

## ARTICLE 3.05 SUBSTANDARD BUILDINGS OR STRUCTURES<sup>(\*)</sup>

### Sec. 3.05.001 Definitions

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

*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.

(1995 Code, sec. 3.1901)

### Sec. 3.05.002 Violations; 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 article, or who refuses or fails to leave a building which has been ordered vacated under the terms of this article, 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 article, or who otherwise violates any provisions of this article or any order of the city council as provided for herein, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine in accordance with the general penalty provision found in [section 1.01.009](#) of this code. (1995 Code, sec. 3.1908)

### Sec. 3.05.003 Defective conditions

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:

- (1) 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 of the house, building, or structure which protect from the weather will no longer reasonably protect from the weather.
- (2) Any building or structure which is so structurally deteriorated or damaged that it is in danger of collapse or which cannot be expected to withstand the reasonably anticipated storms or hurricanes.
- (3) Any building used for the occupancy of one (1) or more persons which is not connected to an approved public sanitary sewer or does not provide connection to a property installed and approved septic system.

- (4) Any building or structure not constructed or maintained in conformity with the fire code of the city when such nonconformity constitutes a hazard to the safety of persons or property.
- (5) Any building or structure not wired in conformity with the electrical code of the city when such nonconformity constitutes a hazard to the safety of persons or property.
- (6) Any building or structure not constructed in conformity with the plumbing code of the city when such nonconformity constitutes a hazard to the safety of persons or property.
- (7) Any building or structure not constructed in conformity with the building code of the city when such nonconformity constitutes a hazard to the safety of persons or property.
- (8) Any building or structure so constructed or maintained as to constitute a menace to health or safety, including:
  - (A) All conditions conducive to the harboring of rats, snakes, mice, other disease-carrying animals, or insects reasonably calculated to spread disease;
  - (B) Conditions hazardous to the safety of persons or property, such as inadequate bracing, structural support, or construction, or the presence of deteriorated materials; or
  - (C) Conditions constituting an attractive nuisance creating a hazard to the health or safety of minors.
- (9) All buildings and structures detrimental to the economic welfare of the city that create urban blight adverse to the maintenance, continuing development, and revitalization of the city.

(1995 Code, sec. 3.1902)

#### **Sec. 3.05.004 Declaration of nuisance; abatement required**

All substandard buildings or structures within the provisions of this article which shall constitute a hazard to the health, safety, or general welfare of their occupants, the citizens of the city or the public are declared to be public nuisances and shall be ordered to be repaired, vacated, or demolished as hereinafter provided. (1995 Code, sec. 3.1903)

#### **Sec. 3.05.005 Inspections and reports**

It shall be the duty of the city building official, or other representative designated by city council, to inspect all buildings or structures reported to be, or believed to be, substandard, to present a

report of such inspection to the city council, and to give notice of the intention of the city council to hold hearings and follow the procedures hereinafter provided. (1995 Code, sec. 3.1904)

**Sec. 3.05.006 Procedure for ordering repair, vacation or demolition**

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:

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

(A) When it shall appear that a building or structure in the city is a substandard building or structure under the terms of this article and that such building or structure or the manner of its use constitutes an immediate danger to life or property, the condition shall be deemed a hazard justifying the use of emergency measures, and the city council may order any of the following emergency measures to be taken:

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

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

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

(iv) The demolition of such walls, roofs, and supports, or the entire building or structure, or so much thereof as cannot be safety braced or made secure;

(v) 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.

(B) 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 or her representatives, or, if such premises are 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 or her representative by certified mail, return receipt requested, and by regular mail. Upon the adoption of such emergency order, the city council shall schedule a public hearing and cite the owner or his or her representative to appear and show cause why such building or structure should not be declared a substandard building or structure and why he or she 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 subsection. Such hearing shall be conducted in accordance with the provisions of subsection (2) hereof. In the event that such notification would create such a delay as would materially increase the hazard to life or property, then such notice need not be given.

(C) In the event such notice is given and the owner or his or her representative shall refuse or fail to carry out the orders of the city council or shall fail to carry out such order satisfactorily, then in either such event the city may proceed to carry out such orders either by private contract or by having the city perform the work, and the cost thus incurred shall constitute a valid lien against the property so repaired.

(2) Normal procedure.

(A) When it shall come to the attention of the city council that a building or structure in the city is substandard [under] the provisions of this article, the city council may schedule a hearing and cite the owner of the building or structure or his or her 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 or she 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.

(1995 Code, sec. 3.1905)

(B) Such citation must be given:

(i) By personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien and/or other applicable instruments on file in the office of the county clerk; and

(ii) To all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.

(1995 Code, sec. 3.1905; Ordinance adopting Code)

(C) On the day set in such citation the hearing shall be conducted, and on the basis of such hearing the city council 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 substantial [substandard] qualities. (1995 Code, sec. 3.1905)

**Sec. 3.05.007 Standards for ordering repair, vacation or demolition**

The following standards may be followed by the city council in ordering the repair, vacation, or demolition of a substandard building or structure:

- (1) 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 article, it shall be ordered repaired.
- (2) 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, or the public, it shall be ordered to be vacated.
- (3) 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 this article, it shall be demolished.

(1995 Code, sec. 3.1906)

**Sec. 3.05.008 Remedial action by city; lien for city's expenses**

(a) After the hearing, if the building or structure is found to be substandard, the city council may direct that the building or structure be repaired or removed within a reasonable time. If such repair or removal has not been made at the expiration of the allotted time, the city may repair or 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. (1995 Code, sec. 3.1907)

(b) Notice of the assessment of the lien shall be signed in the name of the city by the mayor or city manager. It shall state that the city council 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 the 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 city council on the land and improvements 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. (1995 Code, sec. 3.1907; Ordinance adopting Code)

(c) 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 or her representative by personal service or by certified mail, return receipt requested, and regular mail. (1995 Code, sec. 3.1907)

**Sec. 3.05.009 Enforcement of orders by court action**

It shall be the duty of the city attorney or attorney for the city to enforce the orders of the city council, when authorized, by bringing an action in a court of competent jurisdiction. (1995 Code, sec. 3.1909)