

ORDINANCE NO. 2023-01-23-A

AN ORDINANCE OF THE CITY OF RANGER, TEXAS REPEALING AND REPLACING ORDINANCE NO. 2007-10-08-03; ADOPTING REGULATIONS CONCERNING SUBSTANDARD BUILDINGS WITHIN THE CITY; ESTABLISHING MINIMUM STRUCTURAL STANDARDS; PROVIDING FOR NOTICE AND HEARINGS; PROVIDING FOR ABATEMENT BY OWNER OR CITY; PROVIDING A PENALTY; ALLOWING FOR ASSESSMENT OF CITY EXPENSES AND IMPOSITION OF LIEN; ESTABLISHING CIVIL REMEDIES BY CITY; PROVIDING SEVERABILITY AND REPEALER CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Ranger (the "City") is a home rule municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution; and

WHEREAS, Chapter 214 of the Texas Local Government Code allows the City to regulate the condition of structures and to require demolition, repair, or removal of substandard structures by the owners of said structures and, if the owner does not take such action, allows for the city to perform the required action and assess its expenses as a lien upon the property;

WHEREAS, Section 54.012 of the Texas Local Government Code authorizes the City to file a lawsuit and collect civil penalties regarding substandard structures; and

WHEREAS, the City Commission of the City of Ranger finds that regulating and controlling unsafe, dangerous, dilapidated and substandard buildings within the City is in the best interest of the citizens of the City as such regulation preserves and protects the public health and safety and preserves property values.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF RANGER, TEXAS, THAT:

Section 1. Findings of Fact. The findings and recitations set out hereinabove are found to be true and correct and are hereby adopted by the City Commission and made a part hereof for all purposes as findings of fact.

Section 2. Definitions. The words and phrases contained herein shall have the following meanings ascribed to them unless the context clearly states otherwise:

(a) **Building.** Any structure utilized or intended for supporting or sheltering any occupancy.

(b) **Code Enforcement Official.** Any person appointed by the City Commission to enforce violations of this Ordinance or applicable state codes.

(c) Minimum Standards. The minimum standards for continued use and occupancy of a building as set forth in Section 4 herein.

(d) Owner of Record. Any person, agent, firm, corporation, or governmental agency shown to be the owner or owners of a building in:

(i) The real property, assumed name, or appraisal district records of Eastland County;

(ii) The tax or utility records of the City; or

(iii) The records of the Secretary of State.

(e) Substandard Building. Any building that does not comply with the minimum standards, as defined in Section 4

Section 3. Abatement of Substandard Structures.

(a) It shall be unlawful for any owner or other person in control of a building to allow that building to be in a condition that does not conform to the minimum standards.

(b) Any building that does not conform to the minimum standards is hereby declared a public nuisance and shall be subject to abatement by repair, demolition, or removal as necessary upon the issuance of an order to abate issued by the City Commission in accordance with the procedures described in this Ordinance.

Section 4. Minimum Standards.

A building is considered not to meet the minimum standards, regardless of its date of construction, if the building is dilapidated, substandard, or unfit for human habitation and a hazard to public health, safety, and welfare due to one or more of the following conditions:

(a) The building has a roof, ceiling, floors, walls, sills, windows, or foundation, or any combination thereof, rotted or decayed, and falling apart; or is uninhabitable due to obsolescence and deterioration caused by neglect, vandalism, fire damage, or the elements;

(b) The building is intended for human occupancy and is in danger of falling and injuring persons or property;

(c) The building is a fire menace because it is in a dilapidated condition, as described in subsections (a) and (b), above, or is likely to become a fire menace or be set on fire;

(d) The building is in unsanitary condition and is likely to create disease because of the presence of insects, rodents, or vermin; or

(e) The building is damp and in unsanitary condition and is likely to create disease and sickness because of being in the condition described under subsections (a) – (d), above.

Section 5. Authority.

(a) The Code Enforcement Official shall have the authority and powers necessary to gain compliance with the provisions of this Ordinance and all other ordinances of the City relating to conditions on property. Such powers include the power to issue notices of violations, issue citations or file criminal complaints, inspect public and private property with permission or after obtaining an administrative search warrant, and use whatever judicial and administrative remedies available under this Ordinance or applicable state laws.

(b) The Code Enforcement Official may enter upon any property or premises, with permission or after obtaining an administrative search warrant, to ascertain whether the provisions of this Ordinance or applicable state codes and statutes are being obeyed, and to make any examinations and surveys as may be necessary in the performance of his or her enforcement duties. Such duties may include the taking of photographs, samples, or other physical evidence.

(c) It shall be unlawful for any person to interfere with a Code Enforcement Official in the performance of his or her duties under this Ordinance.

Section 6. Authority to Immediately Secure Building.

(a) The City may immediately secure a building that it determines does not meet the minimum standards and is unoccupied or occupied only by persons who do not have a right to occupy the building according to the procedures contained in this Section.

(b) Notice. Before the 11th day after the date the building is secured according to subsection (a), above, the City shall give notice to the owner of record by:

(i) Personally serving the owner with written notice;

(ii) Depositing the notice in the United States mail addressed to the owner at the owner's last known post office address;

(iii) Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the City if personal service cannot be obtained and the owner's post office address is unknown; or

(iv) 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.

(c) Contents of Notice. The notice shall contain identification of the building and the property on which it is located, a description of the existing violation(s) of the minimum standards, a statement that the City will secure or has secured the building, and a notice to the owner that the owner may request a hearing about the City securing the building if such a request is made in writing within thirty (30) days after the date the City secures the building.

(d) Hearing. If a hearing is requested by the owner within the time frame described in subsection (c), it shall be held before the City Commission within twenty (20) days of the date the request is filed and conducted pursuant to Section 214.0011(e).

Section 7. Inspection and Notice of Abatement.

(a) Inspection. The code enforcement official shall inspect or cause to be inspected any building the official has probable cause to believe does not meet the minimum standards. If an owner, occupant, agent, or person in control of the premises refuses permission to enter or inspect, the code enforcement official may seek an administrative search warrant from an appropriate court as provided for in Texas Code of Criminal Procedure Article 18.05. All inspections, entries, examinations, and surveys shall be done in a reasonable manner.

(b) Determination. After completing the inspection, the code enforcement official shall determine if there is sufficient evidence that the building is a dangerous building.

(c) Notice of Abatement. After an initial determination that there is sufficient evidence that a building is a dangerous building, the code enforcement official shall provide notice to the owner of record of the building, by certified mail, return receipt requested, that the building is believed to be a dangerous building, which shall include a description of the nature of the violation(s) of the minimum standards, and that the owner must vacate and/or repair, demolish, and/or remove the building for the good of the public health, safety, and welfare. Additional notice shall be posted on the dangerous building which shall read as follows:

“THIS BUILDING IS DANGEROUS ACCORDING TO THE MINIMUM STANDARDS SET FORTH IN THE DANGEROUS BUILDINGS ORDINANCE OF THE CITY OF RANGER AND THE OWNER MUST REPAIR, DEMOLISH, OR REMOVE IT. CONTACT _____ AT _____ FOR FURTHER INFORMATION.
DATE: _____

(d) Request for a hearing before the City Commission. If the owner does not reply or take action within fifteen (15) days from the date the notice was mailed, the code

enforcement official may request that a hearing be held before the City Commission to determine whether the building complies with the minimum standards or if the building is a dangerous building.

(i) If a public hearing is scheduled, the code enforcement official shall make a diligent effort to discover the identity and address of the owner(s) of record and any lienholders or mortgagees of the building and the underlying property. Due diligence will include searching the following records for information on the property owner or lienholder:

- (A) Eastland County real property records;
- (B) Records of the Eastland County Central Appraisal District;
- (C) Records of the Secretary of State, if the property owner or lienholder is a corporation, partnership, or other business association;
- (D) Assumed name records of Eastland County;
- (E) Tax records of Eastland County; and
- (F) Utility records of the City of Ranger.

(ii) The code enforcement official shall provide notice of the public hearing to each owner, lienholder, or mortgagee by certified mail, return receipt requested, no later than ten (10) days prior to the date of the hearing. The notice shall further advise the owner, lienholder, or mortgagee that he or she will have the burden of proof at such hearing and will be required to submit proof of the scope of any work that may be required to make the building comply with this Ordinance and the amount of time it will take to reasonably perform the work.

(iii) The City shall also publish notice of the public hearing in a newspaper of general circulation in the City no later than ten (10) days prior to the date of the public hearing. The published notice must contain the name and address of the owner of the real property (if it can be determined from a reasonable search of the records described above), a legal description of the affected property and a description of the proceeding, including the date, location, and time of the hearing.

(iv) The City may file a copy of the published notice of the hearing in the Official Public Records of Eastland County.

(v) The code enforcement official may provide notice to any unknown owners or interested parties by posting a copy of the notice described by Section 7(d)(ii) on the front door of each improvement situated on the affected property, or as close to the front door as practicable.

Section 8. Order to Abate.

(a) If it is found at the public hearing that a building is in violation of the minimum standards, the City Commission may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time.

(b) The order shall allow the owner thirty (30) days to complete the ordered action, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days. If more than thirty (30) days are allowed to repair, remove, or demolish the building, specific time schedules shall be established for the commencement and performance of the work.

(c) The owner, lienholder, or mortgagee may not be allowed more than ninety (90) days to complete the ordered action, 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 ninety (90) days because of the scope and complexity of the work. If the City Commission allows more than ninety (90) days to complete the work, the owner, lienholder, or mortgagee shall be required to regularly submit progress reports to demonstrate compliance with the time schedules established for the commencement and performance of the work. [EH1]

Section 9. Notice of Order.

(a) The City shall promptly mail, by certified mail return receipt requested, a copy of any order issued pursuant to Section 8 of this Ordinance, to the owner of record of the building and to any lienholder or mortgagee, along with a notice containing an identification of the building and the property on which it is located; a description of the violation(s) of the minimum standards; and a statement that the City will secure, vacate, repair, remove, or demolish the building if the ordered action is not taken by the owner within the deadline established by the City Commission, if such information is not already contained in the order.

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

(i) File a copy of the order in the office of the City Secretary; and

(ii) Publish in a newspaper of general circulation in the City a notice containing the following:

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

(B) The date the hearing was held;

(C) A brief statement indicating the results of the hearing on the contents of the order; and

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

Section 10. Delivery of Notices.

If a notice mailed pursuant to Section 7(c) or Section 9(a) of this Ordinance is returned by the United States Postal Service as “refused” or “unclaimed”, the validity of the notice is not affected, and the notice is considered delivered.

Section 11. Appeal and Judicial Review.

Any owner, lienholder, or mortgagee of a property jointly or severally aggrieved by any order issued under this Ordinance shall be entitled to judicial review in District Court. A petition must be filed in District Court by an owner, lienholder, or mortgagee within thirty (30) calendar days after the date of delivery of said order pursuant to Texas Local Government Code Sec. 214.0012. The petition must be verified, set forth that the decision of the City Commission was illegal, in whole or in part, and specify the grounds of the illegality.

Section 12. City Abatement; Lien

(a) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense.

(b) If the City incurs expenses under Section 12(a), the City may assess the expenses on, and the City has a lien against the property, unless it is homestead as protected by the Texas Constitution.

(c) The lien is extinguished if the property owner or other person having an interest in the legal title to the property reimburses the City for the expenses.

(d) The lien arises and attached to the property at the time the notice of lien is recorded and indexed in the Official Public Records of Eastland County. 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 City, and the balance due.

(e) 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 described in Section 7(b)(ii) or Section 9(a) of this Ordinance, the lien is a privileged lien subordinate only to tax liens.

Section 13. Criminal Prosecution.

(a) Violation. It shall be unlawful for any person to violate any provision, or fail to comply with any requirement, in this Ordinance.

(b) Penalty. A violation of any of the provisions, or failure to comply with any of the requirements, of this Ordinance shall constitute a misdemeanor punishable by a maximum fine of Five Hundred Dollars (\$500.00) or a maximum fine of Two Thousand Dollars (\$2,000.00) if the court finds that the violation relates to fire safety or public health and sanitation.

(c) Continuing Violation. Each day a person violates, continues to violate, or permits a violation of this Ordinance shall be a separate offense.

Section 14. Civil Enforcement.

(a) The City may, in accordance with Sections 54.012 *et seq.* of the Texas Local Government Code, as amended, bring a civil action against an owner of record or the owner's representative in control of the premises violating a provision of this Ordinance relating to dangerously damaged or deteriorated structures or improvements.

(b) The civil action may include, but is not limited to, a suit to recover a civil penalty not to exceed \$1,000.00 per day or portion of a day during which the violation is committed, continued, or permitted by the owner or owner's representative, if the City proves:

(i) The property owner was notified of the requirements of this Ordinance and the owner's need to comply with the requirements; and

(ii) After notification, the property owner committed an act in violation of this Ordinance or failed to take an action necessary for compliance with this Ordinance.

(c) The City shall have all other available remedies at law and in equity to enforce the provisions of this Ordinance.

Section 15. Repeal. Except as provided in Section 16, Ordinance No. 2007-10-08-03, adopted on October 22, 2007, is hereby repealed. All other ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict only.

Section 16. Savings Clause. All rights and remedies of the City of Ranger are expressly saved as to any and all violations of the provisions of any ordinances affecting dangerous building abatement and regulation of dangerous buildings within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be pursued and prosecuted until final disposition by the Board of Appeals, the City Commission, or the courts, as appropriate. Ordinance No. 2007-10-08-03 shall continue to remain in effect and govern citations issued for violation of Ordinance No. 2007-10-08-

03 or dangerous building abatement that commenced before the adoption of this Ordinance.

Section 17. Severability. It is hereby declared to be the intention of the City Commission that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, Paragraphs and section of this Ordinance, since the same would have been enacted by the City Commission without the incorporation of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 18. Effective Date. This Ordinance shall take effect immediately upon its approval and passage and after publication as required by law.

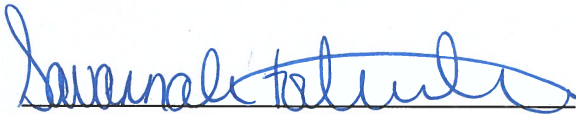
Section 19. Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Government Code.

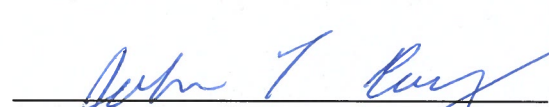
PASSED AND APPROVED ON FIRST READING on this 9th day of January, 2023.

PASSED, APPROVED, AND ADOPTED ON SECOND READING on this the 23rd day of January, 2023.

ATTEST:

THE CITY OF RANGER, TEXAS


Savannah Fortenberry, City Secretary


John Casey, Mayor