

ORDINANCE NO. 2047

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HIGHLAND PARK, TEXAS, AMENDING **THE CODE OF ORDINANCES OF THE TOWN OF HIGHLAND PARK, TEXAS, CHAPTER 3, BUILDING REGULATIONS**, BY ADDING A NEW **ARTICLE 3.17, SUBSTANDARD BUILDINGS**; PROVIDING A VALIDITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 214 of the Local Government Code authorizes the Town to adopt regulations regarding dilapidated and substandard structures; and

WHEREAS, the Town Council wishes to amend the provisions of the Building Regulations to add a new Article 3.17 regarding the repair or removal of dilapidated or substandard structures; and

WHEREAS, the Town Council is authorized by law to adopt the provisions contained herein, and has complied with all the prerequisites necessary for the passage of this ordinance; and

WHEREAS, all statutory and constitutional requirements for the passage of this ordinance have been adhered to, including but not limited to the Open Meetings Act; and

WHEREAS, the Town Council finds the adoption of this ordinance necessary to protect the public health, safety, and general welfare of the citizens of the Town of Highland Park;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND PARK, TEXAS:

SECTION 1. That, the above findings are hereby found to be true and correct and are incorporated herein by reference as if copied in their entirety.

SECTION 2. That, **Chapter 3, Building Regulations**, is hereby amended to add a new Article 3.17 as follows:

“ARTICLE 3.17. SUBSTANDARD BUILDINGS

Sec. 3.17.001 Purpose

The purpose of this article is to require the repair or removal of dilapidated or substandard structures.

Sec. 3.17.002 Definitions

The following terms shall be deemed to have the meanings assigned herein for the purposes of this article:

- (a) *Substandard or dilapidated building.* Any structure in which there exists any of the following listed conditions and where such condition(s) causes said structure to be a hazard to the

public health, safety, and welfare, or where said structure constitutes a danger to the occupant(s) or public:

- (1) Lack of or defective utility service.
- (2) Lack of or defective plumbing.
- (3) Lack of hot or cold running water to plumbing fixtures or sprinkler systems.
- (4) Lack of adequate heating equipment.
- (5) Lack of or defective required ventilation or ventilating equipment.
- (6) Required space dimensions less than required by Town Codes.
- (7) Inadequate lighting.
- (8) Dampness of interior areas.
- (9) Infestation by insects, vermin, or rodents.
- (10) General dilapidation or improper maintenance.
- (11) Lack of connection to required sewage disposal system.
- (12) Lack of adequate garbage or rubbish storage and containers.
- (13) Partial destruction or damage by fire unrepaired for more than thirty (30) days.
- (14) Deteriorated or inadequate foundation.
- (15) Defective or deteriorated flooring or floor supports.
- (16) Flooring or floor supports of insufficient size to carry imposed loads with safety.
- (17) Deteriorated or damaged framing members:
 - (A) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
 - (B) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
 - (C) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective materials or deterioration.
 - (D) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

- (18) Deteriorated or damaged fireplace or heating components:
 - (A) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
 - (B) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
 - (C) Heating flues and exhausts which list, bulge, or settle due to defective material or deterioration.
- (19) Hazardous or defective wiring.
- (20) Hazardous plumbing.
- (21) Hazardous or defective mechanical equipment.
- (22) Faulty weather protection, which shall include but not be limited to the following:
 - (A) Deteriorated, crumbling, or loose plaster or masonry.
 - (B) Deteriorated or ineffective water-proofing of exterior walls, roof, foundations, or floors, including broken windows or doors.
 - (C) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
 - (D) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.
- (23) Fire hazard. Any building or portion thereof, device, apparatus, equipment, or accumulation which, in the opinion of the Building Official, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
- (24) Faulty materials of construction.
- (25) Hazardous or unsanitary premises. Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.
- (26) Inadequate maintenance. Any building or portion thereof which is determined to be an unsafe building in accordance with applicable Codes.
- (27) Inadequate fire-protection or fire-fighting equipment. All buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by applicable Codes, except those

buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(b) *Building Official.* The Assistant Director of Town Services, or such other individuals designated by the Town Administrator to carry out such duties.

Sec. 3.17.003 Notices and orders of Building Official.

(a) *Commencement of proceedings.* Whenever the Building Official has inspected or caused to be inspected any building and has found and determined that such building is a substandard building, he shall commence proceedings to cause the repair, rehabilitation, vacation, or demolition of the building.

(b) *Notice.* The Building Official shall issue a notice directed to the record owner of the building. Prior notices issued in compliance with the following are sufficient. The notice shall contain:

- (1) The street address and a legal description sufficient for identification of the premises upon which the building is located.
- (2) A statement that the Building Official has found the building to be substandard with a brief and concise description of the conditions found to render the building dangerous to the occupant(s) or public and/or a hazard to the public health, safety, and welfare.
- (3) A statement of the action required to be taken as determined by the Building Official.
- (4) A requirement that the owner or person in charge of the building or premises secure required permits and commence the required action within fifteen (15) days from the date of such notice and that all work be completed within such time as the Building Official shall determine is reasonable.
- (5) If the Building Official has determined that the building or structure must be vacated, the notice shall contain a requirement that the building be vacated within such time from the date of the notice as determined by the Building Official to be reasonable.
- (6) A statement advising that if any required repair or demolition work is not commenced within the time specified, the Building Official will, without further notice, order the building vacated and posted to prevent further occupancy until the work is completed.
- (7) A statement advising that if any required repair or demolition work is not commenced or completed within the time specified, proceedings will be commenced to have the building repaired or demolished and the cost of such assessed as a charge against the land.

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

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

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

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

“DO NOT ENTER
UNSAFE TO OCCUPY
It is a misdemeanor to occupy this building
or to remove or deface this notice.

Building Official
Town of Highland Park”

Sec. 3.17.004 Violations.

No person shall remain in or enter any building which has been posted as provided by Section 3.17.002, except that entry may be made to repair, demolish, or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and a certificate of occupancy issued pursuant to the provisions of this Code. Any person violating this subsection shall be guilty of a Class C misdemeanor. Any person who fails to meet the requirements made in any notice duly served as herein provided shall be guilty of a misdemeanor for each day such failure continues after the date the notice requires compliance.

Sec. 3.17.005 Town repair or demolition.

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

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

“SUBSTANDARD BUILDING
It is a misdemeanor to occupy this building
or to remove or deface this notice.

Building Official
Town of Highland Park”

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

(c) The Town Council may set a date and time for a public hearing to consider ordering the improvement and assessment of any property where the owner has failed to improve as required by notices described in this article. Such public hearing shall be held not less than ten (10) nor more than sixty (60) days from the date such hearing is set.

(d) Notice of the public hearing to be held before the Town Council shall be given by causing a notice thereof to be served on the owner of such property. Such notice shall be served in the same manner and method as notices of the Building Official are served as described in section 3.17.003. Such notice shall include the date, time, and place of such hearing and shall require that cause be shown why an order should not be issued by the Town Council requiring the repair, removal, or demolition of the described property within a reasonable time and a statement that if such action is not taken, the work will be done by the Town and the cost thereof assessed against the land.

(e) The Town Council shall hold a public hearing as set forth in the notice thereof and may order removal, repair, or demolition of any such property and shall establish a date for the completion thereof, and may order that if such action is not completed by such date, that the building be removed at the expense of the Town of Highland Park, and the cost thereof, together with interest at eight (8) per cent per annum, be assessed as a lien against the described premises. Such order shall be served in the same manner as the notice of public hearing.

Sec. 3.17.006 Performance of demolition.

(a) *Procedure.* When any removal is to be done pursuant to the provisions of any order of the Town Council, the work may be accomplished by Town personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned. The building or building materials may be sold if removal is ordered, and the proceeds shall be used to offset other costs of cleaning the lot.

(b) *Costs.* The cost of such work shall be paid from Town funds and shall constitute a special assessment and a lien against such property to secure payment thereof, together with eight (8) per cent interest on such amount from the date the Town incurs the expense. Such liens shall be privileged and second only to tax liens and liens for street improvement. The Town Attorney is authorized to bring an action in any court of proper jurisdiction to foreclose said lien and to recover the costs incurred by the Town.

Sec. 3.17.007 Form of notice of lien.

A sworn account of the expense incurred by the Town in the repair, removal, or demolition of any building done pursuant to the provisions of this Code shall be filed by the Building Official with the Town Secretary. The Town Secretary shall file such notice of the Town's assessment and lien in the Deed Records of Dallas County, Texas. Such notice shall read substantially as follows:

"State of Texas
County of Dallas

Notice of Lien

_____, Building Official for the Town of Highland Park, makes oath and says that the Town of Highland Park (the "Town") has incurred an expense of \$ _____ in improving property known and described as _____. Such expense was incurred to eliminate violations of the Town's Building Regulations after notices pursuant to Ordinance No. 2047 and to Chapter 214 of the Local Government Code were served on the record owner thereof, _____, after a public hearing before the Town Council as required by law.

This assessment shall constitute a first and prior lien, subject only to tax and paving liens.

No building permit or certificate of occupancy will be issued on this property unless and until this lien is paid, together with eight (8) per cent per annum interest from the date such expenses were incurred. No utility service of any kind will be available to such property until this lien is paid.

Building Official
Town of Highland Park, Texas

Sworn To and Subscribed before me by the said _____, this _____ day of _____, 20 _____, to certify which witness my hand and seal of office.

(Seal)

Signature of Notary Public"

Sec. 3.08 Prohibitions against service to property with lien.

No utility service, building permit or certificate of occupancy shall be allowed for any such property until any such lien is released by the Town and the assessment is paid.

SECTION 3. Penalty. That, any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the penalty provisions of Section 1.01.009 of the Code of Ordinances of the Town of Highland Park, Texas, as amended. Proof of a culpable mental state is not required for a conviction of an offense under this section. Each day a customer fails to comply is a separate violation. The Town's authority to seek injunctive or other civil relief available under the law is not limited by this section.

SECTION 4. Validity. That, all ordinances of the Town of Highland Park in conflict with the provisions of ordinance be, and the same are hereby superseded and all other provisions of the ordinances of the Town of Highland Park not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. Severability. That, should any paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected.

SECTION 6. Incorporation. That, this ordinance shall be deemed to be incorporated into the Code of Ordinances of the Town of Highland Park, Texas.

SECTION 7. Effective Date. That, this ordinance shall take effect immediately following its passage, approval and publication as provided by law, and it is accordingly so ordained.

PASSED AND APPROVED this 28th day of May, 2019.

APPROVED AS TO FORM:



Matthew C. G. Boyle
Town Attorney

APPROVED:



Margo Goodwin
Mayor

ATTEST:



Gayle Kirby
Town Secretary