

ORDINANCE NO. 266

AN ORDINANCE OF THE CITY OF BEVIL OAKS, TEXAS, PROVIDING FOR THE REGULATION OF DILAPIDATED BUILDINGS, SUBSTANDARD BUILDINGS, AND UNSECURED VACANT BUILDINGS; PROVIDING FOR THE DEFINITIONS OF A DANGEROUS BUILDING OR STRUCTURE; DECLARING SUCH STRUCTURES TO BE A PUBLIC NUISANCE; PROVIDING FOR STANDARDS FOR REPAIR, VACATION, OR DEMOLITION; PROVIDING FOR THE DUTIES OF THE BUILDING INSPECTOR, FIRE MARSHALL, OR CITY COUNCIL; PROVIDING FOR A FINE OF NOT LESS THAN \$100.00 NOR MORE THAN \$1,000.00 FOR EACH DAY THAT THIS ORDINANCE IS VIOLATED; AND PROVIDING FOR CONFLICTS, SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the existence of buildings that are delapidated, substandard, unfit for human habitation and/or are a hazard to the public health, safety and welfare is a matter of legitimate concern in the City of Bevil Oaks, Texas; and

WHEREAS, to promote the health, safety, and welfare of the citizens of Bevil Oaks, Texas, and protect said citizens from the dangers posed by such buildings, the City of Bevil Oaks, Texas desire to enact regulations to address the repair, removal, demolition, securing and/or evacuation of such structures; and

WHEREAS, Texas Local Government Code Section 214.001 gives the city council the power and authority to enact such regulations by ordinance;

WHEREAS, the city council of Bevil Oaks, Texas finds that it is in the best interest of the citizens of its city to adopt an ordinance that provides for the repair, vacation, or demolition of dangerous buildings or structures.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEVIL OAKS, TEXAS:

**SECTION 1. DEFINED TERMS.**

The following terms, when used in this article, shall have the meanings set forth below:

Minimum standards. The criteria used for determining whether a building may be the subject of one or more of the remedies provided in this article. The criteria are:

- (1) A building does not meet the minimum standards (referred to herein as the "minimum standards") if any one or more of the following conditions exists with respect to that building or any part thereof:
  - (A) It is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare as defined in the definition of "substandard building" in this section;
  - (B) Regardless of its structural conditions, it is unoccupied by its owners, lessees, or

other invitees and is unsecured from authorized 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

- (C) It is boarded up, fenced, or otherwise secured in any manner if:
- (i) The building constitutes a danger to the public even though secured from entry; or
  - (ii) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (B).
- (2) A building or structure does not meet minimum standards if it is likely to endanger persons or property.

Structure. Any bulkhead, fence, shed, awning, or other structure, or any part of a structure.

Substandard building. A building is "dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare" pursuant to subsection (1) in the definition of "minimum standards" above if any one or more of the following conditions exist with respect to that building or any part thereof:

- (1) Whenever any door, aisle, passageway, stairway or other means of exit from a structure 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, for all persons housed or assembled therein who would be required to, or might, use such door, aisle, passageway, stairway or other means of exit.
- (2) Whenever any portion or member or appurtenance of a building is likely to fall, or to become detached or dislodged, or to collapse, and thereby injure persons or damage property.
- (3) Whenever any portion of a structure, 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, as to be capable of resisting a normal wind pressure.
- (4) Whenever any portion of a structure has settled to such an extent that the walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of new construction.
- (5) Whenever a building, or any portion thereof, because of dilapidation, deterioration, decay, or faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting same, or some other cause, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.
- (6) Whenever for any reason whatsoever a building, or any portion thereof, is

manifestly unsafe for the purpose for which it is used.

- (7) Whenever the exterior walls or other vertical structural members of a structure list, lean or buckle to such an extent that a plumbline passing through the center of gravity does not fall inside the middle third of the base.
- (8) Whenever a building, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration to the member or members, or fifty percent (50%) or more damage or deterioration of a non supporting enclosing or outside wall or covering.
- (9) Whenever a building has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor to vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.
- (10) Any building which has been constructed or which now exists or is maintained in violation of any specific requirement or prohibition, applicable to such building, of the building regulations and the fire prevention code of the city, when so determined and reported by any law or ordinance of this state or city relating to the condition, location or construction of such building.
- (11) 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 fifty percent (50%), or in any supporting member less than sixty-six percent (66%), of the strength, fire-resisting qualities or characteristics or weather-resisting qualities or characteristics required by law or ordinance in the case of a newly constructed building of like area, height and occupancy in the same location.
- (12) Whenever a building, used or intended to be used as a dwelling, because of dilapidation, decay, damage, or faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease, when so determined by the health officer, or is likely to work injury to the health, safety or general welfare of those living within or in areas near the building.
- (13) Whenever a building, used or intended to be used as a dwelling, has light, air, and sanitation facilities inadequate to protect the health, safety, or general welfare of the persons living within or the persons who intend to occupy the dwelling.
- (14) Whenever any building, by reason of obsolescence, dilapidated conditions, deterioration, damage, electric wiring, gas connection, heating apparatus, or other cause, is in such condition to be a fire hazard or is so situated as to provide a ready fuel supply to augment the spread and intensity of fire arising from any cause.
- (15) Whenever any building is likely to provide breeding places and habitat for snakes, rats, mice and other vermin.
- (16) Failure of a building to comply with any provision of the building code, the electrical code

or the fire prevention code of the city or any applicable statute or regulation of any governmental entity.

- (17) Inadequate maintenance, neglect, decay, dilapidation, obsolescence or abandonment of a building.

## **SECTION 2. DECLARED TO BE PUBLIC NUISANCES.**

All dangerous structures within the terms of Section 1 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as provided in this ordinance. No one may continue to use or occupy a building or any part thereof that does not comply with the minimum standards.

## **SECTION 3. ABATEMENT PROCEDURE.**

- (1) Order by city. The city may, by order of the Mayor or the Mayor's Appointee and in accordance with the procedures set forth in this section:
- a. Require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building that does not meet the minimum standards; or
  - b. Require the repair, removal or demolition of any structure when it finds that such structure is likely to endanger persons or property.
- (2) Complaint process. Any person, including any elected or appointed officer or employee of the city, may file a complaint with the city requesting that a building or structure be declared in violation of the minimum standards. The complaining party is permitted, but is not required, to contact the owner of the building or structure and to engage in informal negotiations in an effort to reach an agreement which provides for the abatement of such violation or violations prior to filing a complaint with the city. A complaint shall be heard, and a determination on such complaint made, by the city council in open session.
- (3) Notice of hearing. When a complaint is filed, the city shall provide written notice to the owner, lienholder or mortgagee of the subject building or structure as follows:
- a. Contents. The notice must contain:
    - i. An identification, which is not required to be a legal description, of the building or structure and the property on which it is located;
    - ii. A description of the violation of minimum standards that is present at the building or structure;
    - iii. 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 minimum standards and the time it will take to reasonably perform the work.
  - b. Method of service to owner. The notice to the owner required by

this subsection (c) shall be sent as follows:

- i. If the owner has provided the city with an address for notices, the notice shall be sent to that address.
  - ii. If the owner has not provided the city with an address for notices, the notice shall be sent to the address for the owner shown in the latest property tax rolls of the city for the subject building or structure and to the address of the subject building or structure if the owner's address on the property tax rolls is different from the address of the subject building or structure.
  - iii. All notices mailed to the owner shall be forwarded by certified mail, return receipt requested. In addition, the notice shall be posted on the subject building or structure.
  - iv. 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. If the required notice is mailed and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice shall be deemed as delivered.
- c. Method of service to lienholder or mortgagee. The city shall make a diligent effort to discover each mortgagee and lienholder with respect to the subject building or structure and property by a search of the records of the county clerk with respect to the property on which the subject building or structure is located. Notice shall be sufficient if sent by the city to the mortgagee or lienholder or servicing agent set forth in:
- i. The deed of trust or mortgage relating to the real property on which the subject building or structure is located; or
  - ii. The latest transfer of lien or notice of assignment of such deed of trust or mortgage filed in the records of the county clerk as of the date the notice is mailed. This notice shall be sent by certified mail, return receipt requested.
- d. Timing of notice. The notice to the owner, lienholder or mortgagee required by this subsection shall be mailed and posted at least seven (7) days prior to the date and time of the hearing.
- (4) Hearing. The hearing shall be before the city council. At the hearing, the city council shall hear evidence and determine whether the building or structure complies with the minimum standards. The owner, lienholder or mortgagee has the burden of proof at the hearing to demonstrate the scope of any work that may be required to comply with the minimum standards and the time it will take to reasonably perform the work.
- (5) Contents of order.
- a. Action that may be required. After the public hearing, if a building or structure is found in violation of the minimum standards, the city may order that the building or structure

or any part thereof be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this subsection. The city may also order that the occupants be relocated within a reasonable time. If the lienholder or mortgagee has been given notice and an opportunity to comment at the hearing, the city council's order may specify an additional reasonable time for the building or structure to be vacated, secured, repaired, removed, or demolished by the lienholder or mortgagee or for the occupants to be relocated by the lienholder or mortgagee in the event the owner fails to comply with the order within the time specified in the order for action by the owner.

- b. Thirty-day time limit for completing work. The city shall require the owner, lienholder, or mortgagee of the building or structure within 30 days to secure the building or structure from unauthorized entry or to repair, remove, or demolish the building or structure, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.
- c. Requirements if more than thirty days allowed to complete work. The city shall not allow the owner, lienholder or mortgagee more than 30 days to repair, remove, or demolish the building or structure unless the city by its order will establish a specific time schedule for the commencement and performance of the work and shall, by its order, require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.
- d. Requirements if more than ninety days allowed to complete work. The city shall not allow the owner, lienholder or mortgagee more than 90 days to repair, remove, or demolish the building or structure or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee submits a detailed plan and time schedule for the work at the hearing and establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work. If the owner, lienholder or mortgagee is granted more than 90 days to complete the required work, the city shall require the owner, lienholder or mortgagee 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 city council or its designee to demonstrate compliance with the time schedules.

(6) Notice of entry of order.

- a. Filing of order with city secretary. Within 10 days after the date that the order is issued, the city shall cause a copy of the order or the original order to be filed with the city secretary.
- b. Publication of notice. Within 10 days after the date that the order is issued, the city shall publish in the official newspaper or city's website a notice containing:
  - i. The street address or legal description of the subject 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.
- c. Mailing of copy of order. After the hearing, the city shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building or structure and to any lienholder or mortgagee of the building or structure. This mailing shall be sent to the address of the owner and mortgagee or lienholder, respectively, determined in accordance with subsection (c) above.
- d. Filing of notice with county clerk. In addition to the notice specified above, the city may also file a notice meeting the requirements of subsection 214.001(e) of the Texas Local Government Code in the official public records of the county clerk to provide notice to any subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice with the county clerk.

#### **SECTION 4. AUTHORIZED ACTIONS FOR FAILURE TO COMPLY WITH ABATEMENT ORDER.**

- (1) Action by City upon failure to comply with order; assessment of expenses; civil penalty.
- a. Notice of possible action. If the owner, lienholder or mortgagee does not fully and completely comply with an Order issued pursuant to Section (3) above within the time allowed by the order, the city shall send a notice to the owner and any lienholder or mortgagee that the city may, within 10 days of the date such notice is mailed, take one or more of the following actions:
    - i. Vacate, secure, remove, or demolish the building or structure or relocate the occupants at its own expense and assess the costs incurred against the property on which the building or structure is or was located; or
    - ii. Repair the building or structure at the expense of the city and assess the expenses on the land on which the building or structure stands or to which it is attached; and/or
    - iii. Assess a civil penalty not to exceed \$1,000.00 per day for each violation or \$10.00 per day for each violation if the owner shows that the property is the owner's lawful homestead.
  - b. Request for hearing. The owner, lienholder or mortgagee may request a hearing for the purpose of explaining any delay in complying with the order and to request additional time to comply with the order. Any such request must be made not later than 10 days after the date the notice referred to in this Section (4) is mailed or sent. Upon receipt of such a request, the mayor shall schedule a hearing before the city council at the earliest time practical.

- c. City's right to secure building or structure prior to hearing. Prior to the hearing, the city may secure the subject building or structure in accordance with section 4.1 (a) of this article.
  - d. Action as results of hearing. Following the hearing, the city may take the following action:
    - i. The city may grant the owner, lienholder or mortgagee additional time to complete the work required by the order, and the revised order shall meet the following requirements:
      - a. If the additional time granted and the time originally permitted exceeds the time limits set forth in Section 3, then the city's order shall contain the requirements set forth in those subsections; and
      - b. The revised order shall specify that the city will have the right, in its sole discretion, to take any one or more of the actions specified in subsection 4.1(a) above without further notice to the owner, lienholder or mortgagee.
    - ii. The city may deny the owner, lienholder or mortgagee additional time to complete the work required by the order and the city may take any one or more of the actions specified in subsection 4.1(a) above.
  - e. Notice of order. The city shall send notice of the order entered pursuant to subsection 4.1(a) to the owner, lienholder or mortgagee in the manner specified for sending notices pursuant to section 3 above. Other than securing the subject building, the city will take no action until the expiration of 10 days from the date such notice is sent to the owner, lienholder or mortgagee.
- (2) Restrictions on repairs by city. The city may repair a building under subsection 4.1(a) above only to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with 10 or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds the minimum housing standards set forth in the city's building code.
- (3) Interest in civil penalty or assessment. Any civil penalty or other assessment imposed under subsection (g) above shall accrue interest at the rate of 10 percent per annum from the date of the assessment until paid in full.
  - (4) Lien for abatement costs. If the city incurs expenses in vacating, securing, removing or demolishing the building or relocating the occupants, the city may assess the expenses on and shall have a lien against the property on which the building is or was located, unless it is a homestead protected by the state constitution. The lien arises and attaches to the property at the time the notice of the lien is recorded in the office of the county clerk. The notice of lien shall contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description



of the real property on which the building is or was located, the amount of expenses incurred by the city and the balance due. This lien shall be a privileged lien subordinate only to tax liens unless notice has not been given to the lienholder or mortgagee of the property.

## **SECTION 5. AUTHORIZED ACTIONS FOR SECURING THE BUILDING BY CITY.**

1. **Authority.** The city may secure any building it determines:
  - a. Violates the minimum standards; and
  - b. Is unoccupied or is occupied only by persons who do not have a right of possession of the building.
2. **Service of notice.** Before the 11th day after the date the building is secured, the city shall give notice to the owner by one or more of the following means:
  - a. Personally, serving the owner with written notice; Depositing the notice in the United States mail addressed to the owner at the owner's post office address determined in the manner specified in section 3.
  - b. Publishing the notice at least twice within a 10-day period in the official newspaper or on the city's website if personal service cannot be obtained and the owner's post office address is unknown; or
  - c. 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.
3. **Contents of notice.** 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 that is present at the building;
  - c. A statement that the city will secure or has secured, as the case may be, the building; and
  - d. An explanation of the owner's right to request a hearing about any matter relating to the municipality's securing of the building.
4. **Hearing.** If, within 30 days after the date the city secured the building, the owner files with the city secretary a written request for a hearing, the city will conduct a hearing. The hearing will be within 20 days after the date the request is filed. At the hearing, the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building.
5. **Assessment of city's expenses; lien.** If the city incurs expenses in securing a building pursuant to this section, the city may assess those costs or expenses against the

property, and shall have a lien against the property, in the same manner provided in section 3.

**SECTION 6. ADOPTION.**

This Ordinance is hereby added to the Ordinances of the City of Bevil Oaks, Texas, and all the provisions contained therein shall apply to all dangerous buildings as herein defined, which are now in existence or which may hereafter become dangerous in the jurisdiction of the City of Bevil Oaks, Texas.

**SECTION 7. CONFLICTS.**

All ordinances and provisions of the City of Bevil Oaks, Texas that are in conflict with this Ordinance shall be, and the same are, hereby repealed, and all ordinances and provisions of ordinances of said City not so repealed are hereby retained in full force and effect.

**SECTION 8. SEVERABILITY.**

It is the intent of the City Council that each paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance be deemed severable and, should any such paragraph, sentence, subdivision, clause, phrase, or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to effect the validity of those provisions of this Ordinance left standing, nor the validity of any ordinances of the City of Bevil Oaks.

**SECTION 9. PENALTY.**

Any person, firm, company, partnership, corporation, or association violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each such violation, and each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense.

**SECTION 10. PUBLICATION.**

The caption of this ordinance shall be published in accordance with 52.001 of the Texas Local Government Code.

**SECTION 11. EFFECTIVE DATE.**

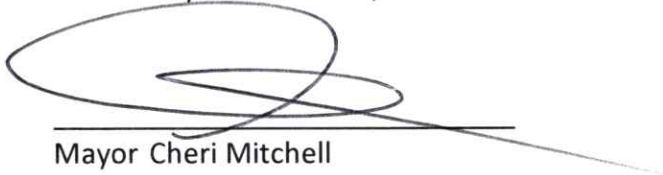
This Ordinance will be effective upon publication.

**SECTION 12. OPEN MEETINGS**

It is hereby official found and determined that the meeting at which this ordinance is 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, Texas Government Code.

PASSED, APPROVED and EFFECTIVE this 15<sup>th</sup> day of February, 2024.

Attest: City of Bevil Oaks, Texas.



\_\_\_\_\_  
Mayor Cheri Mitchell



\_\_\_\_\_  
City Council Secretary, Jeff Thibodeaux  
City of Bevil Oaks, Texas

**Sec. 214.001**

**Authority Regarding Substandard Building**

- (a) A municipality may, by ordinance, require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building that 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 Subdivision (2).
- (b) The ordinance must:
  - (1) establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction;
  - (2) provide for giving proper notice, subject to Subsection (b-1), to the owner of a building; and
  - (3) provide for a public hearing to determine whether a building complies with the standards set out in the ordinance.
- (b-1) For a condominium, as defined by Section [81.002 \(Definitions\)](#) or [82.003 \(Definitions\)](#), Property Code, located wholly or partly in a municipality with a population of more than 1.9 million, notice to a unit owner in accordance with Section [82.118 \(Service of Process on Unit Owners in Certain Municipalities; Change of Address Required\)](#), Property Code, and notice to the registered agent for the unit owners' association in the manner provided for service of process to a condominium association under Section [54.035 \(Notice\)](#)(a-1) satisfy the notice requirements under this section.
- (c) A notice of a hearing sent to an owner, lienholder, or mortgagee under this section must include a statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.
- (d)

After the public hearing, if a building is found in violation of standards set out in the ordinance, the municipality may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this section. The municipality also may order that the occupants be relocated within a reasonable time. If the owner does not take the ordered action within the allotted time, the municipality shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or in the property on which the building is located. The municipality shall personally deliver, send by certified mail with return receipt requested, or deliver by the United States Postal Service using signature confirmation service, to each identified mortgagee and lienholder a notice containing:

(1)

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

(2)

a description of the violation of municipal standards that is present at the building; and

(3)

a statement that the municipality 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.

(e)

As an alternative to the procedure prescribed by Subsection (d), the municipality may make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and may give them a notice of and an opportunity to comment at the hearing. In addition, the municipality may file notice of the hearing in the Official Public Records of Real Property in the county in which the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined, a legal description of the affected property, and a description of the hearing. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice. If the municipality operates under this subsection, the order issued by the municipality may specify a reasonable time as provided by this section for the building to be vacated, secured, repaired, removed, or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time as provided by this section for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner. Under this subsection, the municipality is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

(f)

Within 10 days after the date that the order is issued, the municipality shall:

(1)

file a copy of the order in the office of the municipal secretary or clerk, if the municipality has a population of 1.9 million or less; and

(2)

publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:

- (A) the street address or legal description of the property;
  - (B) the date of the hearing;
  - (C) a brief statement indicating the results of the order; and
  - (D) instructions stating where a complete copy of the order may be obtained.
- (g) After the hearing, the municipality shall promptly mail by certified mail with return receipt requested, deliver by the United States Postal Service using signature confirmation service, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The municipality shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.
- (h) In conducting a hearing authorized under this section, the municipality shall require the owner, lienholder, or mortgagee of the building to within 30 days:
- (1) secure the building from unauthorized entry; 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.
- (i) If the municipality allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the municipality 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 hearing official.
- (j) A municipality may not allow the owner, lienholder, or mortgagee more than 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 reasonably be completed within 90 days because of the scope and complexity of the work.
- (k) If the municipality allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the municipality shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the municipality to demonstrate compliance 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 hearing official or the hearing official's designee to demonstrate compliance with the time schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the municipal boundaries that exceeds \$100,000 in total value, the municipality may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the municipality may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the municipality. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the municipality issues the order.

(l)

In a public hearing to determine whether a building complies with the standards set out in an ordinance adopted under this section, the owner, lienholder, or mortgagee has the burden of proof to demonstrate 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.

(m)

If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the municipality may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This subsection does not limit the ability of a municipality to collect on a bond or other financial guaranty that may be required by Subsection (k).

(n)

If a municipality incurs expenses under Subsection (m), the municipality may assess the expenses on, and the municipality has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the building was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the municipality for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the municipality, and the balance due.

(o)

If the notice is given and the opportunity to relocate the tenants of the building or to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as authorized by Subsection (d), (e), or (g), the lien is a privileged lien subordinate only to tax liens.

(p)

A hearing under this section may be held by a civil municipal court.

(q)

A municipality satisfies the requirements of this section to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the municipality searches the following records:

(1)

- county real property records of the county in which the building is located;
- (2) appraisal district records of the appraisal district in which the building is located;
- (3) records of the secretary of state;
- (4) assumed name records of the county in which the building is located;
- (5) tax records of the municipality; and
- (6) utility records of the municipality.

(r) When a municipality mails a notice in accordance with this section to a property owner, lienholder, mortgagee, or registered agent and the United States Postal Service returns the notice as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered delivered.

(s) A court shall expedite any proceeding, including an appeal in accordance with Section [214.0012 \(Judicial Review\)](#), related to a substandard building determination under this section by a municipality with a population of 500,000 or more. Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(j), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 743, Sec. 1, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 836, Sec. 10, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 359, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 362, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 357, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 413, Sec. 10, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 701, Sec. 2, eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 370 (S.B. [352](#)), Sec. 3, eff. June 15, 2007. Acts 2009, 81st Leg., R.S., Ch. 1323 (H.B. [3128](#)), Sec. 5, eff. September 1, 2009. Acts 2019, 86th Leg., R.S., Ch. 1273 (H.B. [36](#)), Sec. 3, eff. June 14, 2019.