

ORDINANCE NO. 2022-21

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, OF THE CITY OF TEXAS CITY, TEXAS, TITLE XV - LAND USAGE, CHAPTER 150, "BUILDING REGULATIONS; CONSTRUCTION", REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; DISPENSING WITH THE CHARTER REQUIREMENT FOR READING THIS ORDINANCE ON THREE (3) SEPARATE DAYS; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, there is a need to amend The Code of Ordinances of the City of Texas City, Texas, Title XV - Land Usage, Chapter 150, Building Regulations; Construction, to update information contained in the Code, and

WHEREAS, there is a need to address the minimum fire and safety standards of building construction within the City, and

WHEREAS, there is a need to clarify the additional authority regarding substandard buildings, and

WHEREAS, upon recommendation of the Fire Chief and Fire Marshal and full review and consideration of all matters related and attendant thereto, the City Commission determines that amending Title XV - Land Usage, Chapter 150, Building Regulations; Construction will promote the health, safety, and general welfare of the City and the safe, orderly, and healthful development of the City;

WHEREAS, the City Commission determines that amending Title XV – Land Usage, Chapter 150, Building Regulations; Construction will promote the health, safety, morals, and general welfare of the City and the safe, orderly, and healthful development of the City;

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

Section 1. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact, and

Section 2. The City Commission hereby further finds and determines that the rules, regulations, terms, conditions, provisions, and requirements of this ordinance are reasonable and necessary to promote health, safety, morals, or general welfare and the safe, orderly, and healthful development of the municipality, and

Section 3. The City of Texas City's Code of Ordinances, Section 150.038 is hereby **amended** as follows:

§150.038 Emergency Demolitions.

(A) Emergency arising from sudden acts or occurrences.

(1) Where it appears to the fire marshal, director of community development, or chief building official or their designees, that due to structural defects or conditions arising from, but not limited to, fire, accident, water damage, vandalism, or other sudden act or occurrence thereby threatening the structural integrity of a building, there is clear and imminent danger to the life, safety or property of any person unless the building is immediately demolished, either of these aforesaid officials shall declare its immediate vacation and demolition regardless of the date of construction. The concurrence of the other two aforesaid officials shall be required prior to execution of the commencement of the demolition. Such concurrence shall include a determination that under the circumstances no other abatement procedure is reasonably available except demolition.

(2) Notice that the structure has been determined to be a clear and imminent danger to life, safety or property of any person shall be issued:

a. By placard affixed to the property or by stake driven into the ground. It shall be unlawful for any person to remove the posted notice without written permission from the fire marshal and no unauthorized person shall enter the building for any purpose.

(3) For residential structures, demolition should commence within seventy-two (72) hours after the notice or as soon thereafter as is reasonable and as soon as possible for any commercial structure(s) after consideration of any environmental issue(s) and/or compliance with other applicable law(s).

(B) Emergency arising from long-term deterioration.

(1) Where it appears to the fire marshal, director of community development, or chief building official or their designees, that structural defects or conditions arising from long-term deterioration threaten the structural integrity of a building such that there is clear and imminent danger to the life, safety or property of any person unless the building is immediately demolished, either of these aforesaid officials shall declare its immediate vacation and demolition. The concurrence of the other two aforesaid officials shall be required prior to the execution of the commencement of the demolition. Such concurrence shall include a determination that under the circumstances no other abatement procedure is reasonably available except demolition. Upon a determination that an emergency demolition is warranted by either (A) or (B) above, the following actions shall be taken:

(2) Notice that the structure has been determined to be a clear and imminent danger to life, safety or property of any person shall be issued:

a. By placard affixed to the property or by stake driven into the ground. It shall be unlawful for any person to remove the posted notice without written permission of the director of development services and no unauthorized person shall enter the building for any purpose;

b. Via hand-delivery to the owner(s) of record per the Galveston County Appraisal District records only if the owner(s) resides within Galveston County; or

c. If hand-delivery to the owner(s) of record per the Galveston County Appraisal District records for owner(s) residing within Galveston County is not able to be accomplished after reasonable efforts are made, Notice may be given in whatever means are available to afford the owner(s) with such Notice as determined by the City Attorney; and

d. By email to the Mayor.

(3) Within seventy-two (72) hours of notice, a plan of action to stabilize the structure, **secure the structure, and/or bring the structure up to all current adopted City Codes and Ordinances** must be developed and presented to the fire marshal, the director of community development, or chief building official. Said plan of action shall then be approved by the Director of Engineering & Planning or their designee.

a. If the plan is approved, said plan must be implemented within forty-eight (48) hours of approval **or as soon thereafter as is reasonable and as soon as possible for any commercial structure(s) after consideration of any environmental issue(s) and/or compliance with other applicable law(s)**. If stabilization **and securing** of the structure is begun within forty-eight (48) hours of approval, the structure shall be scheduled for the next available hearing before the Texas City Municipal Court of Record for presentation of a scope of work with dates certain for completion of rehabilitation, or

b. If the plan is determined to be infeasible by the fire marshal, the director of community development or chief building official the required affidavits shall be executed for commencement of the emergency demolition **or if there is a pending case regarding the structure in the Texas City Municipal Court of Record, an Order from the Court authorizing the emergency demolition.**

c. The emergency demolition process shall commence not later than ninety-six (96) weekday hours, exclusive of weekends and holidays, after the last required written concurrence is made.

d. After execution of the emergency demolition, the officials responsible shall:

(1) File copies of the affidavits **or Court Order** in the real property records of Galveston County, Texas; and

(2) Provide notice to the owner(s) and lienholders/mortgagees of record.

e. The historical designation, location or significance of a building or structure shall not prohibit, prevent, or stay an emergency demolition of a dangerous building or structure determined to be a clear and imminent danger to the life, safety or property of any person. Demolition shall be the remedy of last resort and if the structure can be vacated and secured and feasibly repaired or the condition remedied so that the structure shall no longer be an imminent danger it shall first be ordered.

f. The city, as a home-rule city, adopts the foregoing emergency abatement action pursuant to TEX. LOCAL GOV'T CODE § 214.002, and the powers of self-rule granted by the voters under the City Charter as authorized by the Constitution of the state.

(4) The City has the same authority to assess expenses incurred under this section as it has to assess expenses under TEX. LOCAL GOV'T CODE § 214.001(n). A lien is created under this section in the same manner that a lien is created under TEX. LOCAL GOV'T CODE § 214.001(n) and is subject to the same conditions as a lien created under that section.

Section 4. This ordinance shall be cumulative of all provisions of the City of Texas City, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the more restrictive provision shall apply.

Section 5. It is hereby declared to be the intention of the City Commission of the City of Texas City, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Commission without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 6. All rights and privileges of the City of Texas City, Texas, are expressly saved as to any and all violations of the provisions of any Ordinances affecting land use or development, which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 7. This Ordinance shall be effective immediately upon the passage, approval and publication as required by law.

Section 8. That the Charter requirement for reading this Ordinance on three (3) separate days has been dispensed by a majority vote of the City Commission.

PASSED AND ADOPTED this 7th day of September 2022.

Dedrick D. Johnson, Sr., Mayor
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

Rhomari D. Leigh
City Secretary

Kyle L. Dickson
City Attorney