

ORDINANCE NO. 87031701

AN ORDINANCE OF THE CITY OF SIMONTON, TEXAS, DEFINING SUBSTANDARD BUILDINGS OR STRUCTURES; DECLARING SUBSTANDARD BUILDINGS OR STRUCTURES TO BE PUBLIC NUISANCES; ESTABLISHING REMEDIAL PROCEDURES; ESTABLISHING STANDARDS FOR ORDERS OF THE BOARD OF ALDERMAN; PROVIDING FOR ENFORCEMENT BY COURT ACTION IF NECESSARY; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000.00); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH.

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BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF SIMONTON, STATE OF TEXAS:

Section 1. DEFINITIONS.

(A) Building. Any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, or property of any kind.

(B) Structure. Anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including, but not limited to, signs, fences, walls, poles, and buildings, whether of a temporary or permanent nature.

Section 2. CONDITIONS CONSTITUTING. Any building or structure which has any of the following defects shall be deemed a substandard building or structure and constitute a hazard to the health, safety, and welfare of the citizens:

(A) Any building or structure that has become deteriorated or damaged through exposure to the elements including, without limitation, flood, wind, hail or rain, or damage through fire, or damage by any other cause, to the extent that either the roof, windows, or doors, or portions of the house, building, or structure which protect from the weather will no longer reasonably protect from the weather.

(B) Any building or structure which is so structurally deteriorated or damaged that is in danger of collapse or which cannot be expected to withstand the reasonably anticipated storms or hurricanes.

(C) Any building used for the occupancy of one or more persons which is not connected to an approved public sanitary sewer or does not provide connection to a properly installed and approved septic systems.

(D) Any building or structure not constructed or maintained in conformity with the Fire Code of the City of Simonton, Texas, when such nonconformity constitutes a serious hazard to the safety of persons or property.

(E) Any building or structure not wired in conformity with the Electrical Code of the City of Simonton, Texas, when such nonconformity constitutes a serious hazard to the safety of persons or property.

(F) Any building or structure not constructed in conformity with the Plumbing Code of the City of Simonton, Texas, when such nonconformity constitutes a serious hazard to the safety of persons or property.

(G) Any building or structure not constructed in conformity with the Building Code of the City of Simonton, Texas, when such nonconformity constitutes a serious hazard to the safety of persons or property.

(H) Any building or structure so constructed or maintained as to constitute a menace to health or safety, including:

(1) All conditions conducive to the harboring of rats, snakes, mice, other disease-carrying animals, or insects reasonably calculated to spread disease; or

(2) Conditions hazardous to the safety of persons or property, such as inadequate bracing, structural support, construction, or the presence of deteriorated materials; or

(3) Conditions constituting an attractive nuisance creating a hazard to the health or safety of minors.

Section 3. DECLARATION OF NUISANCE. All substandard buildings or structures within the provisions of this ordinance which shall constitute a hazard to the health, safety, or general welfare of its occupants, the citizens of the City of Simonton, Texas, or to the public are declared to be public nuisances and shall be ordered to be repaired, vacated, or demolished as hereinafter provided.

Section 4. INSPECTIONS AND REPORTS. It shall be the duty of the City building official, or other representative designated by the Board of Aldermen, to inspect all buildings or structures reported to be, or believed to be, substandard, to present a report of such inspection to the Board of Aldermen, and to give notice of the intention of the Board of Aldermen to hold hearings and follow the procedures hereinafter provided.

Section 5. PROCEDURES. Substandard buildings or structures may be ordered to be, and pursuant to order shall be, repaired, vacated, or demolished under the following conditions, regulations, and procedures:

(A) Emergency Measures. When there exists an emergency as defined in paragraph (1) of this subsection, certain measures may be taken, notification given, and procedures followed as set forth in this subsection:

(1) When it shall appear that a building or structure in the City is a substandard building or structure under the terms of this Ordinance and that such building or structure or the manner of its use constitutes an immediate and serious danger to life, public safety, or property, the condition shall be deemed a hazard justifying the use of emergency measures, and the Board of Aldermen may order any of the following emergency measures to be taken:

(a) Immediate vacation of such building, structure, or adjoining buildings or structures;

(b) Vacation of the danger area around such building or structure;

(c) Such temporary emergency shoring and bracing of walls, roofs, and supports as are required to eliminate the immediate and serious threat of damage to life or property;

(d) Post notices on or near such building or structure, notifying the public of such orders and ordering all persons to keep out of such building or structure and the surrounding areas of danger.

(2) When any of the above emergency measures are ordered to be taken, notice of such order shall be given by personal service on the owner and/or occupant of the building or structure or his representative, or if such premises is unoccupied, by attaching a copy of such notice in a place of prominence on such building or structure and causing a copy of such notice to be mailed to the owner or his representative by certified mail, return receipt requested. Upon the adoption of such emergency order by the Board of Aldermen shall schedule a public hearing and cite the owner or his representative to appear and show just cause why such building or structure should not be declared a substandard building or structure and why he should not be ordered to repair, vacate, or demolish such building or structure. Such citation shall be served with the notice of emergency order in accordance with the provisions of this paragraph. Such hearing shall be conducted in accordance with the provisions of subsection B thereof.

(B) Normal Procedure.

(1) When it shall come to the attention of the Board of Aldermen that a building or structure in the City is substandard under the provisions of this Ordinance, the Board of Aldermen may schedule a hearing and cite the owner of the building or structure or his representative to appear and show cause why such building or structure should not be declared to be a substandard building or structure and why he should not be ordered to repair, vacate, or demolish the building or structure. The date of such hearing shall be not less than ten (10) days after such citation shall have been made.

(2) Such citation may be served by delivery of a copy thereof to the owner and occupant, or if such premises is unoccupied, by attaching a copy of such citation in a

place of prominence on such building or structure and causing a copy of such citation to be mailed to the owner or his representative by certified mail, return receipt requested.

(3) On the day set in such citation the hearing shall be conducted and on the basis of such hearing the Board of Aldermen shall determine whether or not the building or structure is a substandard building or structure, and shall issue such orders as shall appear reasonably necessary to prevent the building or structure from being a hazard to life or property and to eliminate the substandard qualities.

Section 6. STANDARDS FOR ORDERS. The following standards may be followed by the Board of Aldermen in ordering the repair, vacation, or demolition of a substandard building or structure:

(A) If the substandard building or structure can reasonably be repaired so that it will no longer be in a condition which is in violation of the provisions of this Ordinance, it shall be ordered repaired.

(B) If the substandard building or structure is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, the citizens of the City of Simonton, Texas, or to the public, it shall be ordered to be vacated.

(C) In any case where a substandard building or structure cannot be repaired so that its existence will no longer be in violation of the provisions of the Ordinance, it shall be ordered demolished.

Section 7. REMEDIAL ACTION. After the hearing, if the building or structure is found to be substandard, the Board of Aldermen may direct that the building or structure be repaired or removed within reasonable time. If such repair or removal has not been made at the expiration of the allotted time, the City may demolish and remove the building or structure at the expense of the City and assess the expenses by filing a lien on the land on which the building or structure stood or to which it was attached.

Notice of the assessment of the lien shall be signed in the name of the City by the Mayor. It shall state that the Board of Aldermen has ordered or directed the removal of a building or structure determined to be substandard, after notice to the owner and public hearing in accordance with the Ordinances of the city, and that failure of the owner to remove such substandard building or structure has resulted in the removal thereof at the expense of the City, which expense has been assessed by the Board of Aldermen on the land on which the building or structure stood or to which it was attached. Such notice shall further designate and describe the property against which the lien is assessed and the amount of the assessment.

Such notice shall be filed with the Clerk of the County in which such property is located with a copy served on the owner of such property or his representative by personal service or certified mail, return receipt requested.

Section 8. PENALTY. Any person who refuses or fails to repair or demolish a building or structure when ordered to repair or demolish such building or structure under the terms of this Ordinance, or who refuses or fails to leave a building which has been ordered vacated under the terms of this Ordinance, or who enters an area around such building that has been declared to be dangerous and notice of which declaration shall have been posted, or who interferes with or hinders the repair, vacation, or demolition of any building under the terms of this Ordinance, or who otherwise violates any order of the Board of Aldermen as provided for herein, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine in an amount not to exceed one thousand dollars (\$1,000.00), and each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

Section 9. ENFORCEMENT – COURT ACTION. It shall be the duty of the City Attorney or attorney for the City to enforce the orders of the Board of Aldermen, when authorized, by bringing an action in a court of competent jurisdiction.

Section 10. SEVERABILITY. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional, and the Board of Aldermen of the City of Simonton, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether be one or more parts.

Section 11. REPEALER. All ordinance or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 1987.

Mayor

ATTEST:

City Secretary