

ORDINANCE NO. 3-15C

AN ORDINANCE OF THE CITY OF SNOOK, TEXAS, ADOPTING REGULATIONS CONCERNING SUBSTANDARD OR DANGEROUS BUILDINGS OR STRUCTURES; PROVIDING FOR THE FOLLOWING: POPULAR NAME; FINDINGS OF FACT; PURPOSE; DEFINITIONS; DECLARATION; INSPECTION; NOTICE OF VIOLATION; APPLICATION OF STANDARDS; HEARING; ORDER FOR REPAIR OR DEMOLITION; NOTICE OF REPAIR OR DEMOLITION; APPEAL, DEMOLITION AND REPAIR EXPENSES; ASSESSMENT OF LIEN; ADDITIONAL AUTHORITY TO SECURE BUILDING; CRIMINAL AND CIVIL PENALTIES WITH MAXIMUM CIVIL PENALTY OF \$1,000 FOR VIOLATION; LIABILITY, REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Snook, Texas (“City Council”) seeks to promote the health, safety and general welfare of the community by preventing death, injuries and property damage within the City of Snook (“City) limits; and

WHEREAS, the City Council seeks to protect property values within the City limits; and

WHEREAS, the City Council finds that substandard buildings or structures pose aesthetic harm to the City; and

WHEREAS, the City Council finds that substandard buildings or structures are fire hazards and often attract vermin and insects; and

WHEREAS, pursuant to the laws of the State of Texas, including Texas Local Government Code section 51.001, the City Council has the authority to adopt, publish, amend or repeal an ordinance that is for the good government, peace or order of the City; and

WHEREAS, pursuant to Texas Local Government Code Chapter 214, the City Council has authority to regulate substandard buildings or structures; and

WHEREAS, pursuant to Texas Local Government Code Chapter 214, the City Council has authority to order the repair, removal or demolition of a substandard building or structure and to repair, remove, or demolish a substandard structure and assess such costs against the property;

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

I. POPULAR NAME

This Ordinance shall commonly be referred to as the City’s “Substandard Building Ordinance.”

II. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Snook and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

III. PURPOSE

This Ordinance is adopted so that the City Council may promote the public health, safety, and general welfare within the City through the regulation of substandard buildings. By requiring the repair and/or demolition of substandard buildings, the City Council seeks to protect property values and prevent bodily injury, death, and property damage within the City limits.

IV. SUBSTANDARD BUILDING REGULATIONS

Sec. 1.01 Definitions

The following terms whenever used or referred to in this Ordinance shall have the meanings herein set forth:

Appraised Value. Shall mean the value given the structure by the county tax assessor's office.

Building. Shall mean any structure of any kind or any part thereof, erected for the support, shelter or enclosure of persons, animals, chattel or property of any kind.

Building Official. Shall be the individual or entity designated by the City Council.

City. Shall mean the City of Snook, Texas.

City Council. Shall mean the city council of the City of Snook.

Diligent Effort. Shall mean best or reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee including a search of 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) City tax records; and
- (6) City utility records.

Minimum housing standards. Shall mean those standards found in the City's adopted standard building, electrical, plumbing, gas, mechanical, existing building and fire prevention codes.

Owner. Shall mean any person, agent, firm or corporation, named in the real property records of Burleson County, Texas as owning the property.

Structure. Shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner, or any part thereof.

Sec. 1.02 Declaration of Nuisance

Any building or structure requiring repair, removal, or demolition, as described in Section 1.05, as well as all buildings or structures within the City, which because of their condition are unsafe, unsanitary, uninhabitable or otherwise dangerous to the health, safety, and general welfare of the citizens of the City are hereby declared to be a public nuisance and are unlawful and subject to the provisions of this Ordinance regarding repair, removal, or demolition.

Sec. 1.03 Inspection

An inspection shall be made of every building located within the City which is suspected of being in violation of this Ordinance. The building official is hereby authorized to conduct inspections of buildings suspected of being in violation of this Ordinance and take such actions as may be required to enforce the provisions of this Ordinance.

Sec. 1.04 Notice of Violation

- (a) Whenever a violation of this Ordinance has been discovered and reported by the building official, a public hearing shall be held before the City Council to determine whether a building complies with the standards set out in this Ordinance.

- (b) A notice of the hearing shall be sent to the occupant, if any, and any record owner, lienholder or mortgagee of the property. Such notice shall be in writing and shall be served by certified mail, return receipt requested, by the United States Postal Service using signature confirmation service, or personal delivery to the record owner of the property, lienholder or mortgagee, and all unknown owners, lienholders, or mortgagees, by posting a copy of the notice on the front door of each affected improvement situated on the property or as close to the front door as practicable; and if the owner's address is different than the address shown for the property involved, to the address of the property, addressed to the occupant of such address. It is not necessary that the notice to the occupant of the property list an occupant by name.

The notice shall contain:

- (1) the names of all persons to whom notice is being served,
- (2) the street address or legal description of the premises,
- (3) the date of inspection,

- (4) the nature of the violation,
- (5) the date, time and location of the hearing, and
- (6) 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 this Ordinance and the time it will take to reasonably perform the work.

Sec. 1.05 Application of Standards

The following standards shall be utilized in determining whether a building should be ordered repaired or demolished. Buildings or structures that are not occupied as a residential homestead by a person 65 years of age or older and meet one or more of the following standards may be required to be repaired, removed, or demolished:

- (1) The building or structure is liable to partially or fully collapse.
- (2) The building or structure was constructed or maintained in violation of any provision of the City's building code, standard codes, or any other applicable ordinance or law of the City, county, state, or federal government.
- (3) Any wall or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle one-third (1/3) of its base.
- (4) The foundation or the vertical or horizontal supporting members are twenty-five percent (25%) or more damaged or deteriorated.
- (5) The nonsupporting coverings of walls, ceilings, roofs, or floors are fifty percent (50%) or more damaged or deteriorated.
- (6) The structure has improperly distributed loads upon the structural members, or they have insufficient strength to be reasonably safe for the purpose used.
- (7) The structure or any part thereof has been damaged by fire, water, earthquake, wind, vandalism, or other cause to such an extent that it has become dangerous to the public, health, safety and welfare.
- (8) The structure does not have adequate light, ventilation, or sanitation facilities as required by the City.
- (9) The structure has inadequate facilities for egress in case of fire or other emergency or which has insufficient stairways, elevators, fire escapes or other means of ingress or egress.

- (10) The structure has been found to contain molds which are known to be harmful to humans, and remediation of such mold contamination would exceed fifty percent (50%) of the value of the structure.
- (11) A portion of a building or structure remains on a site when construction or demolition work is abandoned.
- (12) The building or structure, because of its condition, is unsafe, unsanitary, or dangerous to the health, safety or general welfare of the City's citizens including all conditions conducive to the harboring of rats or mice or other disease carrying animals or insects reasonably calculated to spread disease.

Sec. 1.06 Hearing

- (a) The date of the hearing shall not be less than ten (10) days after notice is made, as described in Section 1.04.
- (b) If a building is found to be in violation of this Ordinance, the City may require the owner, lienholder, or mortgagee of the building to within thirty (30) days repair or demolish the building, unless it is proven at the hearing that the work cannot reasonably be done in thirty (30) days.
- (c) If the City allows more than thirty (30) days for the building to be repaired or demolished, the City shall establish specific time schedules for the work to be commenced and finished 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 City Council.
- (d) The City shall not allow the owner, lienholder or mortgagee more than ninety (90) days to repair or demolish the building unless a detailed plan and time schedule for the work are submitted at the hearing and it is proven at the hearing that the work cannot reasonably be completed within ninety (90) days. Additionally, the owner, lienholder, or mortgagee must submit work progress reports to demonstrate compliance with the time schedule established. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the City's boundaries that exceeds \$100,000 in total value, the City 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. In lieu of a bond, the City 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 City. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the thirtieth (30th) day after the date the City issues an order.
- (e) In any case where fifty percent (50%) or more of the value or structure is damaged or deteriorated, a building shall be demolished or removed, and in all cases where a

structure cannot be repaired so that it will no longer exist in violation of the provisions of this Ordinance, it shall be demolished or removed.

Sec. 1.07 Order For Repair or Demolition

- (a) After the public hearing, if a building is found to be in violation of this Ordinance, the City may order that the building be repaired or demolished by the owner within a reasonable time, as established under Section 1.06.
- (b) If the building is ordered to be repaired or demolished, the City shall promptly mail by certified mail, return receipt requested, deliver by the United States Postal Service using signature confirmation service, or by personal delivery, a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The City shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or property on which the building is located.
- (c) If the ordered action is demolition of the building or structure, demolition shall not occur until the time for appeal of the order to district court under Section 1.09 has expired and no appeal has been taken; or, in the alternative, the order was appealed to district court but the appeal has been finally resolved in a manner that does not prevent the City from proceeding with demolition.

Sec. 1.08 Notice of Repair or Demolition

In addition to the order, each identified mortgagee or lienholder shall be sent a notice containing:

- (1) an identification of the building and property on which it is located (this does not have to be a legal description);
- (2) a description of the violation of this Ordinance; and
- (3) a statement that the City will demolish the building if the ordered action is not taken.

If the notice is returned “refused” or “unclaimed,” the validity of the notice is not affected and the notice shall be deemed delivered.

Within ten (10) days after the date the order is issued, the City shall:

- (1) file a copy of the order in the office of the City Secretary; and
- (2) publish a notice in a newspaper where the building is located stating:
 - (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 as to where a complete copy of the order may be obtained.

Sec. 1.09 Appeal

The owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an order of the City Council issued under this Ordinance may file in state district court a verified petition setting forth that the City Council's decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within thirty (30) calendar days after the date a copy of the order of the City Council is served on the owner, lienholder, or mortgagee by certified mail, return receipt requested, delivered by the United States Postal Service using signature confirmation service, or personal delivery; otherwise, said order shall become final as to each owner, lienholder, or mortgagee of the property.

Sec. 1.10 Demolition and Repair Expenses

- (a) Whenever it is discovered upon reinspection that the owner, mortgagee or lienholder has failed to either repair or demolish the building within the allotted time, the City, or its authorized agent, may repair or demolish and remove said building or cause the same to be done and charge the expenses incurred in doing such work or having the same done to the owner, mortgagee or lienholder of said land.
- (b) If such work is done at the expense of the City, then the said expense shall be assessed against any salvage resulting from the demolition of the building and against the lot, tract, or parcel of land, or the premises upon which such expense was incurred.
- (c) For the purposes of this section, any repair, alteration or improvement made to a building by the City will only be to the extent necessary to bring the building into compliance with the minimum housing standards and only if the building is a residential building with ten (10) or fewer dwelling units; provided, however, the City may elect to obtain a judicial determination by a decree of a court of competent jurisdiction of the existence, in fact, of a public nuisance in cases contemplated by this Ordinance. Such judicial determination may include any available remedy for the abatement of such a nuisance.

Sec. 1.11 Assessment of Lien

- (a) When the City incurs expenses to repair or demolish and remove the building, the City has a lien against the property on which the building is located, unless it is a homestead as protected by the Texas Constitution. The lien arises and attaches to the property when the City Council or the building official records and indexes notice of the lien with the County Clerk of Burleson County, Texas. The notice shall contain:
 - (1) the name and address of the owner, if that information can be determined with a reasonable effort;

- (2) a legal description of the property on which the building was located;
 - (3) the amount of expense incurred by the City;
 - (4) the balance due; and
 - (5) the date on which said work was done or improvements made.
- (b) The City shall have a privileged lien on such lot, lots, or other premises or real estate upon which said building was located, to secure the expenditure so made, which said liens shall be second only to tax liens and liens for street improvements; and said amount shall bear ten percent (10%) interest from the date such statement was filed. It is further provided that for any such expenditure and interest, as aforesaid, suit may be instituted and recovered, and foreclosure of said lien may be made in the name of the City; and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or expense.
- (c) The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the City for the expenses.

Sec. 1.12 Additional Authority to Secure Building

- (a) In addition to all other powers and authority elsewhere set forth, the building official shall have the authority to secure, by boarding up, locking, or other appropriate and effective means, any building that:
- (1) is in violation of this Ordinance and the minimum standards set forth herein; and
 - (2) is unoccupied or is occupied only by persons who do not have a right of possession to the building.
- (b) Before the 11th day after the date the building is secured, the City shall give notice to the owner by:

- (1) personally serving the owner with written notice;
- (2) depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- (3) publishing the notice at least twice within a ten (10) day period in a newspaper of general circulation in Burleson County if personal service cannot be obtained and the owner's post office address is unknown; or
- (4) 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) The notice must contain:

- (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 violations of this Ordinance that are present at the building;
- (3) a statement that the City will secure or has secured, as the case may be, the building; and
- (4) an explanation of the owner's entitlement to request a hearing about any matter relating to the City's securing of the building.

(d) The City shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the City's securing of the building if, within thirty (30) days after the date the City secures the building, the owner files with the City Secretary a written request for a hearing. The City shall conduct the hearing within twenty (20) days after the date the request is filed.

(e) The City has the same authority to assess expenses under this section as it has to assess expenses under Section 1.10.

(f) A lien is created under this section in the same manner that a lien is created under Section 1.11 and is subject to the same conditions as a lien created under that section.

Sec. 1.13 Penalty for violation

(a) The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby deemed to be a nuisance.

(c) Civil Remedies. Any person violating any provision of this Ordinance shall be liable to a civil penalty, after a hearing on the violations, in a sum not exceeding One Thousand Dollars (\$1,000.00) for each and every day of violation or, if the owner shows the property is the owner's lawful homestead, in an amount not to exceed Ten Dollars (\$10.00) per day for each violation, provided that:

- (1) The owner was notified of the requirements of this Ordinance and the owner's need to comply with the requirements; and
- (2) After notification, the owner committed an act in violation of this Ordinance or failed to take action necessary for compliance with this Ordinance.

If such a civil penalty is assessed, the City Secretary shall file a certified copy of the order containing such penalty with the County Clerk's office no later than three (3) working days after such order.

- (d) Other Remedies. The remedies provided herein shall be available to the City in addition to any penal or other remedy provided by law or equity which the City, state, or any other person may have to remedy the unsafe building condition.
- (e) The City may bring a civil action in a court of competent jurisdiction to collect the amount due plus all associated costs and fees.

Sec. 1.14 Liability

Neither the City nor any authorized agent acting under the terms of this Ordinance shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this Ordinance.

XVII. REPEALER

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent.

XVIII. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Snook hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

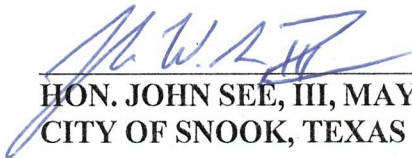
XIX. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

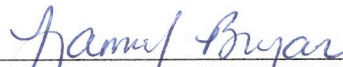
XX. PROPER NOTICE AND MEETING

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 of the Texas Government Code.

PASSED AND APPROVED THIS THE 23rd DAY OF MARCH, 2015.


HON. JOHN SEE, III, MAYOR
CITY OF SNOOK, TEXAS

ATTEST:


TAMMI BRYAN, CITY SECRETARY
CITY OF SNOOK, TEXAS