

ORDINANCE NO. 197-10

AN ORDINANCE OF THE CITY OF HACKBERRY, DENTON COUNTY, TEXAS, 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 OFFICIAL, FIRE MARSHAL, AND CITY COUNCIL ACTING AS A BUILDING COMMISSION; PROVIDING FOR A FINE OF NOT LESS THAN \$200.00 NOR MORE THAN \$2,000.00 FOR EACH DAY THAT THIS ORDINANCE IS VIOLATED; AND PROVIDING FOR CONFLICTS, SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, Texas Local Government Code Section 214.001 provides that a Type A general law municipality may, by ordinance, require the demolition or repair of a building that is:

- (1) dilapidated, substandard, or unfit for human habitation; or
- (2) a hazard to the public health, safety, and welfare;

WHEREAS, the City of Hackberry is a Type A general law municipality as defined by the Texas Local Government Code; and

WHEREAS, the Hackberry City Council finds that it is in the best interests of the citizens of Hackberry 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 HACKBERRY, DENTON COUNTY, TEXAS:

**SECTION 1. "DANGEROUS BUILDINGS AND STRUCTURES" DEFINED.**

All buildings or structures of any nature including any trailer houses, 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 any one 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 Hackberry, or any provision of the City 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 Official, 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 OFFICIAL OR FIRE MARSHAL.**

The duties of the Building Official 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 fire or police departments of the City 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 City's 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 Hackberry Building Official 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 Denton 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 Official 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 Official'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 Official 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) 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, 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 Hackberry, 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 Hackberry.

**SECTION 8. CONFLICTS.**

All ordinances and provisions of the City of Hackberry, 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 Hackberry.

**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 Two Hundred Dollars (\$200.00) nor more than Two Thousand Dollars (\$2,000.00) 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.**

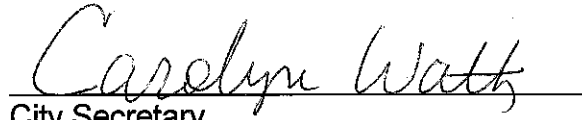
This Ordinance will be effective upon publication.

**ADOPTED** by the City Council of the City of Hackberry, Denton County, Texas, this day of 13 April, 2010.

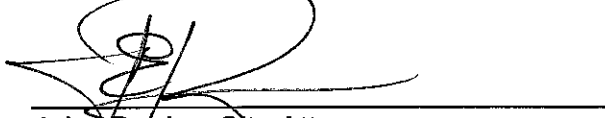
APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Secretary

APPROVED AS TO FORM:

  
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John Rapier, City Attorney