

ORDINANCE NO. 17-121
City of Fort Stockton Substandard Building Ordinance

AN ORDINANCE OF THE CITY OF FORT STOCKTON, TEXAS, AMENDING CHAPTER 6, BUILDINGS AND BUILDING REGULATIONS*, ARTICLE V. SUBSTANDARD BUILDING*, RELATED TO THE REPAIR OR DEMOLITION OF SUBSTANDARD, UNINHABITABLE OR OTHERWISE DANGEROUS BUILDINGS OR STRUCTURES; PROVIDING FOR CRIMINAL AND CIVIL PENALTIES WITH MAXIMUM CIVIL PENALTY OF \$1,000.00 FOR VIOLATION; LIABILITY, REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING.

- WHEREAS,** City Council of the City of Fort Stockton (“City Council”) seeks to promote the health, safety and general welfare of the community by preventing death, injuries and property damage within the City of Fort Stockton (“City) limits; &
- WHEREAS,** City Council seeks to protect property values within the city limits; &
- WHEREAS,** City Council finds that substandard buildings or structures pose aesthetic harm to the community; &
- WHEREAS,** City Council finds that substandard buildings or structures are fire hazards and often attract vermin and insects; &
- WHEREAS,** Pursuant to the laws of the State of Texas, including Texas Local Government Code Section §51.001, City Council has the authority to adopt, publish, amend or repeal an Ordinance that is for good government, peace or order of the City; &
- WHEREAS,** Pursuant to Texas Local Government Code Section §54.012, a municipality may bring a civil action for, among other things, the enforcement of an ordinance relating to dangerously damaged or deteriorated structures or improvements; &
- WHEREAS,** Pursuant to Texas Local Government Code Section §214.001, et seq. City Council has authority to regulate substandard buildings or structures; &
- WHEREAS,** Pursuant to Texas Local Government Code Section §214.002, City Council has authority to order the repair, removal or demolition of a substandard building or structure and to repair, remove, or demolish a substandard structure and assess such costs against the property owner or owner of the structure.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT STOCKTON, PECOS COUNTY, STATE OF TEXAS, THAT:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Fort Stockton and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. POPULAR NAME

This Ordinance shall be commonly referred to as the City’s **“SUBSTANDARD BUILDING ORDINANCE.”**

III. PURPOSE

This article is enacted to promote the health, safety and welfare of the citizens of this city by requiring the vacation, relocation of occupants, securing, repair, removal or demolition of a building that is (a) dilapidated, substandard or unfit for human habitation and a hazard to the public health, safety and welfare, (b) unoccupied by its owners, lessees or other invitees and, regardless of its structural condition, is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place or harborage or used by children, or (c) 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 in the foregoing (b) that the owner was notified of the requirements of this article and the owner's need to comply.

IV. AUTHORITY OF COMMISSION

- (A) The Building and Standards Commission shall have all powers, duties and responsibilities authorized by state law, it being the intent of the City to fully implement Tex. Loc. Gov't Code Chapter 54, Subchapter C, including specifically the authority to hear and determine cases concerning alleged violation of this code and any other ordinances of the City:
- (1) For the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing, and fixtures, entrances, or exits;
 - (2) Relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits; or
 - (3) Relating to dangerously damaged or deteriorated buildings or improvements.
- (B) The Building and Standards Commission as created and provided for under the provisions of state law shall, in addition to the statutory duties and responsibilities, have such additional duties and responsibilities as shall be from time to time delegated by City Council and shall, in addition, determine such issues and render decisions in accordance therewith which may be from time to time required of an appellate body. In such cases, a quorum of the members of the Building and Standards Commission shall be sufficient to take action, unless by other law or ordinance a greater majority shall be required.

V. BY-LAWS

Appointment & Term.

There is hereby created a Building Standards Commission to be composed of five (5) members. They shall hold office for a period of two (2) years, or until their successor is appointed. All members and alternates shall serve two-year staggered terms.

Alternates.

There shall also be two alternate members of the Building Standards Commission who shall serve in the absence of one or more members of said Commission upon the request of the City Manager to do so. In addition to said five members, the Building Official of the City shall be ex-officio non-voting members of said Commission. All hearings must be held before the Building Standards Commission. The Commission shall be referred to as the Hearing Officer(s).

Chairman.

At the first regular meeting after the appointment by City Council of members to the Building Standards Commission, the five regular members of the Building Standards Commission shall elect among their number a Chairman and Vice-Chairman who shall serve a one-year term.

Hearings.

The Hearing Officer(s) must hold such hearings at the time, date and place set by the notice and must conduct proceedings to implement and enforce provisions in this article.

Rights of Parties.

All parties will have the right to representation by an attorney, although an attorney is not required. Each party may present witnesses in the party's own behalf and each party has the right to cross-examine all witnesses. The Hearing Officer(s) may inspect the building, structure or premises in question, whether during the course of the hearing or subsequent thereto, as he or she deems necessary. Only evidence presented to the Hearing Officer(s) at the hearing may be considered in rendering the order, with the exception of any facts that may be gathered by the Hearing Officer(s) on any subsequent inspection of the building that he or she may direct on his or her own motion.

Burden of Proof by Owner.

The owner 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 necessary to meet the criteria of Section 6-143(a) or to remove the elements of Section 6-143(c) or (d), as applicable.

Interest in Building.

If no person having an interest in the building appears before the Hearing Officer(s) at the date and time specified for the hearing, the Building Official or the City's designated representative must proffer evidence showing the building to be a substandard building within the standards and factors set forth in Section 6-143. The failure of any person having an interest in the building to appear at the hearing set in accordance with the provisions of this article will constitute a waiver of that person's right to any additional hearing on the notice.

Proceedings.

In the conduct of all proceedings before the Hearing Officer(s), the purpose of such proceeding will be to determine whether or not a building or structure complies with the standards set out in this article and/or exhibits elements deemed to be substandard in this article.

Prior to any such hearing under this Section, the City must make a diligent effort to identify the owner, lienholder, or mortgagee of the building or structure under review and provide notice as required in Section 6-144 to the persons that the City could reasonably identify as having an interest in the building or structure at issue, so that such persons have an opportunity to appear at the hearing for purposes of notice under Section 6-144.

Duties of Secretary.

The Building Official shall appoint a Secretary of the Building Standards Commission. A letter of appointment shall be on file in the Office of the City Secretary designating the name of the appointed person.

The Secretary of the Building Standards Commission shall be responsible for keeping all records of proceedings before the Building Standards Commission and shall make available in accordance with law all records of the Building Standards Commission for inspection during reasonable business hours.

The Secretary of the Building Standards Commission shall provide certified copies of the proceedings of the Building Standards Commission upon payment of such cost as from time to time established by the Building Standards Commission.

ARTICLE V. SUBSTANDARD BUILDING*

SEC. 6-140. DEFINITIONS

As used in this Ordinance, the following terms shall be defined as follows:

“Appraised Value” means the value given the structure by the County Tax Assessor’s Office.

“Building” shall mean any structure of any kind or any part thereof, erected for the support, shelter or enclosure of persons, animals, chattel or property of any kind.

“Building Inspector” shall mean the person appointed by the City to conduct periodic inspections of buildings and structures to insure that the same are being maintained in a manner consistent with prescribed Building Codes of the City and not in violation of this Ordinance.

“City” means the City of Fort Stockton, Texas.

“City Council” means the governing body of the City of Fort Stockton.

“Diligent Effort” means best or reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee including a search of the following records:

- (a) County real property records of the county in which the building is located;
- (b) Appraisal district records of the appraisal district in which the building is located;
- (c) Records of the Secretary of State;
- (d) Assumed name records of the county in which the building is located;
- (e) City tax records; and
- (f) City utility records.

“Minimum Housing Standards” means those standards found in the City’s adopted standard building, electrical, plumbing, gas, mechanical, existing building and fire prevention Codes and any other housing and structure regulations adopted under Chapter 214, Local Government Code.

“Owner” means any person, agent, firm, corporation, or other entity named in the real property records of the county where the building is located as owning the property.

“Structure” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner, or any part thereof.

SEC. 6-141. DECLARATION OF NUISANCE

Any building or structure requiring repair, removal or demolition, as described and defined herein below and all buildings or structures within the city which because of their condition are unsafe, unsanitary or otherwise dangerous to the health, safety and general welfare of the citizens of the city are hereby declared to be a public nuisance and unlawful and subject to the provisions of this Ordinance regarding repair, removal or demolition.

SEC. 6-142. INSPECTION

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

SEC. 6-143. MINIMUM STANDARDS FOR USE AND OCCUPANCY OF BUILDINGS; SUBSTANDARD BUILDINGS DEFINED AND DEEMED.

(a) Minimum standards for continued use and occupancy of all buildings, structures or premises located within the city are as follows:

(1) Foundations.

- a. *Concrete.* The slab must be structurally sound and free of cracks;
- b. *Pier and beams.* Floor joists, floors and subfloors must be structurally sound, level, and free from decay, rot and termites.

(2) Walls. All walls, inside and outside, must be in good repair, in place and free of defects or openings.

(3) Roof.

- a. All supporting beams, rafters, joists and other supports must be structurally sound and free of decay and rot, and must not be sagging;
- b. The roof must be structurally sound, all shingles or roofing material must be in place, and the roof must be free from leaks and sags. There must not be any more than two layers of shingles on any one roof.

(4) Windows and Doors.

- a. All movable windows must be screened and in good and workable condition. This also includes the window frames and sash;
- b. All doors, door jambs and hardware must be in good and workable condition.

(5) Cabinets and Countertops.

- a. All cabinets and hardware must be in good and workable condition;
- b. All countertops must be in good condition.

(6) Floor Covering. All floor coverings must be cleanable and in good condition.

(7) Drives and Parking Areas. All drives and parking areas must be an approved hard surface and structurally sound and in good condition.

(8) Yards. The yard must be adequately drained and free of high grass, trash and rubbish.

(9) Plumbing.

- a. All plumbing must comply with City Codes.
- b. Any plumbing equipment or fixtures condemned by the plumbing official because of wear, damage, defect or sanitary hazards must not be reused for plumbing purposes.
- c. Gas line minimum requirements must be one inch (1"), and all valves must be A.G.A. approved;
- d. Water heaters must be in good working order. Vents must be double-walled through the roof. Pop-off valves must be vented to the outside. Gas regulators must be in good working order.
- e. All heat-producing vents must be of double-walled construction;
- f. All vents and traps must be in good working order;
- g. All homes must be plumbed with a washing machine connection and also an electric or gas dryer connection;
- h. Hot and cold water lines serving sink, lavatories, washing machines and water closets must have individual shutoff valves;
- i. All fixtures must be of good quality with no need of repair;
- j. All faucets must be repairable;

k. Yard sewer lines of concrete must be replaced with Schedule 40 ABS or PVC;

l. Septic tanks must be backfilled and left open for inspection.

(10) Electrical.

a. All electrical wiring and facilities must comply with the electrical code of the City;

b. Concealed wiring must be made available for inspection as the electrical inspector deems necessary.

(b) Any building, structure or premise that does not meet one or more of the minimum standards as set out in Subsection (a) of this Section may be declared dilapidated, substandard or unfit for human habitation and a hazard to the public health, safety and welfare in accordance with the provisions of this article.

(c) In addition to and notwithstanding the foregoing minimum standards, all buildings, and structures, regardless of their date of construction, that have any or all of the following defects or lack of facilities are deemed to be dilapidated, substandard or unfit for human habitation and a danger to the public health, safety and welfare:

- (1) Walls or other vertical structural members that list, lean or buckle in excess of one-quarter inch of horizontal measurement for each foot of vertical measurement;
- (2) Thirty-three percent (33%) or more damage or deterioration of the supporting member, or fifty percent (50%) or more damage or deterioration of the non-supporting members or outside walls or coverings;
- (3) Roofs or walls that are not weathertight and waterproof;
- (4) Improperly distributed loads upon the floors or roofs or in which the floors are overloaded, or which floors or roofs have insufficient strength to be reasonably safe for the purpose used;
- (5) Parts that are not properly attached so that they may fall or injure members of the public or property;
- (6) Light, air or sanitation facilities that are inadequate to protect the life, safety or the general health and welfare of the structure's occupants or inhabitants of the city;
- (7) Unsafe or defective electrical wiring, devices or equipment, or unsafe or defective gas piping or appliances that are liable to cause or promote fires;
- (8) Damage by fire, explosion, wind, vandalism, elements of nature or otherwise so as to be hazardous to the life, safety or the general health and welfare of the structure's occupants or inhabitants of the city;
- (9) Dilapidated, decayed, unsafe, unsanitary or substandard conditions or any conditions that fail to provide amenities essential to decent living so that the premises are unfit for human habitation or are likely to cause sickness or disease so as to cause injury to the public health, safety, and welfare;
- (10) Conditions that violate any provision of this article to such an extent as to be a danger to the public health, safety, and welfare, including but not limited to the following:
 - (i) Buildings or structures that have become deteriorated through natural causes or by damages through exposure to the elements, especially wind, hail, rain or damage through fire to the extent that the roof, windows or doors or portions of the building or structure that protect the interior from the weather, no longer reasonably protect from the weather;
 - (ii) Buildings or structures that are so structurally deteriorated that they are in danger of collapse, or which cannot be expected to withstand the forces of nature;
 - (iii) Buildings or structures not wired so as to provide in operating condition electrical circuits sufficient to safely carry a load imposed by normal use of appliances and fixtures;
 - (iv) Buildings or structures of which the floors, walls, ceilings, and all supporting members are not capable of bearing imposed loads safely;
 - (v) Buildings or structures so deteriorated or constructed or permitted to be constructed as to constitute a menace to the health or safety, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects, reasonably calculated to spread disease, and including such conditions hazardous to safety as inadequate bracing or use of deteriorated materials;
 - (vi) Buildings or structures that constitute or in which are maintained fire hazards as that term is defined by the ordinances of the city;
 - (vii) Buildings or structures substantially in noncompliance with the requirements of the City's building code, electrical code, plumbing code, fire code, or other applicable codes of the city such that said building or structures constitute a menace or hazard to the public health, safety and welfare;

- (viii) Buildings or structures so dilapidated or substandard as to be unfit for human habitation; or
- (ix) Buildings or structures that, because of activities involving the sale, use or abuse on said premises or illicit drugs or alcohol or other similar activities as certified to by the chief of police, a city health officer or a designee of any of the foregoing individuals, constitute a fire hazard or a menace to the health, safety, and welfare of the citizens of the city. Or --

(11) Buildings and structures, regardless of their structural condition, that have during times that they were not actually occupied by their owners, lessees or other legal invitees, been left unsecured from unauthorized entry to the extent that they may be entered by vagrants or other uninvited persons as a place of harborage or could be entered by children.

(d) A building that is boarded up, fenced or otherwise secured in any manner is nevertheless declared to be a substandard building under the foregoing criteria of Subsection (c) if:

- (1) The building constitutes a danger to the public even though secured from entry;
- (2) The building's roof, walls or floor contains holes that would allow insects, ectoparasites, rodents or other pests to gain access to the building for harborage to the extent constituting a present hazard to health or safety; or
- (3) It is found that the means used to secure the building are inadequate to prevent unauthorized entry or use of the building.

(e) A building that does not meet the minimum standards of Subsection (a) or that is determined to be a substandard building under Subsections (c) and (d) above is referred to in this article as a "Substandard Building".

SEC. 6-144. NOTICE OF VIOLATION

Whenever a violation of this Ordinance has been discovered and reported by the Building Inspector or his/her designee, a public hearing shall be held by the Hearing Officer(s) to determine whether a building complies with the standards set out in this Ordinance.

A notice of the hearing shall be sent to the occupant, if any, and record owner, lienholder or mortgagee. Such notice shall be in writing and shall be served by personal delivery or by certified mail return receipt requested. Additionally, a copy of the notice shall be posted on the front door of each affected structure situated on the property or as close to the front door as practicable. It is not necessary that the notice to the occupant of the property list an occupant by name. Service of the notice may be accomplished by the first class U.S. mail or by personal delivery to any occupant of the property who is above the age of eighteen (18) years.

The notice shall contain:

- (a) The names of all persons to whom notice is being served,
- (b) The street address or legal description of the premises,
- (c) The date of inspection,
- (d) The nature of the violation,
- (e) The date, time and location of the hearing, and
- (f) 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 Ordinance and the time it will take to reasonably perform the work.

SEC. 6-145. HEARING

The date of the hearing shall not be less than ten (10) days after notice is made (as described in Section VII).

If a building is found to be in violation of this Ordinance, the City shall require the owner, lienholder, or mortgagee of the building to within thirty (30) days repair, remove or demolish the building, unless it is proven at the hearing that the work cannot reasonably be done in thirty (30) days.

If the City allows more than thirty (30) days for the building to be repaired, removed or demolished, the City shall establish specific time schedules for the work to be commenced and performed 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 hearing official.

The City shall 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 a detailed plan and time scheduled for the work are submitted at the hearing and it is proven at the hearing that the work cannot

reasonably be completed within ninety (90) days because of the scope and complexity of the work. Additionally, the owner, lienholder, or mortgagee must submit work progress reports to demonstrate compliance with the time schedule established.

In any case where repairs are estimated to cost fifty (50) percent or more of the appraised value, a building shall be demolished or removed, and in all cases where a structure cannot be repaired so that it will no longer exist in violation of the provisions of this Ordinance, it shall be demolished or removed.

SEC. 6-146. APPEAL

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.

SEC. 6-147. - AUTHORITY AND FINDINGS OF HEARING OFFICER; ORDER.

- (a) After completion of the presentation of testimony by the Building Official and all parties appearing, the Hearing Officer(s) must make written findings of fact as to whether or not the building is a substandard building as defined under Section 6-143 of this article.
- (b) If the Hearing Officer(s) find that the building is substandard building and/or constitutes a hazard to the health, safety or welfare of the citizens, he or she must issue a written order directing the owner, occupant and all other persons having an interest in the building as shown by the real property records of the county in which the property is located, as well as the city tax and water meter records, that:
 - (1) The building be vacated if it is occupied and the hearing official finds that the building is in a condition that makes it hazardous to the health, safety and welfare of its occupants or of the public;
 - (2) The building be lawfully repaired or renovated, but only if it can reasonably be brought into compliance by one or more of these actions and no longer be in a condition that is in violation of this article;
 - (3) The building be demolished if it cannot reasonably be repaired or renovated so that its existence will no longer be in violation of the terms of this article; and/or
 - (4) If the building is unoccupied and the condition of the building is such that it may be brought into compliance by securing it from unauthorized entry, then the order may provide that the building be lawfully secured and be kept secured as provided in Section 6-152(d) and may include or adopt written specifications that must be complied with in securing the building and may provide that the building be demolished if it is not secured in compliance therewith.
 - (5) That any utility service to the building be terminated if the building or structure is unoccupied and is a substandard building as defined herein.
- (c) In addition to written findings of fact as required herein, the Hearing Officer(s) must keep a record of its proceedings and official actions.
- (d) Where authorized by Texas Local Government Code § 214.0015, the Hearing Officer(s) may determine and assess a civil penalty that the City may recover pursuant to said statute. If the owner shows that the property is the owner's lawful homestead, the penalty shall not exceed \$10.00 per day for each violation. A certified copy of a homestead designation from the county appraisal district shall constitute prima facie evidence of the homestead status, and a certified letter sent to the property owner shall constitute prima facie evidence of the homestead status, and a certified letter sent to the property owner shall constitute prima facie evidence that the owner was notified of the requirements of this article and the owner's need to comply.

SEC. 6-148. ORDER FOR REPAIR OR DEMOLITION

After the public hearing, if a building is found to be in violation of the standards set out in this Ordinance, the City may order that the building be repaired, removed or demolished within a reasonable time, as established under Section IX.

If the building is ordered to be repaired, removed or demolished, the City shall promptly mail by certified mail, 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. The City shall make a diligent effort to discover each owner, mortgagee and lienholder having an interest in the building or property on which the building is located.

If the ordered action is demolition of the building or structure, demolition shall not occur until a magistrate has

issued a seizure and demolition warrant supported by a probable cause affidavit stating that: 1) the building or structure constitute a nuisance; 2) the City has complied with the procedures set forth in this Ordinance; 3) demolition has been ordered by the City; and 4) the time for appeal of the order to district court has expired and no appeal has been taken or, in the alternative, the order was appealed to district court but the appeal has been finally resolved in a manner that does not prevent the City from proceeding with demolition.

SEC. 6-149. NOTICE OF REPAIR OR DEMOLITION

In addition to the order, each identified mortgagee or lienholder shall be sent a notice containing:

- (a) An identification of the building and property on which it is located (this does not have to be a legal description);
- (b) A description of the violation of the Ordinance; and
- (c) A statement that the municipality may demolish the building 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.

Within ten (10) days after the date that the order is issued, the City shall:

- (a) File a copy of the order in the office of the City Secretary; and
- (b) Publish a notice in a newspaper of general circulation in the City (and where the building is located) stating:
 - (1) The street address or legal description of the property;
 - (2) The date of the hearing;
 - (3) A brief statement indicating the results of the order; and
 - (4) Instructions as to where a complete copy of the order may be obtained.

SEC. 6-150. DEMOLITION AND REPAIR EXPENSES

Whenever it is discovered upon re-inspection that the owner, mortgagee or lienholder has failed to repair, remove or demolish the building or take other 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 which the building is located and shall personally deliver or send by certified mail, return receipt requested, to each a notice containing:

- (a) An identification of the building and property on which it is located (this does not have to be a legal description);
- (b) A description of the violation of the Ordinance; and
- (c) A statement that the municipality will remove or demolish the building if the ordered action is not taken.

Whenever it is discovered upon re-inspection that the owner, mortgagee or lienholder has failed to repair, remove or demolish the building or take other ordered action within the allotted time, the City, or its authorized agent, may repair, remove or demolish and remove said building or cause the same to be done and charge the expenses incurred in doing such work or having the same done to the owner, mortgagee or lienholder of said land or otherwise assess the expenses against the property on which the building is located.

If such work is done at the expense of the City, then the said expense shall be assessed against any salvage resulting from the demolition of the building and against the lot, tract, or parcel of land, or the premises upon which such expense was incurred.

For the purposes of this Section, any repair, alteration or improvement made to a building by the City will only be to the extent necessary to bring the building into compliance with the minimum housing standards and only if the building is a residential building with ten (10) or fewer dwelling units.;

PROVIDED, HOWEVER, the City may elect to obtain a judicial determination by a decree of a court of competent jurisdiction of the existence, in fact, of a public nuisance in cases contemplated by this Ordinance. Such judicial determination may include any available remedy for the abatement of such a nuisance.

SEC. 6-151. ASSESSMENT OF LIEN

When the City incurs expenses to repair, remove or demolish a building, the City may assess the expenses on and obtain a lien against the property on which the building is located, unless it is a homestead as protected by the Texas Constitution. The lien arises and attaches to the property when the City has the lien recorded and

indexed with the County Clerk of the county in which the property is located. The notice shall contain:

- (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 was located;
- (c) The amount of expense incurred by the City;
- (d) The balance due; and
- (e) The date on which said work was done or improvements made.

The City shall have a privileged lien on such lot, lots, or other premises or real estate upon which said building was located, to secure the expenditure so made, second only to other liens as provided by law. It is further provided that for any such expenditure suit may be instituted and foreclosure of said lien may be made in the name of the City; and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or expense.

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.

SEC. 6-152. PENALTY & REMEDIES SECTION FOR VIOLATION

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law.

(a) Civil Remedies

A property owner violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding **One Thousand Dollars (\$1,000.00)** for each and every day of violation, or, if the owner shows the property is the owner's lawful homestead, in an amount not to exceed Ten Dollars (\$10.00) per day for each violation, provided that:

- (1) The owner was notified of the requirements of the Ordinance and the owner's need to comply with the requirements; and
- (2) After notification, the owner committed an act in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance.

If such a civil penalty is assessed, the City Secretary shall file a certified copy of the order containing such amount and duration of the penalty with the County District Clerk's Office no later than three (3) working days after such order.

(b) Other Remedies

The remedies provided herein shall be available to the City in addition to any penal or other remedy provided by law or equity which the City, State, or any other person may provide to remedy the unsafe building condition.

The City may bring a civil action in a court of competent jurisdiction to collect the amount due plus all associated costs and fees.

SEC. 6-153. LIABILITY

Neither the City nor any authorized agent acting under the terms of this Ordinance shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this Ordinance.

Repealer. The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent.

Severability. If any Section, Subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and each Section, Subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more Sections, Subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

Effective Date. This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

Proper Notice & Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose

of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

Sec. 6-154. – 6.160. RESERVED

PASSED AND APPROVED on this 14th day of November, 2017.

CITY OF FORT STOCKTON



Joe Chris Alexander, Mayor



Frank Rodriguez III, City Manager

Attest:


Delma A. Gonzalez, City Secretary

Approved As To Form & Legality:



Jesse Gonzales, City Attorney