be taken by the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner.

(11) The Council's requirement shall be reduced to writing and shall be considered an order. Within ten (10) days after the date that the order is issued, the city secretary shall:

(A) File a copy of the order in the office of the municipal secretary or clerk; and

(B) Publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:

(i) The street address or legal description of the property;

(ii) The date of the hearing;

(iii) A brief statement indicating the results of the order; and

(iv) Instructions stating where a complete copy of the order may be obtained.

(12) After the hearing, the city secretary shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building, and if the owner does not take the ordered action within the allotted time, the municipality shall promptly mail by certified mail, return receipt requested, a copy of the order to any lienholder or mortgagee of the building.

§ 150.50.006 Performance of work by Town; recovery of Town's costs

(a) Procedure. If the building is not vacated, secured, repaired, or removed or the occupants are not relocated within the allotted time pursuant to the provisions of the order of the city council, 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 shall be cleaned. The building or building materials may be sold if removal is ordered, and the proceeds shall be used to offset other costs of cleaning the lot.

(b) Costs. The cost of such work shall be paid from the city funds and shall constitute a special assessment and a lien against such property to secure its payment from the date the lien is recorded in the county clerk's office. Such liens shall be privileged as provided by law. The city attorney may bring an action in any court of proper jurisdiction to foreclose the lien and to recover the costs incurred by the city.

§ 150.50.007 Notice of lien

A sworn account of the expense incurred by the city in the repair, removal or demolition of any building, done pursuant to the provisions of this article, shall be filed by the building official with the city secretary. The city secretary shall file such notice of the city’s assessment and lien in the records of the county clerk. Such notices shall read substantially as follows:

STATE OF TEXAS

COUNTY OF TARRANT

NOTICE OF LIEN

_____, Building Official for the Town of Lakeside, Texas, makes oath and says that the Town of Lakeside has incurred an expense of \$__in improving property, the legal description of which is _____. Such expense was incurred to repair, remove or demolish substandard buildings after notices pursuant to ordinance and to Chapter 214, Texas Local Government Code, were served on the record owner thereof, _____, whose address is _____.

Building Official, Town of Lakeside, Texas

SWORN TO AND SUBSCRIBED before me by the said _____this ____day of _____, to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

§ 150.50.008 Restrictions on property where lien is in effect

No utility service, building permit or certificate of occupancy shall be allowed for any such property until any lien imposed pursuant to section 150.50.006 is discharged.”

SECTION 2 (Severability)

It is hereby declared to be the intention of the Town 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 judgement 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 Town Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 3 (Penalty)

Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00 per day per violation. Each violation shall constitute a separate offense. Such penalty provision is cumulative of any and all rights the Town has to enforce the Ordinance through any lawful means including legal action seeking injunctive or other appropriate relief.

SECTION 4 (Publication and Effective Date)

The Town Secretary is instructed to publish in the official newspaper this ordinance or the caption, which summarizes the purpose of this ordinance and the penalty for violating this ordinance, as provided by Tex. Loc. Gov't Code § 52.011 and other applicable law, and this ordinance shall become effective upon publication.

PASSED AND APPROVED on this the 13th day of May, 2021.



Patrick Jacob, Mayor

ATTEST



Norman Craven, Town Administrator/Secretary

APPROVED AS TO FORM:



Ken East, City Attorney