

# ORDINANCE 58

## AN ORDINANCE REGULATING SUBSTANDARD AND UNSAFE BUILDINGS AND STRUCTURES

**BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF BAYSIDE,  
COUNTY OF REFUGIO, STATE OF TEXAS:**

### **ARTICLE 1: Unsafe, and Substandard Buildings and Structures**

**SECTION 1. Purpose.** This Ordinance regulates substandard and unsafe buildings and structures in accordance with Section 214.001 Texas Local Government Code.

**SECTION 2. Cumulative Effect.** This Ordinance is cumulative of other building, construction, fire, and related codes. Whenever, in any such code, reference is made to the Standard Unsafe Building Abatement Code, as the governing code when dealing with an unsafe or substandard building or structure, said reference shall be taken to also include this Ordinance, thereby allowing the Town to proceed with enforcement of its building, construction, fire, and related codes either under the specific code itself, the Standard Unsafe Building Abatement Code, or this Ordinance, or any combination of same. The remedies provided herein are not exclusive. The Town may pursue any remedy in court, or otherwise available to it by law, in addition to, or in lieu of, any remedy in this Ordinance provided.

### **SECTION 3. Definitions, Defects and Minimum Standards Constituting Substandard and Unsafe Buildings and Structures (Unoccupied and occupied in case of emergency)**

- A. "Unsafe or Substandard Building or Structure", as used herein, means any building or structure which has any one or more of the following conditions such that the life, health, property or safety of the general public is endangered:
1. It is dilapidated, substandard, uninhabitable or unfit for human habitation and a hazard to the general health, safety and welfare of the general public
  2. The structure or portion thereof has been damaged by fire, explosion, flood, earthquake, wind, vandalism or elements of a nature or other cause to the extent that the structural integrity of the structure is less than it was prior to the damage and is less than the minimum requirement established by the Standard Building Code for new structures.
  3. The structure or portion thereof as a result of decay, deterioration or dilapidation, is likely to fully or partially collapse.

4. Because of faulty construction, age, lack of proper repair or any other cause, it is especially liable to fire and constitutes or creates a fire hazard.
5. All buildings or structures which are so structurally deteriorated that they are in danger of collapse, or which cannot be expected to withstand the reasonably anticipated storms and/or hurricanes.
6. All buildings or structures as to constitute a menace to health or safety such as accumulation of refuse and vegetation that creates breeding and living places for insects and rodents including all conditions conducive to the harboring of rats or mice or other disease carrying animals or insects reasonable calculated to spread disease.
7. The structure or portion thereof is unsafe, unsanitary or constitutes a fire hazard, or is otherwise dangerous to human life, or, in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.
8. Where a building or 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 building or structure cannot be repaired so that it will no longer exist in violation of the terms of this ordinance or statute of the state, it shall be demolished. Included the term "demolished" is the cleaning of the property and removing all debris and trash.

**B.** "Structure," as used herein, includes, but is not limited to, buildings.

**C.** "Commission" as used herein, means the Planning Commission established in accordance with Town Ordinances #19. The Committee for Substandard Housing serves as an advisory committee to the Planning Commission. The "Commission" shall serve in advisory capacity to the Town of Bayside City Council.

**SECTION 4. Prohibition.** No substandard or unsafe buildings or structures shall be allowed to exist or be located within the Town. (See Ordinance # 38, permit required)

**SECTION 5. Enforcement Officials.** The Town of Bayside City Council shall initiate enforcement of this Ordinance. The Planning Commission will review each case submitted by the Committee for Substandard Housing and will report their findings to the City Council.

**SECTION 6. Right of Hearing.** If the Planning Commission reports to the City Council and the City Council determines that a structure or building is substandard or unsafe, the owner and any lienholder shall be entitled to notice of said determination and an opportunity to be heard at a public hearing.

**SECTION 7. Attempt to Secure Voluntary Compliance.** The City Council is encouraged to attempt to amicably resolve matters and secure voluntary compliance, prior to initiating the process herein in this Ordinance provided, but whether or not they make such effort and the extent and type of efforts they make in this regard, is solely within their discretion.

**SECTION 8. Notice of Hearing.** Notice of the hearing shall be sent to each owner and lienholder or mortgagee.

A. The Town of Bayside in order to determine the identity and address all owners and lienholders of the building or structure shall search the following records:

1. County Real Property records;
2. Appraisal District records;
3. Records of the Secretary of State;
4. Assumed Name records of the County;
5. Tax records of the City; and
6. Utility records of the City.

B. The notice shall include the following:

1. The name and address of each owner and lienholder of the structure;
2. The street address and legal description of the structure, premise and land;
3. A statement indicating that the structure has been determined to be unsafe or substandard by the City Council;
4. A detailed report documenting the conditions determined to have rendered the structure unsafe or substandard under the provisions of this Ordinance;
5. A statement that the matter has been scheduled for a hearing before the City Council specifying the date, time starting and place where the hearing will be held;
6. A statement that the hearing is for the purpose of determining whether or not the structure is unsafe or substandard and, if it is found to be unsafe or substandard, to determine what action is required to be taken to remedy said conditions, and that the City and the owners and lienholders will be given an opportunity to be heard, present witnesses and evidence, and to examine the witnesses of the other;
7. A statement that the owner and lienholder will be required at the hearing to submit proof of the scope of any work that may be required to comply with this Ordinance and the time it will take to reasonably perform the work.

- C. The Town of Bayside may file notice of the hearing in the Real Property Records of the Refugio County Clerk. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of an interest in the property who acquires such interest after the filing of the notice.

**SECTION 9. Hearing.** The Town of Bayside City Council shall conduct the hearing. A quorum of the Council is 3. All Council decisions are made by majority vote, a quorum being present. At the hearing, the owner and lienholder shall be given an opportunity to be heard and make comment. At the hearing, the Town has the burden of proof to show that the structure is unsafe or substandard. The owner and lienholder has the burden of proof at the hearing to demonstrate the scope of any work that may be required to comply with the Ordinance and the time it will take to reasonable perform the work.

**SECTION 10. Determination and Order.**

- A. After the hearing, the Council shall make its determination and make a written order signed by those members who are in agreement with the order. After the hearing, if a building is found to be in violation of standards set out in this Ordinance, the Board may order that the structure be vacated, secured, repaired, removed, and/or demolished by the owner and lienholder, all within a reasonable time, as provided by this Ordinance and shall advise that if the action ordered is not taken within the time ordered, the Town may vacate, secure, remove, or demolish the structure, charge the cost thereof to the owner, and fix a lien on the property.
- B. The Council shall require the owner and lienholder of the structure to within thirty (30) days:
1. Secure the structure from unauthorized entry; or
  2. Repair, remove, or demolish the structure, unless the owner or lienholder establishes at the hearing that the work cannot reasonable be performed with thirty (30) days.
- C. If the Council allows the owner or lienholder more that thirty (30) days to repair, remove, or demolish the structure, the Council shall establish specific time schedules for the commencement and performance of the work and shall require the owner or lienholder to secure the structure in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Council.
- D. The Council may not allow the owner or lienholder more than ninety (90) days to repair, remove, or demolish the structure or fully perform all work required to comply with the order, unless the owner or lienholder:
1. submits a detailed plan and time schedule for the work at the hearing;

2. established at the hearing that the work cannot reasonably be completed within ninety (90) days because of the scope and complexity of the work.
- E. If the Council allows the owner or lienholder more than ninety (90) days to complete any part of the work required to repair, remove, or demolish the structure, the Council shall require the owner or lienholder to regularly submit progress reports to the Council to demonstrate that the owner or lienholder has complied with the time schedules established for commencement and performance of the work. The order may require that the owner or lienholder appear before the Council to demonstrate compliance with time schedules.

**SECTION 11. Notice of Order.** After the hearing the Council shall give notice of the order as hereinafter required.

- A. The Council shall promptly mail by certified mail, return receipt requested, a copy of the order to all owners and lienholders of the structure.
- B. Within ten (10) days after the date the order is issued, the Council shall:
1. file a copy of the order in the office of the City Secretary; and
  2. publish in newspaper of general circulation in the Town 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.

**SECTION 12. Failure to Comply with Order.** If the structure is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the Town may vacate, secure, remove, or demolish the structure or relocate the occupants its own expense in which event, the owner shall be jointly and severally liable to the Town for the expenses incurred by the Town in taking such action. Such debt shall be due and payable on demand and shall bear interest at the highest permissible rate of interest per annum from due date.

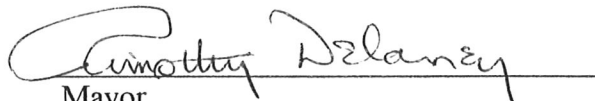
**SECTION 13. Lien.** If the Town incurs expenses in the vacating, securing, removal or demolition of the structure, the Town may assess the expenses on, and the Town has a lien against, unless it is a homestead protected by the Texas Constitution, the property on which the structure is or was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the Town for the expenses. The lien arises and attached to the property at the time a notice of the lien is recorded and indexed in the office of the Refugio County Clerk. The notice must contain the name and address of the owner, if that information can be determined with a reasonable effort, a legal description of the real property on which the structure is or was located, the amount of expenses incurred by the Town, and the balance due. The lien is a privileged lien subordinate only to tax liens.

**SECTION 14. Liability.** Neither the Town of Bayside nor any authorized agent acting under the terms of this Ordinance shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this Ordinance.

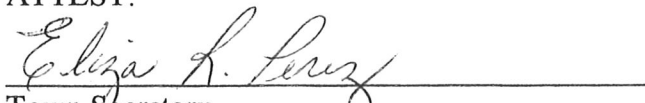
**ARTICLE II. EFFECTIVE DATE.** This Ordinance shall be effective upon adoption and, in addition, if any penalty, fine or forfeiture is imposed by this Ordinance, then this Ordinance shall be effective only after publication of this Ordinance in its entirety or in summary form once in the official newspaper of the Town of Bayside.

**ARTICLE III. SEVERANCE.** If any part of this Ordinance is invalid or void or is declared to be so, then said part shall be severed from the balance of this Ordinance and said invalidity shall not affect the balance of this Ordinance, the balance of the Ordinance to be read as if said invalid or void portion thereof were not included.

APPROVED, PASSED AND ADOPTED this the 14<sup>th</sup> day of December, 1999.

  
Mayor

ATTEST:

  
Town Secretary