

ORDINANCE NO. 23-13

AN ORDINANCE OF THE CITY OF BRONTE, TEXAS REPEALING AND REPLACING ORDINANCE NO. 368; ADOPTING REGULATIONS CONCERNING SUBSTANDARD STRUCTURES WITHIN THE CITY; ADOPTING MINIMUM STANDARD FOR STRUCTURES; ESTABLISHING A BUILDING AND STANDARDS COMMISSION; PROVIDING FOR NOTICE AND HEARING; PROVIDING FOR ABATEMENT; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bronte (the “City”) is a Type A general law municipality operating pursuant to the laws of the State of Texas;

WHEREAS, Section 214.001 of the Texas Local Government Code authorizes the City to adopt minimum standards for structures within the City, to provide for notice and hearing and abatement of substandard structures;

WHEREAS, Section 214.0011 of the Texas Local Government Code authorizes the City to secure unoccupied substandard structures prior to notice and hearing;

WHEREAS, Subchapter C of Chapter 54 of the Texas Local Government Code authorizes the City to adopt quasi-judicial enforcement of a substandard structure ordinance adopted pursuant to Section 214.001 of the Texas Local Government Code and to create a Building and Standards Commission to hold hearings, issue orders, assess civil penalties, and file liens regarding substandard structures; and

WHEREAS, the City Council of the City of Bronte, Texas (the “City Council”) finds that it is in the best interest of the health, safety, and welfare of the citizens of Bronte to adopt minimum standards for structures within the City and to provide for abatement of said structures, after proceeding before a Building and Standards Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRONTE, TEXAS THAT:

Section 1. Repeal and Enactment. Ordinance No. 368, adopted on May 25, 2004, is hereby repealed. All other ordinances and ordinance provisions in conflict with this Ordinance shall be repealed to the extent of such conflict. The provisions contained in this Ordinance are hereby enacted as the Substandard Structure Ordinance of the City of Bronte, Texas.

Section 2. Definitions. As used in this Ordinance the following words have the meaning indicated:

(a) *Building and Standards Commission* means the Bronte Building and Standards Commission created by this Ordinance and appointed by the Bronte City Council to hear and determine cases concerning alleged violations of this Ordinance.

- (b) *Building or structure* includes, but is not limited to, any building, shed, garage, housing, manufactured or modular home, mobile home, trailer, or other structure.
- (c) *Building Inspector* means the person appointed by the City Council to enforce the provisions of this Ordinance and to present cases to the Building and Standards Commission.
- (d) *City* means the City of Bronte, Texas.
- (e) *City Council* means the City Council of Bronte, Texas.
- (f) *Minimum Standards* mean the minimum standards for continued use and occupancy of a structure as set forth in Section 4 of this Ordinance.
- (g) *Owner of record* means any person, agent, firm, or corporation shown to be the owner or owners of a building in:
 - (1) The real property, assumed name, or appraisal district records of Coke County;
 - (2) The tax or utility records of the City; or
 - (3) The records of the Secretary of State.
- (h) *Substandard Structure* means a building or structure that does not comply with the minimum standards.

Section 3. Prohibited; Abatement.

- (a) It shall be unlawful for any owner, occupant, or other person in control of a building to allow that building to be in a condition that does not conform to the minimum standards.
- (b) Any building that does not conform to the minimum standards is hereby declared to be a public nuisance and shall be abated by vacation and relocation of occupants, repair, demolition, or removal, as necessary, upon the issuance of an order to abate issued in accordance with the procedures specified in this Ordinance.

Section 4. Minimum Standards. A building is considered not to meet the minimum standards of the City for continued use and occupancy, regardless of its date of construction, if the building:

- (a) Is dilapidated, substandard, or unfit for human habitation and a hazard to public health, safety, and welfare, including, but not limited to:
 - (1) Any building with roof, ceiling, floors, walls, sills, windows, or foundation, or any combination thereof, rotted or decayed and falling apart, or that is uninhabitable due to obsolescence and/or deterioration caused by neglect, vandalism, fire damage, old age, or the elements;

(2) Any building intended for human occupancy that is in danger of falling and injuring persons or property;

(3) Any building that is a fire menace because it is in a dilapidated condition, as described in Sections 4(a)(1) or 4(a)(2), or that is likely to become a fire menace or be set on fire;

(4) Any building that is in unsanitary condition and is likely to create disease because of the presence of insects, rodents, or vermin;

(5) Any building that is damp and in unsanitary condition and is likely to create disease and sickness because of being in the condition in Sections 4(a)(1)-(4), above, or for other reasons;

(6) Any building that has holes, cracks, or other defects in it, or does not have railings for stairs, steps, balconies, porches, and elsewhere, thereby constituting a danger to persons or property;

(7) Any building intended for human occupancy that is not weathertight and watertight, or that does not have a moisture-resistant finish or material for the flooring or subflooring of each bathroom shower room and toilet room;

(8) Any building occupied by humans that does not have in operating condition a connection to discharge sewage from the structure or land into a public sewer system (where such is available), a toilet connected to a water source and to a public sewer system (where such is available), connection to potable water at adequate pressure, and a kitchen sink, bathtub or shower, and lavatory connected to a cold and hot water source; and/or

(9) Any building intended for human occupancy that does not have operating supply lines for electrical service, if electrical service is available within three hundred (300) feet of the building, or that does not have operating electrical circuits and outlets sufficient to safely carry a load imposed by normal use of appliances and fixtures;

(b) Is not occupied by its owners, lessees, or other invitees and is not secure from unauthorized entry so that it could be entered or used by uninvited persons or children regardless of its structural condition; and/or

(c) Is boarded up, fenced, or secured, if:

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

(2) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building.

Section 5. Authority.

(a) The Building Inspector shall have the authority and powers necessary to gain compliance with the provisions of this Ordinance and, if necessary, to enforce this Ordinance. Such powers include

the power to issue notices of abatement, to issue citations or file criminal complaints, inspect public and private property with permission or after obtaining an administrative search warrant, and use whatever judicial and administrative remedies available under this Ordinance or applicable state laws.

(b) The Building Inspector may enter upon any property or premises, with permission or after obtaining an administrative search warrant, to ascertain whether the provisions of this Ordinance are being obeyed, and to make any examinations and surveys as may be necessary in the performance of his or her duties. Such duties may include the taking of photographs, samples, or other physical evidence.

(c) The Building Inspector is hereby designated as an official to whom an administrative search warrant may be issued pursuant to Article 18.05 of the Code of Criminal Procedure.

(d) It shall be unlawful for any person to interfere with the Building Inspector in the performance of his or her duties under this Ordinance.

(e) No officer, agent, or employee of the City shall render himself personally liable for any damage that may accrue to any person or property as a result of any action required or permitted in this discharge of his duties under this Ordinance.

Section 6. Bronte Building and Standards Commission.

(a) There is hereby created the Bronte Building and Standards Commission to hear and determine cases arising under this Ordinance.

(b) The Building and Standards Commission shall consist of five members to be appointed by the City Council. For the initial members of the Commission, two members shall serve terms of one year and three members shall serve terms of two (2) years. All subsequent members of the Commission shall serve terms of two years.

(c) The City Council may remove a Commission member for cause on a written charge. Before a decision regarding removal is made, the City Council must hold a public hearing on the matter if requested by the Commission member subject to the removal action.

(d) A vacancy on the Commission shall be filled for the unexpired term.

Section 7. Inspection and Notice of Abatement.

(a) Inspection. The Building Inspector shall inspect or cause to be inspected any building the Inspector has probable cause to believe does not meet the minimum standards.

(b) Determination. After completing the inspection, the Building Inspector shall determine if there is sufficient evidence that the building is a substandard building.

(c) Notice of Abatement. After an initial determination that there is sufficient evidence that a building is a substandard building, the Building Inspector shall provide notice to the owner of record of the building, by certified mail, return receipt requested, which states that the building is believed to

be a substandard building, provides a description of the nature of the violation(s) of this Ordinance, and instructs the owner to vacate and/or repair, demolish, and/or remove the building for the good of the public health, safety, and welfare. Additional notice shall be posted on the substandard building which shall read as follows:

“THIS BUILDING IS SUBSTANDARD ACCORDING TO THE MINIMUM STANDARDS SET FORTH IN THE SUBSTANDARD BUILDINGS ORDINANCE OF THE CITY OF BRONTE AND THE OWNER MUST REPAIR, DEMOLISH, AND/OR REMOVE IT.

CONTACT THE BUILDING INSPECTOR AT (325) 473-3501 FOR MORE INFORMATION.

DATE: _____”

(d) Validity of Notice. If the Building Inspector mails a notice in accordance with this Section to an owner and the United States Postal Service returns the notice as “refused” or “unclaimed”, the validity of the notice is not affected and the notice is considered delivered.

(e) Request for Hearing. If the owner does not reply or take action within fifteen days from the date the notice was mailed, the Building Inspector may schedule a hearing before the Building and Standards Commission for a final determination regarding whether the building is a substandard building in violation of this Ordinance and must be abated.

Section 8. Notice of Hearing.

(a) Efforts to Locate Interested Parties. The Building Inspector shall exercise due diligence to determine the identity and address of a property owner, lienholder, or mortgagee to whom notice must be sent under this Section and shall search the following records in locating such parties:

- (1) Real property records of Coke County, Texas;
- (2) Appraisal district records of Coke County Central Appraisal District;
- (3) Records of the Secretary of State, if the property owner, lienholder, or registered agent is a corporation, partnership, or other business association;
- (4) Assumed name records of Coke County;
- (5) Tax records of the City; and
- (6) Utility records of the City.

(b) Delivery of Notice. The Building Inspector shall provide notice of the hearing before the Building and Standards Commission:

- (1) By personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property and each holder of a recorded lien against the affected property, as shown by the records in the office of the Coke County Clerk, if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the County Clerk; and
- (2) To all unknown owners by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.

(c) Timing of Notice; Publication. The notice must be posted and either personally delivered or mailed on or before the 10th day before the date of the hearing and must state the date, time, and place of the hearing. In addition, notice must be published in a newspaper of general circulation within the City on one occasion on or before the 10th day before the date fixed for the hearing.

(d) Contents of Notice. The notice must contain the name and address of the owner of the affected property (if that information can be determined from a reasonable search of the instruments on file with the Coke County Clerk), a legal description of the affected property, and a description of the proceeding, including the date, time, and place of the hearing. The notice shall further advise the owner and/or lienholder that he or she will have the burden of proof at such hearing and will be required to submit proof of the scope of any work that may be required to make the building comply with this Ordinance and the amount of time it will take to reasonably perform the work.

(e) Filing of Notice. The Building Inspector may file a copy of the notice in the Official Public Records of Real Property in Coke County, Texas. 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 proceeding on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

(f) Validity of Notice. If the Building Inspector mails a notice in accordance with this Section to a property owner, lienholder, or registered agent and the United States Postal Service returns the notice as “refused” or “unclaimed”, the validity of the notice is not affected and the notice is considered delivered.

Section 9. Order to Abate.

(a) After the public hearing, if the Building and Standards Commission finds that a building is a substandard structure, the Commission may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this Section. The Commission may also order that the occupants be relocated within a reasonable time.

(b) The Building and Standards Commission shall require the owner, lienholder, or mortgagee of a substandard structure to, within 30 days:

- (1) Secure the building from unauthorized entry; or

(2) Repair, remove, or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(c) If the Building and Standards Commission allows the owner, lienholder, or mortgagee more than 30 days to repair, remove or demolish the building, the Commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.

(d) The Building and Standards Commission may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

(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.

(e) If the Building and Standards Commission allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the Commission shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the Commission to demonstrate compliance with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the Commission to demonstrate compliance with the time schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the City limits that exceeds \$100,000 in total value, the Building and Standards Commission may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the Commission may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the City Attorney. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the Commission issues the order.

Section 10. Filing and Publication of Order.

(a) After the hearing, the Building Inspector shall promptly mail by certified mail with return receipt requested, deliver by the United States Postal Service using signature confirmation service, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building.

(b) Additionally, within 10 days after the date that the order is issued, the Building Inspector shall:

(1) File a copy of the order in the City Secretary's Office; and

(2) Publish in a newspaper of general circulation in the City 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 11. Judicial Review.

Any owner, lienholder, or mortgagee of record of a property jointly or severally aggrieved by any order issued under this Ordinance may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after receiving notice of the order.

Section 12. Additional Authority to Secure Certain Buildings.

- (a) The Building Inspector may secure a building the Building Inspector determines:
 - (1) Violates the minimum standards; and
 - (2) Is unoccupied or is occupied only by persons who do not have a right of possession to the building.
- (b) Before the 11th day after the date the building is secured, the Building Inspector shall give notice to the owner by:
 - (1) Personally serving the owner with written notice;
 - (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
 - (3) Publishing the notice at least twice within a 10-day period in a newspaper of general circulation in Coke County if personal service cannot be obtained and the owner's post office address is unknown; or
 - (4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.
- (c) The notice must contain:
 - (1) An identification, which is not required to be a legal description, of the building and the property on which it is located;
 - (2) A description of the violation of the minimum standards that is present at the building;
 - (3) A statement that the city will secure or has secured, as the case may be, the building; and

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing of the building.

(d) The Building and Standards Commission shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building if, within 30 days after the date the city secures the building, the owner files a written request for a hearing with the City Secretary. The Building and Standards Commission shall conduct the hearing within 20 days after the date the request is filed.

Section 13. Violation and Penalty.

(a) Criminal Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. A violation of any of the provisions or failure to comply with any of the mandatory requirements of this Ordinance shall constitute a Class C misdemeanor punishable by a fine of up to Two Thousand Dollars (\$2,000.00). Each such person may be charged with a separate offense for each and every day, or portion thereof, during which any violation of any provision of this Ordinance is committed, continued, or permitted by such person and shall, upon conviction, be punished accordingly.

(b) Civil Violations. In addition to any other remedy provided by this Ordinance, any provision of this Ordinance may be enforced by injunction issued by a court of competent jurisdiction upon a suit brought by the City. As part of a civil action filed to enforce provisions of this Ordinance, a court may assess a maximum civil penalty as allowed by law for violation of this Ordinance for each day during which the person commits, continues, allows, or maintains a violation of this Ordinance.

Section 14. Expenses; Lien.

(a) All expenses of vacating, securing, repairing, removing, and/or demolishing a substandard structure, or relocating occupants of a substandard structure, are the responsibility of the owner of the property.

(b) If an owner or other interested party that does vacate, secure, repair, remove, or demolish a substandard structure, or relocate occupants of a substandard structure, within the time allotted in an order issued pursuant to this Ordinance, the City may take the ordered action at its expense at the direction of the City Council.

(c) As an alternative to subsection (b), a civil penalty may be assessed against the property owner for failure to repair, remove, or demolish the building. A notice of penalty shall be mailed by certified mail, return receipt requested, to the property owner advising the amount and duration of the penalty, the date on which it is due, and notice that failure to pay said penalty shall result in a lien being placed on the property.

(d) In addition to subsections (b) and (c) above, the Building and Standards Commission may assess and recover a civil penalty against a property owner at the time of the hearing for violations of this Ordinance, pursuant to Texas Local Government Code section 214.0015.

(e) Any expenses incurred by the city pursuant to subsection (b) of this section and any civil penalties incurred by the owner pursuant to subsections (c) and (d) of this section will be assessed as a lien against the property on which the building stands or stood. The City will have a privileged lien upon filing same in the Official Public Records of Coke County subordinate only to tax liens against the property unless it is a homestead as protected by the Texas Constitution. The lien will be extinguished if the property owner or other interested party reimburses the City for all expenses.

Section 15. Severability. It is hereby declared to be the intention of the City Council that if any phrase, sentence, section, or paragraph of this Ordinance shall be declared unconstitutional or otherwise invalid by final judgment of a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remainder of this Ordinance since the same would have been enacted by the City Council without the incorporation of the unconstitutional or invalid phrase, sentence, section or paragraph.

Section 16. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Local Government Code.

Section 17. Effective Date. This Ordinance shall take effect upon its adoption by the City Council and after publication as required by the Texas Local Government Code.

The above and foregoing ordinance was duly proposed, read in full and adopted on the 21 day of December 2023, at a regular meeting of the City Council.



Paul Gohman, Mayor

ATTEST:



Teresa Ballard, City Secretary

