

MINIMUM HOUSING ORDINANCE

Ordinance No. 2015-9C

An ordinance establishing minimum standard for housing; providing responsibilities of owner and occupant; providing for demolition vacation of dangerous buildings; providing a procedure for same; providing maximum occupancy loads; providing for affirmative defenses; providing a penalty clause; providing a savings clause; and declaring an emergency.

Be it ordained by the City Council of the City of Dawson, Texas:

Chapter 8 A: Minimum Housing Code

Article 1. General Provisions

(a) The purpose of this chapter is to protect the health, safety, morals, and welfare of our citizens by establishing minimum standards governing the construction, use, occupancy or maintenance applicable to residential and nonresidential structures. Minimum standards are established to make structures safe, sanitary, and fit for human habitation. Demolition of structures is provided for as a last resort when compliance with standards cannot reasonable be achieved.

(b) This chapter is found to be remedial and essential to the public interest, and it is intended that this chapter be liberally construed to effect its purpose. All structures within the city on the effective date of this chapter, or constructed thereafter, must comply with the provisions of this chapter.

Section 8A-2. Definitions

(1) “Administrator” means Code Enforcement Officer or his designated representative.

(2) “Apartment Building” means any structure containing three or more dwelling units.

(3) “Floor Space” means the total area of all habitable space.

(4) “Grade” means the natural surface of the ground, or surface after completion of any change in contour.

(5) “Habitable Space” means the space occupied by one or more persons while living, sleeping, eating, and cooking; excluding kitchenettes, bathrooms, toilet rooms, laundries, pantries, dressing rooms, closets, storage spaces, foyers, hallways, utility rooms, heater rooms, boiler rooms, and basements or cellar recreation rooms.

(6) “Landlord” means the owner, property manager or resident manager of an apartment building or any other person held out by any owner or property manager as the appropriate person with whom the tenant normally deals with concerning the rental agreement or apartment building.

(7) “Owner” means a person claiming, or in whom is vested, the ownership, dominion, or title of real property, including but not limited to:

(A) the holder of the simple title;

(B) the holder of a life estate;

(C) the holder of a leasehold estate for an initial term of five years or more;

(D) the buyer in a contract for deed; and
(E) a mortgagee, receiver, executor, or trustee in control of real property, but not including the holder of a leasehold estate or tenancy for an initial term of less than five years.

(8) "Person" includes an individual, corporation, business trust, estate, trust partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(9) "Premises" means a lot, plot, or parcel of land, including any structures there on.

(10) "Property Manager" means a person who for compensation has managing control of real property.

(11) "Structure" means that which is built or constructed, and edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(12) "Tenant" means any person who occupies a dwelling unit for living or dwelling purposes with the landlord's consent.

Section 8A-3 Interpretation and Conflict

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. Whenever in this chapter there may be restrictions which might conflict, the more restrictive restrictions or provisions shall apply.

Section 8A-4 Inspection

For the purpose of ascertaining whether violations of this chapter exist, the administrator or his representative is authorized at a reasonable time to inspect;

(1) the exterior of a structure and premises which contain no structure; and

(2) the interior of a structure, if the permission of the owner, occupant, or person in control is given.

Section 8A-5 Violations, Notice, Penalty

(A) When the Administrator determines that there is a violation of this chapter he shall give notice of the violation to the owner of the property as well as the renter, or the person responsible for maintaining the property. The notice must be in writing, specifying the alleged violation and providing a length of time for compliance.

(B) If the owner of the property resides outside the city of Dawson, the administrator may give notice to the property manager. Upon receipt of a notice of violations, a property manager shall notify the owner of the specifics of the notice violation and shall make every reasonable effort to have the owner correct the violation.

(C) After notice, a person who knowingly continues to violate a provision of this chapter or fails to perform an act required of him by this chapter commits an offense. A person commits a separate offense for each day or portion of a day during which a violation occurs or continues. If the renter is issued a citation and does not pay it, the owner is liable to pay the citation.

(D) The administrator has the authority to enforce provisions of this chapter.

Article 2. Minimum Standards

Section 8A-6 Minimum Standards-Responsibility of Owner

A. Property Standards:

An owner shall:

- (1) It shall be unlawful for any owner, tenant, agent or occupant of any premises to permit any weeds, grass or other vegetation to grow or remain upon any premises owned or controlled by them, or either of them, so as to become unsightly or offensive or emit foul and noxious odors or become a breeding place for flies or insects or to become in any way injurious to the public health or welfare. In this instance, unsightly shall mean weeds, grass or other vegetation that has grown to a length of at least eight (8) inches. This requires the Occupant or Owner to mow, weed eat, or edge all of the way to the edge of the roadway.
- (2) eliminate a hole, excavation, sharp protrusion, and other object or condition that exists on the land and is reasonably capable of causing injury to a person; securely cover or close a well, cesspool, or cistern;
- (3) provide drainage to prevent standing water and flooding on the land;
- (4) remove dead trees and tree limbs that are reasonably capable of causing injury to a person; and keep the doors and windows of a vacant structure or vacant portion of a structure securely closed to prevent unauthorized entry.

Section 8A-7 Responsibilities of Occupant

It shall be unlawful for any person, owner, lessee, occupant or person in charge of any premises to:

- (1) It shall be unlawful for any owner, tenant, agent or occupant of any premises to permit any weeds, grass or other vegetation to grow or remain upon any premises owned or controlled by them, or either of them, so as to become unsightly or offensive or emit foul and noxious odors or become a breeding place for flies or insects or to become in any way injurious to the public health or welfare. In this instance, unsightly shall mean weeds, grass or other vegetation that has grown to a length of at least eight (8) inches. This requires the Occupant or Owner to mow, weed eat, or edge all of the way to the edge of roadway.
- (2) Allow grass, weeds, or other vegetation to exceed 8 inches in height. Pile brush, tree or lawn trimmings in the front yard (for purposes of this section, "front yard" means the portion of a lot or tract, which abuts a street and extends across the width of the lot or tract between the street and the main building.)
- (3) Place, store, or maintain rubbish, garbage, tires, items that are not customarily used or stored outside, or any item that the Code Enforcement Officer deems as "junk" or "unsightly", on any piece of exterior premise, including porches of structures, carports and non-closed in garages at all times.
- (4) Keep any structure, vacant or occupied, or vacant land on the premise maintained in an un-clean, un-safe, un-secure or un-sanitary condition that could adversely affect the public

health or safety of the citizens or public patrons within the City of Dawson.

(5) Allow the habitation of rodents and vermin in and on land.

Section 8A-8 Disclosure

A landlord shall leave notice of entry whenever it is necessary to enter an apartment or dwelling without the specific permission of the tenant. Such notice shall include date, time, purpose, and the person who has entered the apartment unit or dwelling.

A. Utility Standards

An owner shall:

(1) provide and maintain in operating condition connections to discharge sewage from a structure or land into a public sewer system where available;

(2) provide and maintain in operating condition a toilet connected to a water source and to a public sewer, where available, in each structure intended for human habitation;

(3) provide and maintain in operation condition connections and pipes to supply potable water at adequate pressure to a structure intended for human occupancy;

Section 8A-9 Dangerous Building-Defined

A dangerous building structure which is dilapidated, substandard, or unfit for human habitation and which constitutes a hazard to the health, safety and welfare of the citizens. A structure is a dangerous building and shall be declared a violation of this chapter and as unfit for human occupation, if it has any one or more of the following conditions or defects:

(1) All apartments, apartment houses, dwellings or dwelling units which have been damaged by fire, explosion, wind, vandalism, or elements of nature so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants thereof or the people of the City.

(2) All apartments, apartment houses, dwellings or dwelling units which have parts thereof which are attached that they may fall and injure members of the public or property.

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

(4) 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.

Section 8A-10 Duties of Code Enforcement Officer and Fire Marshal

Under this article, the Code Enforcement Office or Fire Marshall may:

(1) 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 article.

(2) Inspect any building, wall or structure reported by other departments of the City as a potential violation of the terms of this article.

(3) Notify in writing, by mail, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in such a building as shown by the City's tax roll or the deed records of the county clerk, of any building found then to be a dangerous building, stating that:

(a) the owner shall repair or demolish the building in accordance with the terms of this notice and this article;

(b) the occupant or lessee shall have the building repaired in accordance with the notice and remain in possession;

(c) the mortgagee agent or other persons having an interest in the building as shown by the deed records of the county clerk may, at his own risk, repair, or demolish the building or have such work or act done provided that any person notified under this subsection be given such reasonable time, as may be necessary to do or have done the work or act required by the notice provided for herein.

(4) Set forth in the notice provided for in Subsection (3) of this section a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such conditions as to comply with the terms of this article within such length of time as is reasonable.

(5) Place a notice on all buildings which they determine to be dangerous buildings.

The placard shall read as follows:

"Warning" this structure has been found to be a dangerous building by the City of Dawson Code Enforcement Officer. This notice is to remain on this building until it is repaired or demolished in accordance with the notice which has been given to 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 of Records in the office of the County Clerk of Navarro County, Texas. It is unlawful to remove this notice until it has been fully complied with.

Official

Date _____ Case _____

Section 8A-11

A person commits an offense if;

(1) without authority from the Fire Marshall or Code Enforcement Officer, he or she removes or destroys a placard placed by the Fire Marshall or Code Enforcement Office;

(2) he or she occupies a vacant structure or dwelling unit on which the Fire Marshall or Code Enforcement Officer has placed a placard;

(3) as owner of a structure or dwelling unit; he or she authorizes a person to occupy a vacant structure or dwelling unit on which the Fire Marshall or Code Enforcement Officer has placed a placard.

Section 8A-12

(A) If the owner does not comply with the notice to demolish or repair a dangerous building, the Code Enforcement Officer or Fire Marshall shall set the matter for public hearing before the City Court and the persons enumerated in Section 8A-10 (3) shall be notified of the hearing. Mailing a notice to the address indicated by the City Tax Rolls or County Deed of Records shall constitute notice. If the notice sent to the owner is returned undeliverable, and the Code Enforcement Officer or Fire Marshall is unable to determine a correct address for the owner, then notice shall be by publication in the official newspaper of the City at least five days before the hearing.

(B) At the hearing the Code Enforcement Officer or Fire Marshall shall present evidence of the condition of a structure and owner, leaser, occupant and lien-holder, as well as any interested person, may present evidence on relevant issues.

(C) The City Court, after hearing evidence from each interested person present, may;

(1) find that the structure is not a dangerous building and refer the matter to the Code Enforcement Officer or Fire Marshall for further appropriate action;

(2) find that the structure is a dangerous building and order demolition of the structure or other repair of correction within a specified period of time and demolition of the structure if the repair or correction is not timely effected.

(D) The Code Enforcement Officer or Fire Marshall shall give notice of demolition if he determines that the owner has not complied with an order to repair issued under Subsection (C-2).

(E) The Code Enforcement Officer or Fire Marshall shall give notice of an order issued under Subsection (C-2) and notice of demolition under Subsection 8A-10 (3) and shall file each order under Subsection (C-2) in the Deed of Records of Navarro County. If an order to repair is timely effected, the Code Enforcement Officer or Fire Marshall shall, upon request and payment of the cost by the owner, file a notice of compliance in the Deed of Records of Navarro County.

(F) Demolition of a structure may be accomplished by an owner or compliance with this section or by the City. The expense of demolition, when performed under contract with the City or by City forces, constitutes a lien against the real property on which a structure stood and the lien runs with the land. The City may use lawful means to collect demolition costs from an owner.

(G) When an order issued under Subsection (C-2) has been filed in the Deed of Records of Navarro County, execution of the order is not affected by a sale or other transfer of the premises. A person acquiring interest in property after an order has been filed, is subject to the

requirements of the order. The provisions of this subsection shall be included as a part of each order.

(H) Once the decision of the City Council has become final under the Subsection (C-2), the person affected by an order may appeal the decision to the state District Court. Appeal to the District Court must be filed within 20 days from the date of receipt of notice of an order of demolition given by the Code Enforcement Officer or Fire Marshall under Subsection (C-2). Appeal to the District Court shall be limited to a hearing under the substantial evidence rule.

Section 8A-13.

Nothing in this article shall be deemed a limitation on the duty of the City to summarily order the demolition of any building or structure where it is apparent that the immediate demotion of such building or structure is necessary to the preservation of life and property in the City.

Section 2

Notice and amount of violation; performance of work by city

(a) If the owner of property in the city does not comply with a municipal ordinance or requirement under this article within 10 days of notice of a violation, the city may:

- (1) Do the work or make the improvements required; and
- (2) Pay for the work done or improvements made and charge the expenses to the owner of the property.

(b) The notice must be given:

- (1) Personally to the owner in writing;
- (2) By letter addressed to the owner at the owner's post office address; or
- (3) If personal service cannot be obtained or the owner's post office address is unknown:
 - (A) By publication at least twice within 10 consecutive days;
 - (B) By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(c) The city in the notice of a violation may inform the owner by certified mail, return receipt requested, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the city has not been informed in writing by the owner of an

ownership change, then the city without notice may take any action permitted by subsections (a)(1) and (2) and assess its expenses.

Assessment of city's expenses; lien

- (a) The city council may assess expenses incurred against the real estate on which the work is done or improvements made.
- (b) To obtain a lien against the property, the mayor, municipal health authority, or other municipal official designated by the mayor must file a statement of expenses with the county clerk. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien attaches upon the filing of the lien statement with the county clerk.
- (c) The lien obtained by the city council is security for the expenditures made and interest accruing at the rate of 10 percent on the amount due from the date of payment by the city.
- (d) The lien is inferior only to:
 - (1) Tax liens; and
 - (2) Liens for street improvements.
- (e) The city council may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.
- (f) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.
- (g) The remedy provided by this section is in addition to the remedy provided by [section 6.02.005](#) of this article.
- (h) The city council may foreclose a lien on property under this article in a proceeding relating to the property brought under subchapter E, chapter 33, Tax Code.

Any person violating any provision of this ordinance shall, upon conviction thereof, be subject to **a fine of \$250.00**. After notice, a person who knowingly continues to violate a provision of this ordinance, commits an offense, and upon conviction thereof, shall be **fined \$250.00**. A person commits a separate offense each day, starting at 12:00 A.M. during which a violation occurs or continues.

Section 3. Savings Clause

That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause, or phase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause, or phase of this ordinance.

Section 4. Declaring an Emergency

The fact that the present ordinances are inadequate to properly regulate the minimum standards

for housing in the City of Dawson creates an emergency for the preservation of the public health, safety and welfare and requires that this ordinance shall become effective from and after its passage as the Charter in such case provides and it is accordingly so ordained.

Mayor, Stephan Sanders

Date

City Secretary, Ronda Franks

Date

Attest: