

ORDINANCE NO. O-2024-11-18-MPS

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NIXON, TEXAS
REGARDING MINIMUM PROPERTY STANDARDS WITHIN THE CITY OF NIXON;
ENFORCEMENT; REPEALING ANY PREVIOUS ORDINANCE IN CONFLICT WITH
THIS ORDINANCE; A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE;
PROVIDING AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare of its residents;

WHEREAS, the City of Nixon, Texas does not currently have an Ordinance in place regarding minimum property standards or for its enforcement;

WHEREAS, the City Council finds it prudent and necessary to adopt suitable regulations regarding minimum property standards to promote the health, safety and welfare of the residents of the City of Nixon, Texas pursuant to Chapter 51 of the Texas Local Government Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF NIXON, TX:**

Minimum Property Standards

1. In general.
 - a. The regulations in this article are minimum property standards for vacant and occupied buildings, properties, and structures. In addition to the minimum property standards, all buildings, properties, and structures must comply with all federal, state, and local laws and regulations, including any adopted construction codes.
 - b. The minimum property standards are intended to complement existing laws and regulations. If any provision of this chapter is less restrictive than another applicable law or regulation, the more restrictive law or regulation shall apply.
 - c. An owner who enters into a written lease shall, upon the occupant's request, provide the occupant with a written lease in the occupant's primary language, if the primary language is English or Spanish.
2. Repairs. All repairs required by this section must be performed in a workmanlike manner and in accordance with all applicable federal, state, and local laws, rules, and regulations, including any adopted construction codes.
3. Property standards. An owner shall:
 - a. Maintain his or her premises in operating condition without any holes, excavations, or sharp protrusions, and without any other object or condition that exists on the land that is reasonably capable of causing injury to a person;
 - b. Securely cover or close any wells, cesspools, or cisterns;
 - c. Must have City or City approved and contracted third party trash receptacles and maintain services to have waste removed from the property weekly if individuals are residing on the property.

- d. Provide drainage to prevent standing water and flooding on the land and must maintain City of Nixon Water and Sewer Services should individuals be residing on the property;
- e. Remove dead trees and tree limbs that are reasonably capable of causing injury to a person;
- f. Keep the doors and windows of a vacant structure or vacant portion of a structure securely closed to prevent unauthorized entry (See substandard structure ordinance for further direction); and
- g. Protect, by periodic application of paint or other weather-coating materials, any exposed metal or wood surfaces from the elements and against decay or rust.

4. Structural and material standards.

- a. In general. An owner shall maintain structural members free from deterioration so that they are capable of safely supporting dead and live loads.
- b. Construction materials. An owner shall maintain building and structural materials, including wood, gypsum products, glass, fiberglass, paper, canvas, fabric, plastic, vinyl, masonry, ceramic, plaster, brick, rock, stucco, slate, concrete, asphalt, tin, copper, steel, iron, aluminum, and other metals, in operating condition.
- c. Roofs. An owner shall:
 - i. Maintain roofs in operating condition, free from leaks, holes, charred or deteriorated roofing materials, rotted wood, and other unsafe conditions; and
 - ii. Maintain gutters and downspouts, if any exist, in operating condition and securely fastened.
- d. Chimneys and towers. An owner shall maintain chimneys, cooling towers, smoke stacks, and similar appurtenances in operating condition.
- e. Foundations. An owner shall maintain foundations and foundation components in operating condition, and keep all foundation components securely fastened.
- f. Floors. An owner shall maintain all flooring in operating condition, free from holes, cracks, decay, and trip hazards.
- g. Shower enclosures. An owner shall maintain shower enclosure floors and walls in operating condition, free of holes, cracks, breaches, decay, rust, and rot.
- h. Countertops and backsplashes. An owner shall maintain kitchen and bathroom countertops and backsplashes surrounding kitchen sinks and lavatory sinks in operating condition free of decay, rust, and rot.
- i. Interior walls, ceilings, and surfaces; doors. An owner shall:
 - i. Maintain all interior walls and ceilings in operating condition;
 - ii. Keep all interior walls and ceilings securely fastened to eliminate collapse hazards;
 - iii. Maintain all interior surfaces, including windows and doors, in operating condition;
 - iv. Repair, remove, or cover all peeling, chipping, flaking, or abraded paint; and
 - v. Repair all cracked or loose plaster, wood, or other defective surface conditions.

- j. Exterior windows and skylights. An owner shall maintain the glass surfaces of exterior windows and skylights so that they are weather tight and in operating condition.
- k. Exterior doors. An owner shall maintain exterior doors so that they are weather tight and in operating condition.
- l. Security devices. An owner shall maintain any bars, grilles, grates, and security devices in operating condition should they be installed on the property.
- m. Ventilation. An owner shall maintain all natural and mechanical ventilation in habitable rooms in operating condition.
- n. Balconies, landings, porches, decks, and walkways. An owner shall maintain:
 - i. All balconies, landings, porches, decks, and walkways in operating condition and securely fastened;
 - ii. Support posts, columns, and canopies in operating condition, securely fastened and anchored.
- o. Handrails and guardrails. An owner shall maintain all handrails and guardrails:
 - i. In operating condition and securely fastened and anchored; and
 - ii. So that they are capable of safely supporting imposed dead and live loads.
- p. Steps and stairways. An owner shall:
 - i. Maintain steps and stairways in operating condition, securely fastened and anchored, and free from trip hazards;
 - ii. Maintain steps and stairways so that they are capable of safely supporting imposed dead and live loads; and
 - iii. Seal any cracks or breaches in lightweight concrete steps, balconies, and walkways.
- q. Fencing, retaining walls, and barriers. An owner shall:
 - i. Maintain all fences, retaining walls, decorative walls, and barriers, if in existence, in operating condition and in accordance with the Nixon Substandard Structure Ordinance. This requirement applies to a masonry wall only if the masonry wall encloses:
 - 1. A multitenant property; or
 - 2. A single-family or duplex property where the wall is not shared with another property;
 - ii. Repair or replace rotted, missing, fire-damaged, or broken wooden slots and support posts;
 - iii. Repair or replace broken, missing, or bent metal posts and torn, cut, bent, or ripped metal fencing materials; and
 - 1. Encloses a multitenant property or a single-family property or duplex, or
 - 2. Serves as a retaining wall.

5. Utility and appliance standards.

- a. **Air conditioning.**
 - i. An owner shall:
 - 1. Provide, and maintain, in operating condition, refrigerated air equipment capable of maintaining a room temperature of at least 15

degrees cooler than the outside ambient temperature, but in no event higher than 85° F. in each habitable room;

2. Maintain all fixed air conditioning systems, including air conditioning unit covers, panels, conduits, and disconnects, in operating condition, properly attached; and
3. Install window-mounted air conditioning units, if provided, in compliance with adopted construction codes.

- ii. It is a defense to prosecution under this paragraph that at least one habitable room is 85° F. at a point three feet above the floor and two feet from exterior walls if the outside temperature is over 110° F.

- b. Heating.
 - i. An owner shall:
 1. Provide, and maintain, in operating condition, heating facilities capable of maintaining a room temperature of at least 15 degrees warmer than the outside ambient temperature, but in no event lower than 68° F. in each habitable room; and
 2. If provided, maintain, in operating condition, heating facilities in buildings or structures other than dwelling units.
 - ii. It is a defense to prosecution under this paragraph that at least one habitable room is 68° F. at a point three feet above the floor and two feet from exterior walls if the outside temperature is under 40° F.

- c. Appliances. If appliances are provided in a rental dwelling unit, the owner shall maintain those appliances, including portable heating units, portable air conditioning units, cook stoves, refrigerators, dishwashers, garbage disposals, ventilation hoods, washing machines, clothes dryers, and appliance connections, in operating condition.

6. Plumbing standards (Also see ICC 2021 Plumbing Code, 2021 Building Code, and 2021 Residential Code).
 - a. Plumbing systems. An owner shall maintain:
 - i. All plumbing pipes, fittings, and valves necessary to supply and conduct natural fuel gases, sanitary drainage, storm drainage, or potable water in operating condition; and
 - ii. All plumbing fixtures free of cross-connections and conditions that permit backflow into the potable water supply.
 - b. Fuel gas distribution systems. An owner shall maintain distribution systems that carry fuel gas or liquefied petroleum gas in leak-free condition in accordance with the construction codes. If such a distribution system has been compromised, an owner shall have the system pressure-tested and repaired.
 - c. Plumbing fixtures. An owner shall:
 - i. Provide each dwelling unit with:
 1. A kitchen equipped with a kitchen sink; and
 2. A minimum of one toilet; a lavatory sink; and either a bathtub or shower, or a combination of bathtub and shower;
 - ii. Keep all plumbing fixtures connected to the City of Nixon's potable water supply system;

- iii. Connect and maintain all plumbing fixtures in operating condition;
- iv. Equip toilets and urinals with cold potable water under pressure necessary for safe and sanitary operation;
- v. Keep all plumbing fixtures connected to a public sewer system or to an approved private sewage disposal system;
- vi. Maintain all piping distribution systems in operating condition, and eliminate all unsafe, unsanitary, and inoperable conditions in such distribution systems; and
- vii. Cap each sewer clean-out opening with an approved plug, except when the sewer line is being serviced.

d. Water heating equipment. An owner shall:

- i. Maintain all water heating equipment, including existing fuel-fired water heaters, in operating condition;
- ii. Maintain all water heating equipment with a pressure relief valve with an approved drain line;
- iii. Provide and maintain, in operating condition, water heating equipment that supplies hot water at a minimum temperature of 110° F., measured at the water outlet, to every required plumbing fixture;
- iv. Vent all fuel-fired water heating equipment as required by adopted construction codes; and
- v. Maintain boilers and central heating plants in operating condition.

7. Electrical standards. An owner shall:

- a. Maintain all electrical equipment and materials in operating condition;
- b. Maintain electrical circuits and outlets sufficient to safely carry a load imposed by normal use of appliances, equipment, and fixtures, and maintain them in operating condition;
- c. Maintain in each habitable room, bathroom, hallway, and stairway of a dwelling unit at least one electric lighting outlet, and the electric lighting outlet must be controlled by a wall switch, unless a wall switch is not required by adopted construction codes;
- d. Maintain all electric light fixtures located adjacent to exterior doors of all buildings or structures in operating condition; and
- e. Use extension cords and flexible cords in accordance with adopted construction codes, and not as substitutes for permanent wiring.

8. Lighting standards for multitenant properties.

- a. In general.
 - i. An owner shall not wire lighting in common areas into individual dwelling units.
 - ii. An owner shall maintain overall illumination of four foot-candles for exterior lighting on the premises.
- b. Exterior lighting.
 - i. An owner shall maintain illumination from dusk until dawn:
 - 1. Along pedestrian pathways; in plazas, courtyards, building entrances, parking areas, including carports and driveway areas; and other outdoor spaces commonly used.

2. At stairwells, landings, and areas under the lower landing.
3. Along breezeways, and transitional lighting must be maintained at all entries to a breezeway.
4. At cluster or gang mailboxes.

- ii. An owner shall maintain exterior lighting so that it reduces conflicts or obstructions between building design and landscape treatments and provides appropriate crime prevention.

9. Health standards.
 - a. Infestations.
 - i. Where evidence of an infestation exists, the owner of a building, structure, or property, including a vacant or occupied one- or two-family dwelling, or multifamily dwelling, shall eliminate the infestation using a person licensed under the Texas Structural Pest Control Act, as amended, and repair any condition that contributes to an infestation.
 - ii. If the building, structure, or property is a rental property, the owner shall provide notice to the tenants at least 48 hours before taking steps to eliminate an infestation.
 1. Notice must be in writing and must include the method being used to eliminate the infestation.
 2. A tenant may in writing waive the 48-hour requirement.
 - b. Common toilet and shower facilities. An owner shall maintain in operating condition toilet and shower facilities in common area multifamily uses.
 - c. Swimming pools, spas, ponds, and fountains.
 1. Water in swimming pools, spas, ponds, and fountains must be maintained to prevent the breeding or harborage of insects.
 2. Swimming pools, spas, ponds, and fountains must be maintained in operating condition.
 3. Fences or other barriers enclosing swimming pools, spas, ponds, and fountains must be maintained in operating condition.
 4. Pool yard enclosures, as defined in Chapter 757 of the Texas Health and Safety Code, as amended, shall be maintained in operating condition and must comply with the standards in Chapter 757 of the Texas Health and Safety Code, as amended.
 - d. Sewage overflow. An owner shall sanitize all areas contaminated by sewage overflow immediately after servicing is completed.
 - e. Vacant dwelling units.
 - i. An owner shall maintain the interiors of all vacant dwelling units free of solid waste.
 - ii. The owner of a vacant dwelling unit must store any swimming pool chemicals, cleaning chemicals, pesticides, herbicides, rodenticides, fertilizers, paints, solvents, gasoline, gasoline-powered equipment, or combustible materials of any kind in accordance with adopted construction codes, as amended.
10. Security standards. An owner of a multifamily dwelling, other than one exempt from registration under this chapter, shall provide and maintain security devices in each dwelling

unit as required by Sections 92.153, 92.154, and 92.155 of the Texas Property Code, as amended.

11. It is a defense to prosecution under Subsection (1) of this section that the premises is the site of new construction and reasonable and continuous progress is being made to complete the construction.

12. An owner shall provide a tenant with alternative housing that meets the minimum standards required by this section when:

- after being issued a notice or citation for violation of Subsection (5)(b) of this section, the owner fails to repair heating equipment within 72 hours after receiving such notice or citation and the overnight low temperature, as measured by the National Weather Service for Nixon, TX, is below 40° F. for three consecutive days after receiving such notice or citation; or
- after being issued a notice or citation for violation of Subsection (5)(a) of this section, the owner fails to repair refrigerated air equipment within 72 hours after receiving such notice or citation and the daytime high temperature, as measured by the National Weather Service for Nixon, TX, is 95° F. or above for three consecutive days after receiving such notice or citation.

13. It is a defense to prosecution under Subsections (5)(a) and (5)(b) of this section and to the alternative housing requirements of Subsection (9) of this section that:

- failure to maintain heating and refrigerated air equipment in compliance with those subsections was the direct result of an act of nature or other cause beyond the reasonable control of the owner; or
- the owner is making diligent efforts to repair the heating and refrigerated air equipment in compliance with those subsections; if the owner demonstrates to the code compliance department that diligent efforts to repair are being made, the code compliance office may choose not to issue a notice or citation for a violation of Subsection (5)(a) or (5)(b) of this section.

14. It is a defense to prosecution under Subsection (5)(b) of this section and to the alternative housing requirements of Subsections (5)(a) of this section that a written contract is in effect requiring the tenant to provide and maintain heating equipment and the owner has provided utility connections for heating equipment in compliance with the City of Nixon Minimum Property Standards Ordinance, as amended, in each room of the structure intended for human occupancy.

15. It is a defense to prosecution under Subsection (5)(a) of this section and to the alternative housing requirement of this Ordinance that the structure is not a rental property.

RESPONSIBILITIES OF OCCUPANT.

- An occupant shall:
 - Maintain the interior and exterior portions of the person's dwelling unit free from accumulations of solid waste and other conditions that would encourage an infestation;
 - Remove any animal from a structure if the presence of the animal is a health hazard to an occupant;

- c. Connect plumbing fixtures and heating equipment that the occupant supplies in accordance with the construction codes; and
- d. Provide solid waste receptacles or containers when required by this ordinance.

ENFORCEMENT.

1. Citation. The Chief of Police or his/her designee may issue citations to any persons having violated any provision of this article after a ten (10) day notice of the violation/s. The notice must be given:
 - a. Personally, to the owner in writing
 - b. By letter addressed to the owner at the owner's post office address by certified mail; or
 - c. If personal service cannot be obtained or the owner's post office address is unknown:
 - i. By publication at least twice within ten (10) consecutive days;
 - ii. By posting the notice on or near the front door of each building on the property to which the violation relates; OR
 - iii. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.
2. Abatement. If the owner and/or agent of the property does not comply with the requirements of this ordinance within ten (10) days of the date of notice of violation, the City Administrator/Manager may, under implied consent for the failure to cure the violation:
 - a. Do the work necessary to abate the unsafe or unhealthy condition or make the improvements required to bring the property up to minimum standards; and
 - b. Pay for the work done or improvements made and charge the expenses to the owner and/or agent of the property. Expenses and costs for abatement will be listed under the most recent permit and fee schedule approved by the Nixon City Council. The total amount of the charges provided herein shall be levied, assessed, and collected by the City Administrator/Manager or designee and are payable to THE CITY OF NIXON, and if any owner and/or agent of the property shall fail to pay such charges so assessed within ten (10) calendar days after proper notice of said charges, the authorized or designated City Official will file, with the County Clerk of Gonzales County, Texas, a statement by the City Administrator/Manager or designee setting out the expenses that the City has incurred, including costs associated with said filing with the Clerk, pursuant to the provisions of this section. The City shall thereby perfect a privileged lien on the property involved, second only to tax liens and liens for street improvement, to secure the expense to the City, together with ten (10) percent (%) per annum interest from the date such payment is due. The lien statement shall state the name of the owner, if known, and the legal description of the property. The lien attaches upon the filing of the lien statement with the County Clerk of Gonzales County, Texas.
3. Penalty. A violation of this ordinance shall constitute a Class C misdemeanor, punishable by a fine of not less than \$250.00 but not to exceed \$1,000.00 exclusive of any other fees or expenses associated with abatement of said violation by the City. Each calendar day

than an unlawful condition continues shall be considered a separate offense. Citations for violations of this ordinance shall be issued by the City of Nixon Police Department and shall be prosecuted by the City Attorney/Municipal Prosecutor in Nixon Municipal Court. Being assessed charges for abatement as described above, does not limit the ability of the City's Police Department to issue citations for the violation of this ordinance. All fines associated with a citation issued for the violation of this ordinance shall be paid to the Nixon Municipal Court. The Nixon Police Department need not issue the citation in person to the property owner and/or agent if said person is not present at the time of the violation. Said citation may be issued and mailed to the alleged violator no later than the tenth (10th) calendar day after said violation occurs.

4. If abatement is necessary for failure to cure a violation of this ordinance after proper notice or under the provisions of paragraph 2 above, by a property owner or his/her agent, the City will not be responsible for any damage to the property or any fixtures to said property in furtherance of the abatement. In addition, should the property owner and/or agent whom has unpaid charges for the City's abatement of a condition in violation of this ordinance, attempt to reinstitute City of Nixon utilities associated with the property that was in prior violation, said service may be withheld by the City until all outstanding charges have been paid, or arrangements are made with the City for the payment of all outstanding charges, by the property owner and/or agent responsible for the property.

COMPLAINTS MADE BY CITIZENS

1. The City Code Compliance/Enforcement Officer will have a maximum of 5 business days once notified of any infraction, to issue a notice of violation to any property owner violating this ordinance once noticed by any citizen of the City if said violation has merit and is a violation of any state law, International Code, or local ordinance.
2. The City Code Compliance/Enforcement Officer will follow these steps once a formal violation is made aware/filed and classified as a violation:
 - a. Notify the property owner in person, certified mail, posting on the front door of the property, or if there is not a structure on the property or the owner is not able to be located the violation will be posted on the property so that it is visible stationary and not susceptible to weather conditions.
 - b. On the 11th day after the notice of violation and the violation(s) have not been remedied, the property owner in violation can be issued a citation punishable within the confines of this section.
 - c. If the violation is not remedied within 10 days of issuance of the notice of violation (10-day notice), the City of Nixon can perform any and all abatements granted to them by law if the city deems it necessary no later than the 30th day after the notice of the initial violation.
 - d. All fees incurred by the City of Nixon for the abatement process will be billed in accordance with this Ordinance. If an abatement is to be performed, City Employees must be accompanied by a Certified Peace Officer.
 - e. If the person in violation is not present at the time of the issuance of the citation, the citation can be certified mailed to the violator no later than the 5th business day after the issuance of the citation.

SEVERABILITY

If any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED and APPROVED on this the day of November 2024.

CITY OF NIXON, TEXAS

Ellie Dominguez, Mayor

ATTEST:

Tanya Torres, City Secretary
City of Nixon, Texas

APPROVED AS TO FORM:

Eduardo “Eddie” Xavier Escobar
City Attorney/General Counsel