

ORDINANCE 103

ORDINANCE OF THE CITY OF PETROLIA, TEXAS

AN ORDINANCE PROVIDING FOR THE JUST, EQUITABLE AND PRACTICAL METHOD TO REGULATE DILAPIDATED, UNSAFE, DANGEROUS, UNSANITARY BUILDINGS OR STRUCTURES WHICH MAY BECOME A HEALTH OR FIRE HAZARD

ARTICLE I. UNSAFE BUILDING

Section 1. Purpose.

It is the purpose of the provisions of this article to provide a just, equitable, and practicable method, to be cumulative with and in addition to any other remedy available at law, whereby buildings or structures which are dilapidated, unsafe, dangerous, unsanitary, or are a menace to the life, limb, health, moral, property, safety and general welfare of the people of the city, or which tend to constitute a fire hazard, may be required to be repaired, vacated, or demolished.

Section 2. Definitions.

As used in this article, the following terms shall have the meanings indicated in this section:

Board of appeals: The city council, meeting to hear and determine appeals from a decision or order of the fire marshal or the health officer rendered pursuant to this article, or pursuant to the fire code of the city.

Code enforcement officer: The code enforcement officer of the City of Petrolia shall be the city administrator and/or his designee or his authorized agents, assistants, deputies or representatives or the city secretary, or the deputy city secretary, or the health officer, or the mayor in the absence of any of the above appointed officials employees.

Fire marshal: The fire marshal of the city, or his authorized agents, assistants, deputies, or representatives.

Health officer: The duly appointed health officer of the city or his authorized agents, assistants, deputies, or representatives.

Section 3. Declared public nuisance.

All buildings or structures, irrespective of material from which the buildings or structures were built, which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, as specified by the fire prevention code of the city, or any other provisions of law, or are otherwise dangerous to human life, or which, in relation to existing use, constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, neglect, decay, dilapidation, obsolescence, or abandonment as specified in the building code of the city, or any other provision of law are, for the purpose of this article, declared to be a public nuisance and shall be repaired, vacated and repaired or demolished as hereinafter provided. For the purpose of this article, any building or structure which has any or all of the following conditions or defects shall be deemed a dangerous building:

- (1) Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit, in case of fire or panic, for all persons housed or assembled therein would be required to, or might, use such door, aisle, passageway, stairway, or other means of exit;
- (2) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- (3) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof, is not of sufficient strength or stability, or is not so anchored, attached or fastened in place as to be capable of resisting a normal wind pressure.
- (4) Whenever any portion thereof has settled to such an extent that the walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of new construction.
- (5) Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or some other cause, is likely to partially or completely collapse, or give away.
- (6) Whenever for any reason whatsoever the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is used.

- (7) Whenever the exterior walls or other vertical structural members list, lean or buckle to an extent that a plumb line passing through the center of gravity does not fall inside the middle third of the base.
- (8) Whenever the building or structure, exclusive of the foundation, shows thirty three (33) percent or more damage or deterioration to the member or members, or fifty (50) percent of damage or deterioration of a non supporting enclosing or outside wall or covering.
- (9) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.
- (10) Any building or structure which has been constructed, or which exists or is maintained in violation of any specific requirement or prohibition, applicable to such building or structure, of the building regulations and the fire code of this city, when so determined and reported by the code enforcement officer or any law ordinance of this state or city relating to the condition, location, or structure of buildings.
- (8) Any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non supporting part, member or portion, less than fifty (50) percent, or in any supporting member less than sixty-six (66) percent of the strength, fire-resisting qualities or characteristics or weather resisting qualities or characteristics required by law or ordinance in the case of a newly constructed building or like area, height and occupancy in the same location.
- (9) Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation or is in condition that is likely to cause sickness or disease, when so determined by the health officer, or is likely to work injury to the health, safety or general welfare of those living within.
- (10) Whenever the building or structure, used or intended to be used for dwelling purposes, has light, air, and sanitation facilities inadequate to protect the health, safety, or general welfare of persons living within.
- (11) Whenever any building or structure by reason of obsolescence, dilapidated condition, deterioration, damage, electric wiring, gas connections, heating apparatus, or other cause is in such condition to be a fire hazard and is so situated as to provide a ready fuel supply to augment the spread and intensity of fire arising from any cause.

- (12) Whenever any building or structure is likely to provide breeding places and habitat for snakes, rats, mice, and other vermin which are detrimental to the public health.

Section 4. Notice to repair, vacate and repair or demolish-Generally.

If the fire marshal, city health officer, or building inspector finds that any building or structure or any portion thereof, is a fire hazard or is dangerous and unsafe, he shall report the same to the city secretary. The code enforcement officer shall prepare a notice in writing stating in detail the conditions which render the building or structure, or portion thereof, a nuisance, as defined in section 3 of this article, and ordering the repair, vacation and repair, or demolition thereof within thirty (30) days, (see the city's building code) from the date of personal service or mailing of the notice. The code enforcement officer may, when it is time for additional thirty (30) day periods, not to exceed a total extension of one hundred twenty (120) days, upon the application of the owner or person charged with the duty of complying with such order.

Section 4-100 Same-Property identification.

The notice shall set forth the street address and a description sufficient for identification of the building or structure, and the premises upon which the building or structure is located.

Section 4-101. Same-Service and posting.

- (a) The code enforcement officer shall cause copies of the notice to be served upon each of the following: The person, if any, in real or apparent charge and control of the premises involved; the owner of record title; the holder of any mortgage, trust or deed, or other lien or encumbrance of record; the owner or holder of any lease of record; the holder of any other estate of interest in or to the building or structure or the land upon which it is located.
- (b) The notice shall be served personally upon any person entitled thereto if he can be found within the city limits. If any person entitled thereto is not found within the city limits, service shall be made by depositing a copy of such notice in the United States Post Office, properly enclosed in a sealed envelope, and with the postage thereon fully prepaid. Such mail shall be registered or certified, return receipt requested, and addressed to the person entitled thereto at the address of such person as it appears on the last equalized assessment roll of the county or as known to the code enforcement officer. If no address so appears or is known to the code enforcement officer, then a copy shall be addressed to such person at the address of the building or structure involved. Service by registered or certified mail shall be complete on the day of mailing. The failure of any owner or other persons to receive such notice shall be complete on the day of mailing. The failure of any owner or other persons to receive such notice shall not affect in any manner the validity of any proceedings taken hereunder.

- (c) One (1) copy of the notice shall be conspicuously posted on the building or structure involved.
- (d) Upon giving notice as provided herein, the code enforcement officer shall file with the city secretary an affidavit thereof certifying to time and manner in which such notice was given and posted. He shall also file therewith any receipt card which may have been returned to him in acknowledgment of the receipt of such notice by registered or certified mail.

Section 4-102. Same-Appeals from order.

Any person aggrieved by any order of the code enforcement officer hereunder to repair, vacate and repair, or demolish any building or structure, or portion thereof, may appeal such order to the board of appeals. The appeal shall be in writing and shall state the substance of the order appealed from, shall be submitted to the fire marshal, code enforcement officer, or city health officer within twenty (20) days from the date of personal service or mailing of notice of order to repair, vacated and repair, or demolish, which is being appealed. The code enforcement officer shall set the matter for hearing before the board of appeals. Notice of the date, hour and place of the hearing shall be posted and served at least ten (10) days before the date set for the hearing in the manner and upon the persons specified in section 4-101. The notice shall order all interested parties who desire to be heard to appear and show cause, if any they have, when the building or structure, or portion thereof, involved in the proceedings should not be repaired, vacated and repaired, or demolished.

Section 4-103. Same-Hearing before board of appeals.

At the time stated in the notice, the board of appeals shall hold a public hearing, and hear and consider any relevant evidence offered by the code enforcement officer, as well as the owner, occupant or person in charge and control, mortgagee or beneficiary under any deed of trust, lessee, or any other person having any estate or interest in such building or structure, pertaining to the matters set forth in the notice to repair, vacate and repair, or demolish. Within thirty (30) days after the conclusion of the hearing, the board of appeals shall make written findings of fact as to whether or not the building or structure or portion thereof, is unsafe and a public nuisance, and shall render its decision.

Section 4-104. Repair, vacation and repair or demolition standards.

- (a) The following standards, where applicable, shall be followed in substance by the board in ordering the repair, vacation or demolition of any building or structure. Any order to demolish, rendered pursuant to this section, shall not indicate an alternative permission to repair; however, an order to repair may be satisfied by demolition.

- (b) If the unsafe building can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.
- (c) If the unsafe building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated and repaired.
- (d) If the unsafe building is fifty (50) percent damaged, or decayed, or deteriorated, it shall be demolished.
- (e) In all cases where an unsafe building cannot be repaired so that it will no longer exist in violation of the terms of the article, it shall be vacated and demolished.
- (f) In cases where an unsafe building is a fire hazard, as specified by the fire code of the city, existing or erected in violation of the terms of this article, or any other ordinance of this city, or statute of the stat, it shall be repaired, except where the cost of such repairs would exceed fifty (50) percent of the value of such unsafe building, in which case it shall be demolished.

Section 4-105. Board of appeals-Generally.

The board of appeals as mentioned in this article shall be the city council. This board of appeals shall adopt reasonable rules and regulations for conduction its investigation and hearings. All decisions and findings of the board of appeals shall be made in writing to the code enforcement officer, with duplicate copy of such decisions and findings being sent to the appellent.

Section 4-107. Same-Order; when to be rendered.

- (a) Written thirty (30) days after the conclusion of the hearing, the board of appeals shall render its decision, either closing the proceedings or if it finds that the building or structure, or portion thereof, is unsafe, and a nuisance, ordering that it be repaired, vacated and repaired, or demolished.
- (b) If, from a full and fair consideration of the evidence and testimony received at the hearing, the board of appeals shall determine that the building or structure, or any portion thereof, is unsafe and a public nuisance, then it shall deny the appeal and issue an order certified by the secretary of such board ordering that:
 - (1) The building or structure must be repaired, vacated and repaired or demolished;
 - (2) The occupant, lessee, or other person in possession must vacate such building or structure, or that he may remain in possession while repairs are being made;

- (3) Any mortgagee, beneficiary under a deed of trust, or any other person having an interest or estate in said building or structure may, at his own risk, repair, vacate and repair, or demolish it.
- (c) The order shall:
 - (1) Set forth the information required in section 4-100 of this article;
 - (2) Contain a statement of the particulars which render the building or structure unsafe and a public nuisance; and
 - (3) Contain a statement of the things required to be done.
- (d) The order shall further specify:
 - (1) The time within which the work required must be commenced, which shall be not less than ten (10) days after the issuance of the order; and
 - (2) A reasonable time within which the work shall be completed.
- (e) The code enforcement officer shall cause copies of the order to be posted on the building or structure involved and served in the manner and upon the persons specified in section 4-101.

Section 4-108. Sale, repair or demolition by city.

Whenever an order to repair, vacate and repair, or demolish any building or structure, or any portion thereof has not been complied with within the time set by the code enforcement officer, or upon appeal by the board of appeals, the code enforcement officer or the board of appeals shall have the power, in addition to any remedy herein provided, to:

- (1) Cause the building or structure ordered to be repaired to be vacated until such time as the necessary repairs have been made. No person shall thereafter occupy or permit to be occupied any such building until and unless the necessary repairs have been made and the code enforcement officer has approved same and issued a permit to reoccupy such building or structure.
- (2) To cause the building or structure to be demolished, and the land restored to a reasonably clear and level condition, including the filling of any excavation to the finished grade of the surrounding area.

Section 4-109 Assessment of costs against property creating a lien.

- (a) *Generally.* The amount of the cost or expenses of abating such nuisance or removing or demolishing dangerous structures upon the various lots or parcels of land, including incidental expenses, as confirmed by the city council, shall constitute special assessments against the respective lots or parcels of land, and as thus made and confirmed shall constitute a lien on such property for the amount of such assessments, respectively, until paid. Such lien shall, for all purposes, take priority over all other liens except tax liens, or paving assessments liens.
- (b) *Validity of assessment.* The validity of any assessment levied under the provisions of this article shall not be contested in any action or proceeding unless the same if commenced within thirty (30) days after the assessment is confirmed.
- (c) *Extinguishment of lien.* The lien may be extinguished by the owner reimbursing the city for all removal expenses.
- (d) *Enforcement of lien.* The lien may be enforced and expenses recovered by forced sale if authorized under appropriate state law.
- (e) *Notice.* Notice of assessment of expenses shall be registered mail return receipt requested to the property owner and any lien holder.

Section 4-110. Liability of officers, agents, or employees.

No officer, agent or employee of the city shall be personally liable for damage incurred or alleged to be incurred as a result of any act required, permitted or authorized to be done or performed in the discharge of his duties pursuant to this article. Any suit brought against any officer, agent or employee of the city, as a result of any act required, permitted or authorized in the discharge of his duties under this article shall be deemed an action against the city.

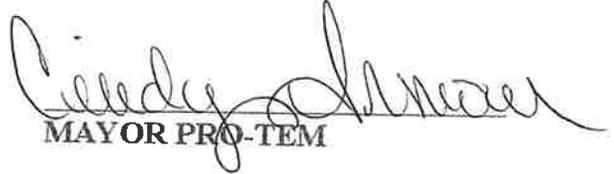
Section 4-111. Fire and building codes unaffected by article; exception.

The provisions of this article shall not be deemed to repeal by implication any other provisions of the fire code of the city, the building code of the city or any other ordinance of the city and the adoption hereof shall not be deemed to affect or diminish the power or authority of any officer or employee of the city to condemn any building or structure erected or maintained in violation of any other provision of the fire code of the city, the building code of the city, or any other ordinance of the city; however, any repairs made, or to be made, to any structure under this article shall be made in accordance with the building code of the city, and this article is cumulative of such code for the purposes set out herein, except that the time allowed for compliance with either of such ordinances shall run concurrently.

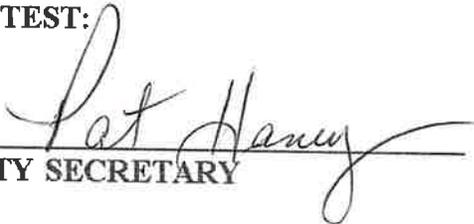
Section 5-112. Violations, penalty.

- (a) The owner of other person having charge and control over any building structure determined by the code enforcement officer, or upon appeal by the board of appeals, to be unsafe and a public nuisance who shall fail to comply with any order to repair, vacate and repair, or demolish building or structure, or any portion thereof, shall be guilty of a misdemeanor.
- (b) The occupant or lessee in possession who fails to comply with any order to vacate such building or structure, or any portion thereof, in accordance with any order given as provided for in this article, shall be guilty of a misdemeanor.
- (c) Any person who removes any notice or order posted as required in this article, shall be guilty of a misdemeanor.
- (d) Any person who violates any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to punishment as provided in section 1-7 of this Code of Ordinances

**Duly Passed and Approved by the City Council of the City of Petrolia on this
4th day of May, 2004.**


MAYOR PRO-TEM

ATTEST:


CITY SECRETARY