

City of Caney City
Ordinance No. 2009-05 REV. A
Dangerous Buildings

An Ordinance of the City of Caney City defining Dangerous Buildings within the terms of this Ordinance, Inspection, Hearings, Duties of the City Council, Liens, Abatement, and Penalties not to Exceed \$500.00 per Day.

NOW THEREFORE:

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

1. DEFINITIONS: For the purpose of this Ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. Building Official – A person appointed by the City Council for the purpose of making inspections, sending notices and otherwise enforcing the provisions of this Ordinance. The Appointee may be a City employee or an individual who contracts with the City to perform the task.

B. Dangerous Building – Any structure, building or portion thereof located within the incorporated limits of the City that:

(1) Is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare of the City's residents.

(2) Regardless of its structural condition, unoccupied by owners, lessees, or other invitees and unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage, or could be entered or used by children.

(3) Is boarded up, fenced or otherwise secured in any manner if:

(a) The building constitutes a danger to the public even though secured from entry; or

(b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building to the extent it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children.

(4) Has deteriorated through natural causes, exposure to the elements, or fire to the extent that the roof, windows and doors or portions of the building or structure will no longer provide protection from the weather.

(5) Has inadequate sanitation facilities and connected electric power service.

(6) Is in unhealthy or unsafe condition including all conditions conducive to the harboring of rodents or other disease carrying animals.

(7) As a result of decay, deterioration or dilapidation are likely to fully or partially collapse.

2. BUILDING OFFICIAL – INSPECTIONS AND DUTIES: The Building Official shall:

A. Inspect or cause to be inspected, any building or structure within the incorporated limits of the City, including public buildings, schools, halls, churches, theatres, hotels, tenements, or apartments, other multi-family residences, single-family residences, garages, barns, stables, sheds, storage structures, warehouses, and other commercial and industrial structures of any nature whatsoever for the purpose of determining whether any conditions exist which render such place a “dangerous building” as defined herein.

B. Report to the City Council at a posted council meeting any non-compliance within the minimum standards set forth in this Ordinance. Upon approval of the City Council the Building Official shall obtain from the City Secretary a hearing date for a public hearing by the City Council on any structure believed to be a dangerous building and shall provide the City Secretary with copies of the written notice to persons with interests in the property as provided for in this Ordinance. The City Council may authorize further investigation by an additional qualified inspector at any time during this process. The Building Official may make a courtesy notification via registered mail to the owner of the property in question stating that the property is in violation of this Ordinance and formal notification of a Public Hearing will be forthcoming. The courtesy notice will include a copy of the Ordinance.

C. Appear at all hearings conducted by the City Council and testify as to the conditions of dangerous buildings within the City.

D. Place a notice on all dangerous buildings reading as follows: “This building has been found to be a dangerous building by the Building Official. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given to the owner(s), occupant(s), and person(s) with interest in the

property as shown by the records of the City Secretary. It is unlawful to remove this notice until such notice is complied with.”

E. Perform the other requirements with respect to notification of public hearings as are set forth more specifically in this Ordinance.

3. NOTICE OF UNSAFE BUILDING AND PUBLIC HEARING.

A. Should the Building Official determine that any building or structure within the incorporated limits of the City is a dangerous building, he/she shall cause written notification to be sent, by certified mail, to the owner and all other persons having an interest in the building after a diligent effort to discover each owner, mortgagee, and lien holder. Such notice shall contain:

(1) A description of the building or structure deemed unsafe and its location.

(2) A statement of the particulars which make the building or structure a dangerous building.

(3) Notice of the date and time of a public hearing before the City Council to determine whether the building complies with the standards set out in this Ordinance.

(4) A statement that the owner, lien holder, mortgagee, or persons with a legal interest in the building will be required to submit at the hearing proof of the scope of any work that may be required to comply with this Ordinance and the amount of time it will take to reasonably perform the work.

B. A copy of the notice shall be posted on the front door of each building or structure deemed unsafe.

C. The notices required by this section shall be mailed and posted on or before the tenth day before the date of the hearing before the City Council.

4. DUTIES AND ACTION OF CITY COUNCIL.

The City Council shall perform the duties set forth in this section, the Standard Unsafe Building Abatement Code, and Texas Local Government Code 214.001 et seq., including but not limited to:

A. Scheduling and holding a hearing and hearing such testimony from the Building Official and the owner or a person having an interest in the dangerous building. Such testimony shall relate to the determination of the question of whether the building or

structure in question is a dangerous building and the scope of any work that may be required to comply with this Ordinance and the amount of time it will take to reasonably perform the work. The owner or a person having an interest in the dangerous building shall have the burden of proof to demonstrate 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.

B. Upon conclusion of the hearing, the City Council will determine by a majority vote whether the building or structure in question is a dangerous building. Upon the concurring vote of a majority of the members of the City Council that the building or structure in question constitutes a dangerous building, the City Council shall issue an order:

(1) Containing an identification of the building and the property on which it is located.

(2) Making written findings of the violations of the minimum standards that are present at the building.

(3) Requiring the owner and persons having an interest in the building to repair, vacate, or demolish the building within 30 days from the issuance of such order, unless the owner or a person with an interest in the building establishes at the hearing that the work cannot reasonably be performed within 30 days, in which instance the City Council shall specify a reasonable time for the completion of the work.

(4) Containing a statement that the City will evict the occupants and cause the dangerous building to be vacated, secured, removed or demolished if the ordered action is not taken within the time specified by the City Council.

C. The City Council shall deliver a copy of the order by hand delivery or certified mail to the owner and all persons having an interest in the property, including all identifiable mortgagees and lien holders as soon as is practicable after the hearing. In addition, the City Council shall within ten days after the date the order is issued file a copy of the order in the office of the City Secretary and publish in the official newspaper a notice containing:

(1) The street address or legal description of the property.

(2) The date of the hearing.

(3) A brief statement indicating the results of the order.

(4) Instructions stating where a complete copy of the order may be obtained.

D. If the City Council allows the owner or a person with an interest in the dangerous building more than 30 days to repair, remove, or demolish the building, the City Council in its written order shall establish specific time schedules for commencement and performance of the work and shall require the owner or person to secure the property in a reasonable manner from unauthorized entry while the work is being performed. The securing of the property shall be in a manner found to be acceptable by the Building Official.

E. The City Council may not allow the owner or person with an interest in the dangerous building more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the written order unless the owner or person:

- (1) Submits a detailed plan and time schedule for the work at the hearing; and
- (2) Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

F. If the City Council allows the owner or person with an interest in the dangerous building more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the City Council shall require the owner or person to regularly submit progress reports to City Council to demonstrate that the owner or person has complied with the time schedules established for commencement and performance of the work. The written order may require that the owner or person with an interest in the building appear before the Building Official or City Council to demonstrate compliance with the time schedules.

5. FAILURE TO COMPLY: LIEN – ABATEMENT BY CITY

A. In the event the owner or a person with an interest in a dangerous building fails to comply with the order of the City Council within the time specified therein, the City may cause any occupants of the dangerous building to be relocated, and may cause the dangerous building to be secured, removed, or demolished at the City's expense. The City may assess the expenses on, and the City has a lien against the property on which the dangerous building was located, unless it is a homestead as protected by the Texas Constitution. The lien's extinguished if the property owner or a person having an interest in the building reimburses the City for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the County Clerk in the county in which the property is located. The notice of lien must contain the name and address of the owner of dangerous building if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the city, and the balance due. Such lien is a privileged lien subordinate only to tax liens.

B. In addition to the authority set forth above, after the expiration of the time allotted in order for the repair, removal, or demolition of a dangerous building, the City may repair the building at its expense and assess the expenses on the land on which the building stands or to which it is attached. The repairs contemplated may only be accomplished to the extent necessary to bring the building into compliance with the minimum standards established by this Ordinance, and to the extent such repairs do not exceed minimum housing standards. The City shall follow the procedures set forth above for filing a lien on the property on which the building is located.

6. VIOLATIONS

A. The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate or demolish a building or structure, such notice or order given by the authority of the City Council, shall be guilty of a misdemeanor.

B. Any person removing the notice of a dangerous building as provided in this Ordinance shall be guilty of a misdemeanor.

7. PENALTY

A. The violation of any provision of this Ordinance shall be unlawful and a misdemeanor offense punishable as set by the City Council. Each day a violation of this Ordinance continues shall constitute a separate offense.

B. The City may, by order, assess and recover a civil penalty against a property owner at the time of an administrative hearing on violation of this Ordinance in an amount not to exceed \$500.00 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 a day for each violation, if the City proves:

(1) The property owner was notified of the requirements of this Ordinance and the owner's need to comply with the requirements; and

(2) After notification, the property owner committed an act in violation of this Ordinance or failed to take an action necessary for compliance with this Ordinance.

C. An assessment of a civil penalty as outlined in this Ordinance is final and binding and constitutes prima facie evidence of the penalty in any suit brought by the City in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty.

D. To enforce a civil penalty under this Ordinance, the City Secretary must file with


the District Clerk of the county a certified copy of an order issued under 7B above stating the amount and duration of the penalty. No other proof is required for a district court to enter a final judgment on the penalty.

8. Change of Ownership: In the event property ownership changes prior to total compliance with this Ordinance by the owner who was notified in Section 3 of this Ordinance, the new owner shall have thirty (30) days from the date they purchased the property from the original owner, to bring the property into compliance with this Ordinance. In the event the property is not brought into compliance, the penalties and abatements set forth in this Ordinance shall be assessed against the new owner without any further notification by the City.

The City, by the adoption of this Ordinance, hereby repeals all prior Ordinances relating to Dangerous Buildings.

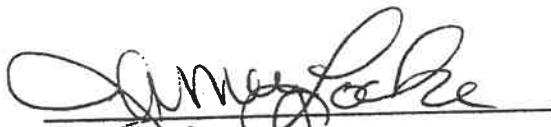
PASSED AND APPROVED THIS THE 12 day of July, 2012.

APPROVED:



Joe Barron
Mayor, Caney City

ATTEST:



Jamey Locke
City Secretary, Caney City

