

CITY OF CHINA, TEXAS
ORDINANCE NO. 2-1103

AN ORDINANCE OF THE CITY OF CHINA, TEXAS, PROVIDING FOR THE REGULATION OF DILAPIDATED BUILDINGS, SUBSTANDARD BUILDINGS, AND UNSECURED VACANT BUILDINGS; PROVIDING FOR THE DEFINITIONS OF A DANGEROUS BUILDING OR STRUCTURE; DECLARING SUCH STRUCTURES TO BE A PUBLIC NUISANCE; PROVIDING FOR STANDARDS FOR REPAIR, VACATION, OR DEMOLITION; PROVIDING FOR THE DUTIES OF THE BUILDING INSPECTOR, FIRE MARSHAL, AND CITY COUNCIL ACTING AS A BUILDING COMMISSION; PROVIDING FOR A FINE OF NOT LESS THAN \$100.00 NOR MORE THAN \$1,000.00 FOR EACH DAY THAT THIS ORDINANCE IS VIOLATED; AND PROVIDING FOR CONFLICTS, SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the existence of buildings that are dilapidated, substandard, unfit for human habitation and/or are a hazard to the public health, safety and welfare is a matter of legitimate concern in the City of China, Texas; and

WHEREAS, to promote the health, safety, and welfare of the citizens of China, Texas, and protect said citizens from the dangers posed by such buildings, the City Council of China, Texas desire to enact regulations to address the repair, removal, demolition, securing and/or evacuation of such structures; and

WHEREAS, Texas Local Government Code Section 214.001 gives the city council the power and authority to enact such regulations by ordinance;

WHEREAS, the city council of China, Texas finds that it is in the best interests of the citizens of its city to adopt an ordinance that provides for the repair, vacation, or demolition of dangerous buildings or structures.

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

SECTION 1. "DANGEROUS BUILDINGS AND STRUCTURES" DEFINED.

All buildings or structures of any nature including any mobile homes, wells, or swimming pools that are found to be dangerous, dilapidated, or a fire hazard or structures that could injure, hurt, or harm individuals or which endanger health and which have anyone or all of the following defects, shall be deemed "dangerous buildings or structures."

(a) Those whose interior walls 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 third of its base.

(b) Those which, exclusive of the foundation, show thirty-three percent (33%) or more of damage or deterioration of the supporting member or members or fifty percent (50%) of damage or deterioration of the nonsupporting enclosure on outside walls or covering.

(c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

(d) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City.

(e) Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which utterly fail to provide amenities essential to decent living so that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety, or general welfare of those living therein.

(f) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(g) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of this City.

(h) Those which have a foundation that is not so free of holes, cracks, buckling, crumbling, and defects as to support adequately the dwelling structure.

(i) Those which do not have a floor, exterior wall, and roof that is so free of holes, cracks, and loose, rotten, warped, or protruding boards as to protect the occupants of the dwelling or dwelling unit reasonably from weather elements and from danger of collapse.

(j) Those which do not have interior walls and ceilings that are so free of holes, cracks, loose plaster, loose and baggy wallpaper, defective materials, and structural deterioration as to reasonably serve their purpose and as to protect the occupants of the structure from danger of collapse and of fire.

(k) Those buildings or structures that have been so damaged by fire, wind, earthquake, or flood, or have become so dilapidated or deteriorated as to become: (i) an attractive nuisance to children; (ii) a harbor for criminals or dangerous persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful acts.

(l) Those buildings or structures that have any portion of such building or structure remaining on a site after the demolition or destruction of the building or structure, or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(m) Those structures existing in violation of any provision of the Building Code of the City of China, Texas, or any provision of the City's Fire Code or other ordinances of the City.

SECTION 2. DECLARED TO BE PUBLIC NUISANCES.

All dangerous structures within the terms of Section 1 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as provided in this ordinance.

SECTION 3. STANDARDS FOR REPAIR, VACATION, OR DEMOLITION.

The following standards shall be followed by the Building Inspector, Fire Marshal, and the City Council, acting in its capacity as Building Commission, under the terms of this Ordinance in ordering the repair, vacation or demolition:

(a) If the dangerous structure can reasonably be repaired so that it will no longer exist in violation of this Ordinance, it shall be ordered repaired.

(b) If the dangerous structure is in such a condition as to make it dangerous to the health, safety, morals, or general welfare of its occupants, it shall be ordered to be vacated.

(c) In any case where a dangerous structure is fifty percent (50%) or more damaged, decayed, or deteriorated from its original value or structure, it shall be demolished, and, in all cases where a structure cannot be repaired so that it will no longer exist in violation of the terms of this Ordinance, it shall be demolished. In all cases where a dangerous structure is a fire hazard existing or erected in violation of the terms of this Ordinance or any ordinance of the City or statutes of the State, it shall be demolished. Included in the term "demolished" in this Ordinance is the cleaning of the property and removing of all debris and trash.

SECTION 4. DUTIES OF BUILDING INSPECTOR OR FIRE MARSHAL.

The duties of the Building Inspector or Fire Marshal under this Ordinance shall be as follows:

(a) Inspect or cause to be inspected annually all public buildings, schools, halls, churches, or other structures as may be deemed necessary for the purpose of determining whether any conditions exist which render such places a dangerous structures.

(b) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this Ordinance.

(c) Inspect any building, wall, or structure reported by the emergency service district or county sheriff's department as probably existing in violation of the terms of this Ordinance.

(d) Notify in writing, by certified mail, the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in such building or structure as shown by the tax roll or the deed records of the County Clerk, of any building or structure found by them to be a dangerous building, stating that: (1) the owner shall vacate, repair, or demolish the building or structure in accordance with the terms of this notice and this Ordinance; (2) the occupant or lessee shall vacate the building or may have it repaired in accordance with the notice and remain in possession; (3) the mortgagee, agent, or other persons having an interest in the building or structure as shown by the deed records of the County Clerk may, at his own risk, repair, vacate, or demolish the structure or have such work or act done, provided that any person notified under this subsection to repair, vacate, or demolish any structure shall be given such reasonable time, not exceeding 90 days, as may be necessary to do or have done the work or act required by the notice provided for herein.

(e) Set forth in the notice provided for in subsection (d) of this section a description of the building or structure deemed unsafe, a statement of the particulars which make the structure a dangerous structure and an order requiring the same to be put in such condition as to comply with the terms of this Ordinance within such length of time, not exceeding 90 days, as is reasonable.

(f) Report to the City Council in its capacity as Building Commission any noncompliance with the "notice" provided for in subsections (d) and (e) of this section.

(g) Appear at all hearings conducted by the City Council in its capacity as Building Commission and testify as to the conditions of dangerous buildings.

(h) Place a notice on all dangerous structures upon determination, reading as follows:
"This building has been found to be a dangerous building by the City of China, Texas Building Inspector or Fire Marshal. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building as shown by the Deed Records in the office of the County Clerk of Jefferson County, Texas. It is unlawful to remove this notice until such notice is complied with."

SECTION 5. DUTIES OF CITY COUNCIL ACTING AS BUILDING COMMISSION.

The duties of the City Council acting in its capacity as Building Commission under this Ordinance shall be as follows:

- (a) Upon receipt of a report of the Building Inspector or Fire Marshal as provided for in subsection (f) of Section 4, written notice by certified mail is to be given to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in the structure as shown by the deed records of the County Clerk's office to appear before the Building Commission on a date specified in the notice to show cause why the building or structure reported to be a dangerous structure should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the Building Inspector's and Fire Marshal's notice provided for in subsection (e) of Section 4.
- (b) Hold a hearing and hear such testimony as the Building Inspector or Fire Marshal and the owner, occupant, mortgagee, lessee, or any other person having an interest in the structure as shown by the deed records of the County Clerk's office shall offer relative to the determination of the question of whether the building or structure in question is a dangerous structure.
- (c) Make written findings of fact from the testimony offered, pursuant to subsection (b) of this section as to whether or not the building in question is a dangerous structure.
- (d) Upon a determination that the building or structure in question does constitute a dangerous building, issue an order based upon findings of fact made pursuant to subsection (c) of this section commanding the owner, occupant, mortgagee, lessee, or all other persons having an interest in the building as shown by the deed records of the County Clerk's office to repair, vacate, or demolish any structure found to be a dangerous building within the terms of this Ordinance.
- (e) After the hearing, the City will promptly deliver by personal delivery or certified mail, return receipt requested, a copy of the order to the owner of the building and to any mortgagee or lienholder. The City shall use the records and office of the Jefferson County Clerk to identify the address of any owner, lienholder, or mortgagee of the property. The City shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building. As provided in Section 214.001(e) of the Local Government Code, no notice other than the copy of the order is required to a mortgagee or lienholder in the event that the owner fails to timely take the action ordered. Any notice or provision of a copy of an order required herein which is returned by the United States Postal Service as "refused" or "unclaimed" is deemed to have been delivered.
- (f) Within ten (10) days after the date that the City Council issues the order, the City shall: (1) file a copy of the order in the office of the City Secretary, and (2) publish in a newspaper of general circulation of the City of China, a notice 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 order; and (d) instructions stating where a complete copy of the order may be obtained.
- (g) The City Council's order shall require the owner, lienholder, or mortgagee of the building to, within thirty (30) days, secure the building from unauthorized entry; or repair, remove, or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within

thirty (30) days. If more than thirty (30) days are allowed to the owner, lienholder, or mortgagee to repair, remove, or demolish the building, then the City Council shall establish a specific time schedule for the commencement and performance of the work, 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. Notwithstanding anything to the contrary herein, the City will not allow the owner, lienholder, or mortgagee more than ninety (90) days to repair, remove, or demolish the building, or fully perform all work required to comply with the order, unless the owner, lienholder, or mortgagee: (1) submits at the hearing a detailed plan and time schedule for the work; and (2) establishes at the hearing that the work cannot be reasonably completed within ninety (90) days because of the scope and complexity of the work. If more than ninety (90) days are allowed to an owner, lienholder, or mortgagee to complete any part of the work required to repair, remove or demolish the building, the City will require the owner, lienholder, or mortgagee to regularly submit progress reports to the City to demonstrate that the owner, lienholder, or mortgagee has complied with the time schedule established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee to appear before the Mayor, or the Mayor's official designee, to demonstrate compliance with the time schedules. If the City Council allows more than 90 days to complete the work, the City may require a bond or other security as authorized under section 214.00(k) of the Local Government Code if the owner or lienholder/mortgagee owns property within the City (including structures or improvements) which exceed one hundred thousand (\$100,000.00) dollars in total value.

(h) If, at the expiration of 60 days from a determination by the City Council that a building or structure is to be demolished, the same has not been destroyed nor has a time schedule been in place for the performance of work, it may be demolished at the expense of the owner thereof by the City or its contractor. The materials of such structure shall be sold and the net cost of the demolition shall be charged to the owner and, if any balance remains, it shall be held for the owner or any other parties entitled thereto. If the cost of the demolition exceeds the value of the materials of such building, such excess shall be charged as a lien upon the real property on which the building is situated and the City may file suit to foreclose and satisfy the lien to the extent allowed by law.

SECTION 6. MAILING AND POSTING OF NOTICES WHEN OWNER, LESSEE, ET CETERA, IS ABSENT FROM CITY.

In cases, save those that constitute a clear and present danger as defined in Section 5, where the owner, occupant, lessee, or mortgagee is absent from the City, all notices or orders provided for in this Ordinance shall be sent by certified mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in the structure as shown by the deed records of the County Clerk's office, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the building or structure in question. Such mailing and posting shall be deemed sufficient notice for the Building Commission to hold its hearing.

SECTION 7. ADOPTION.

This Ordinance is hereby added to the Ordinances of the City of China, Texas, and the provisions contained therein shall apply to all dangerous buildings as herein defined, which are now in existence or which may hereafter become dangerous in the jurisdiction of the City of China.

SECTION 8. CONFLICTS.

All ordinances and provisions of the City of China, Texas, that are in conflict with this Ordinance shall be, and the same are, hereby repealed, and all ordinances and provisions of ordinances of said City not so repealed are hereby retained in full force and effect.

SECTION 9. SEVERABILITY.

It is the intent of the City Council that each paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance be deemed severable and, should any such paragraph, sentence, subdivision, clause, phrase, or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to effect the validity of those provisions of this Ordinance left standing, nor the validity of any ordinances of the City of China.

SECTION 10. PENALTY.

Any person, firm, company, partnership, corporation, or association violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each such violation, and each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense.

SECTION 11. PUBLICATION.

The caption of this ordinance shall be published in accordance with §52.011 of the Texas Local Government Code.

SECTION 12. EFFECTIVE DATE.

This Ordinance will be effective upon publication.

SECTION 13. OPEN MEETINGS.

It is hereby officially found and determined that the meeting at which this ordinance is 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, Texas Government Code.

CERTIFICATE FOR RESOLUTION

I hereby certify that the foregoing resolution was presented to the City Council for the City of China, Texas during a meeting on the 16th day of July, 2015. A quorum of the City Council being then present the reading, it was then duly moved and seconded that the resolution be adopted, and such resolution was then adopted.

PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL FOR THE CITY OF CHINA, TEXAS,
on the 7-16-15 day of _____, 2015.

By: _____

John Walker, Mayor
City of China, Texas

ATTEST:

Karan Berman
Karan Berman, City Secretary