

CITY OF STAGECOACH, TEXAS

ORDINANCE NO. 0-187-06

SUBSTANDARD AND DANGEROUS BUILDINGS

AN ORDINANCE REQUIRING COMPLIANCE WITH THE MUNICIPAL BUILDING CODE; ESTABLISHING MINIMUM STANDARDS FOR STRUCTURES; PROVIDING FOR A PUBLIC HEARING ON VIOLATIONS OF THIS ORDINANCE; SETTING FORTH PROCEDURES FOR THE ASSESSMENT AND COLLECTION OF COSTS IN REMEDYING VIOLATIONS OF THIS ORDINANCE.

BE IT ORDAINED by the City Council for the City of Stagecoach, Texas, as follows:

Section 1 - Definitions and Requirement of Compliance with the Municipal Building Code

The term "structure" as used in this Ordinance shall encompass the definition of the word "building," and the term "building" herein shall be deemed to encompass the word "structure."

All construction, modifications, and repairs of any structure within the city limits of the City of Stagecoach shall comply with Ordinance No. 0-68-04, as amended.

Section 2 - Remedy of Violations Authorized

If the City Council finds that a building, fence, shed, awning, or other structure or part of a structure is likely to endanger persons or property, the City Council may order that the owner of the structure, the owner's agent, or occupant of the property, secure, repair, remove, vacate or demolish the structure within a specified time period. In addition, the City Council may order the repair, removal or demolition of a structure or part of a structure at the expense of the municipality and assess the costs of such work, and impose a lien against such property, as set forth herein.

Section 3 - Minimum Standards for Occupancy of Buildings

All structures located within the city limits of the City of Stagecoach, Texas, are subject to the following minimum standards for continued use and occupancy, regardless of the date of construction, and shall be deemed in violation of this Ordinance if:

- 1) the structure has deteriorated or become damaged through exposure to the elements, and will no longer provide protection from the weather; or
- 2) the structure or building has so structurally deteriorated or has been damaged to the extent that it is in danger of collapse, or cannot reasonably be expected to withstand reasonably anticipated weather conditions; or
- 3) the structure is being occupied and is not connected to an approved public sanitary system or an approved, installed, and properly functioning septic system; or

- 4) the structure is not constructed or maintained in conformance with applicable building, electrical, plumbing, fire or other codes, when such nonconformance constitutes a hazard to the public health, safety or welfare, or to the occupants of the building or structure; or
- 5) the structure exhibits unsafe or defective wiring or gas piping; or
- 6) the structure exhibits an unsafe or unsanitary condition which renders the premises unfit for human habitation, or which is likely to cause sickness, disease or be injurious to the public health, safety or welfare.

Section 4 - Substandard Buildings

The City Council may order that a building be secured, vacated, repaired, demolished, and the occupants relocated, if the building is:

- 1) dilapidated, substandard, unfit for human habitation, or is a hazard to the public health, safety or welfare; or
- 2) regardless of structural condition, unoccupied by its owners, lessees or other invitees, and is unsecured from unauthorized entry by vagrants or children; or
- 3) boarded up, fenced, or otherwise secured, but constitutes a danger to the public even though secured from entry or the means used to secure the building are inadequate to prevent unauthorized use of the building by vagrants or children; or
- 4) in violation of the minimum standards set forth in Section 3 of this Ordinance.

Section 5 - Public Hearing

Each owner, lienholder or mortgagee who holds an interest in property alleged to be in violation of this ordinance is entitled to a public hearing before City Council concerning property alleged to be in violation of this Ordinance.

Section 6 - Notice of Public Hearing

The City Secretary shall make a diligent effort to discover the owners, and each lienholder and mortgagee of the property, and shall forward a notice to such persons or entities giving them reasonable notice of the public hearing. The notice shall contain:

- (A) the name and address of the owners of the affected property if such information can be determined;
- (B) a legal description of the property;
- (C) a brief description of the purpose of the public hearing, including the time, place and date of the hearing; and
- (D) a statement that the owners, lienholders and mortgagees of the property will have the opportunity to comment at the hearing, and that they must submit proof of the scope of the work that may be required to comply with this Ordinance and the time it will reasonably take for the work.

Notices forwarded via certified mail, return receipt requested and returned “refused” or “unclaimed” shall be deemed properly delivered.

To discover the identities of the owners, lienholders and mortgagees, the City Secretary shall conduct a search of the following:

- a) the real property records of Montgomery County;
- b) the appraisal district records of Montgomery County;
- c) records of the Secretary of State;
- d) tax records of the City; and
- e) any utility records of the City, if applicable.

Section 7 - Decision of City Council & Order

After the public hearing, the City Council may specify a reasonable time, not to exceed thirty (30) days, 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, not to exceed thirty (30) additional days, for the ordered action to be taken by any of the mortgagees or lienholders in the event that the owner fails to comply with the order in the time period provided for action by the owner.

The City Council shall require the owners, lienholders, and mortgagees of the building to, within thirty (30) days, secure the building from unauthorized entry, or repair, remove or demolish the building. If the owners, lienholders, or mortgagees establish that the work cannot be reasonably performed within thirty days, the City Council may allow the owners, lienholders or mortgagees, an additional time setting forth a specific date to perform such work which date shall not be more that ninety (90) days from the date on which the order was issued. An order extending the period of time for completion of such work shall contain a specific time table for the commencement and performance of the work. No extension past ninety (90) days shall be allowed unless, at the public hearing, it is established that the work cannot be performed within ninety (90) days and the owners, lienholders or mortgagees submit a detailed plan and time schedule for the work. If more than ninety (90) days is allowed for the completion of the work, the City Council shall require that the owners, lienholders or mortgagees regularly submit progress reports to demonstrate compliance with the time schedule. The City Council may also require the owners, lienholders or mortgagees to establish a bond, or letter of credit, according to regulations and procedures set forth in TEX. LOC. GOV'T CODE § 214.001(k)(Vernons 2005 Supp.).

Section 8 Publishing of Order of City Council

Within ten (10) days after the date that the order is issued, the City Council shall file a copy of the order with the office of the City Secretary and shall cause a notice to be published in a newspaper of general circulation in the City 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 hearing or order; and (d) instructions stating where a complete copy of the order may be obtained.

Section 9 - Service of Order

After the hearing, the City Council shall promptly forward by certified mail, return receipt requested or by personal delivery, a copy of the order to the owner of the building and to any lienholder or mortgagee of the property.

Section 10 -- Violation of Order and Remedy by City

Without affecting any right of the City to collect on any bond or other financial guarantee, if the building is not vacated, secured, repaired, removed or demolished, or the occupants are not relocated, within the allotted time, then the City may vacate, repair, secure, remove or demolish the building, or relocate the occupants, at its own expense, as follows:

A. City's Election to Vacate, Secure, Remove, Demolish the Building or Relocate the Occupants, And Imposition Of Lien For Expenses

If the City is required to vacate, secure, remove, demolish the building or relocate the occupants of the property, the City may assess the expenses incurred in vacating, securing, removing, demolishing the building, or in relocating the occupants, and shall have a lien against the property for such expenses unless the property is a homestead under the Texas Constitution. The lien is extinguished if a person having legal interest in the property reimburses the City for its expenses in remedying the violation. The lien set forth herein arises and attaches at the time that the notice of lien is recorded in the office of the county clerk where the property is located. The notice of lien must contain a legal description of the property, the amount of expenses incurred and the balance due. The lien shall be a privileged lien subordinate only to a tax lien.

B. City's Election to Repair Property And Imposition Of Lien For Expenses

If a structure is not vacated, secured, repaired, removed or demolished within the time specified in the order, the City may elect to repair the building at its own expense and assess the expenses of repairing the building against the property where the building is located, and shall give notice of the assessment by the same manner as provided for the giving of notices of liens herein. However, liens established under this subsection are subject only to the homestead rights of occupants over the age of sixty-five (65), previously filed mortgage liens, and tax liens, but are superior to all judgment liens. Repairs conducted by the City may not exceed the minimum housing standards established by the City.

Section 11 -- Judicial Review

An owner, lienholder or mortgagee aggrieved by an order of the City Council may file in district court a verified petition setting forth that the decision of the City Council is illegal, in whole or in part, and specify the grounds of the illegality. Such petition must be filed within thirty (30) calendar days after the date that a copy of the order is delivered. If no such petition is filed within the thirty (30) day period, the order is considered final. If such order is not substantially reversed by the district court, the City may recover attorney's fees and other costs

and expenses incurred by it and shall be entitled to judgment for such fees, costs and expenses as set forth in TEX. LOC. GOV'T CODE § 214.0012(h)(Vernons 2005 Supp.).

Section 12 - Other Remedies Not Precluded

Nothing in this Ordinance shall preclude the City from bringing a civil action under any other ordinance, law, or regulation.

Section 13 - Effective Date

This Ordinance shall be effective on January 18, 2006, and Ordinance O-187-05 approved February 15, 2005 is hereby repealed.

PASSED AND APPROVED on this 17th day of January, 2006.

For the City of Stagecoach, Texas:

Approved:

Williams J. Berger, Mayor

Attest:

Elaine K. Simmons, City Secretary

STATEMENT OF THE PUBLIC UTILITY

The undersigned, _____, a duly qualified and sworn public utility officer who on his

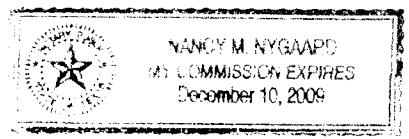
oath and belief is true and correct in the following statement of the public utility

I am the duly qualified and sworn public utility officer of the _____ Commission, _____
Texas and hereby certify that the above statement is true and correct to the best of my knowledge and
belief and that the same is true and correct to the best of my knowledge and belief and that
publication of this statement is required by law and that I am not a party to any fraud or
newspaper or other publication.

Date: _____

Dem. _____

Sec. _____



AFFIDAVIT OF PUBLICATION

Before me, the undersigned authority, on this day personally appeared Sarah Patton who on her oath stated:

City Of Stagecoach Public Notice

Ordinance No. O-68-06, Planning & Zoning, including revisions, was passed and approved by City Council on June 21, 2006 to go into effect July 1, 2006. This ordinance regulates building projects, tree cutting and assists with flood way management.

Ordinance No. O-5-05, Prohibition against Clutter and Refuse, including revisions, was passed and approved by City Council on Sept 9, 2005 with an effective date of the same. This ordinance regulates the unsanitary and objectionable material located on property.

Ordinance No. O-187-06, Substandard or Dangerous Buildings or Structures, including revisions, was passed and approved by City Council Jan 17, 2006 with an effective date of Jan 18, 2006. This ordinance regulates the handling of condemned buildings and structures.

I am the Account Manager of the Tomball Magnolia Tribune, a newspaper published in Harris County, Texas and now the facts stated in this affidavit. The attached matter is a true and correct copy of the publication of the citation of which it purports to be a copy, as the same appeared in such newspaper in the respective issue of:

7/3, 2006

_____, 2006

Sarah A. Patton Account Manager

Sarah Patton

Subscribed and sworn to this 5th day of July, 2006

