

## **Linden Ordinance 3-19** **Replaces ordinance 4-87**

### **LINDEN BUILDING/STRUCTURE/PROPERTY ORDINANCE**

#### **Purpose**

This article is enacted to the authority granted by Chapter 214, Texas Local Government Code, as well as by the Texas Constitution, and is intended to establish minimum standards for the continued use and occupancy of all buildings/structures regardless of the date of their construction by limiting the definition of substandard and dilapidated buildings to those with specified defects. The goal of this ordinance is to define substandard buildings whom require repair or maintenance. This ordinance applies to both buildings and lots. The goal is to identify buildings early and limit demolition, while ensuring property values and sanitary living conditions are upheld in adjacent property. Historic buildings undergoing renovation/restoration will be given extended time frames and additional variances so as to ensure preservation of our landmarks is a priority.

#### **Definitions:**

**Building Official.** The term “Building Official” shall mean the person or persons designated by the City Administrator to enforce the provisions of this article.

**Dangerous building or structure.** The term “dangerous building or structure” shall mean all buildings or structures which have any of the following defects or lack of facilities:

- a. all buildings or structures that have become deteriorated through natural causes or by damage through exposure to the elements, especially wind, hail or rain, or damage through fire to the extent that the roof, windows or doors, or portions of the house, building or structure which protect the interior from the weather, would no longer reasonably protect from the weather.
- b. all buildings or structures which are so structurally deteriorated that they are in danger of collapse, or which cannot be expected to withstand the forces of nature.
- c. all buildings or structures not wired so as to provide, in operating condition, electrical circuits sufficient to safely carry a load imposed by normal use of appliances and fixtures.
- d. all buildings or structures in which the floors, walls, ceilings, and all supporting members are not capable of bearing imposed loads safely.
- e. all buildings or structures so deteriorated or constructed or permitted to be constructed as to constitute a menace to the health or safety, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects, reasonably calculated to spread disease, and including such conditions hazardous to safety as inadequate bracing or use of deteriorated materials.
- f. all buildings or structures which constitute or in which are maintained fire hazards as that term is defined by the ordinances of the City of Linden, Texas and fire codes in force.
- g. all buildings or structures substantially in noncompliance with the requirements of the city’s building code, electrical code, plumbing code, fire code, property maintenance

code, or other applicable codes of the City of Linden such that said buildings or structures constitute a menace or hazard to the public health or safety.

h. all buildings or structures so dilapidated or substandard as to be unfit for human habitation.

i. all buildings or structures which, because of activities involving the sale, use, or abuse on said premises of illicit drugs or alcohol or other similar activities as certified to by the Chief of Police, or the Fire Marshal, or their designee, constitute a fire hazard or a menace to the health, safety, and welfare of the citizens of the City of Linden.

## **Section 1) Substandard Buildings/Structures**

(a) **General.** Any building/Structure or portion thereof which is determined to be a dangerous building in accordance with the adopted building code; or any building or portion thereof including any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located in which there exists any of the conditions referenced in this section to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby are declared to be substandard buildings.

(b) **Inadequate Sanitation.** Buildings/Structures or portions thereof shall be deemed substandard when they are unsanitary. Inadequate sanitation shall include but not be limited to the following:

(1) Lack of or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodging house.

(2) Lack of or improper water closets, lavatories and bathtubs or showers per number of guests in hotel.

(3) Lack of or improper kitchen sink in a dwelling unit.

(4) Lack of hot and cold running water to within the rooms of a hotel or Bed and Breakfast.

(5) Lack of hot or cold running water to plumbing fixtures in a dwelling unit or apartment complex.

(6) Lack of adequate heating facilities.

(7) Lack of or improper operation of required ventilation equipment.

(8) Lack of minimum amounts of natural light and ventilation as determined by building official.

(9) Yard cluttered or encumbered with cars and/or stored items accumulating water/garbage so as to cause a health hazard.

- (10) Lack of required electrical lighting.
- (11) Dampness of habitable room
- (12) Infestation by insects, vermin or rodents as determined by the building official.
- (13) General dilapidation or improper maintenance.
- (14) Lack of connection to required sewage disposal system.
- (15) Lack of adequate garbage and rubbish storage and removal facilities.
- (16) Partial destruction or damage by fire unrepaired for more than ninety (90) days.

(c) **Structural Hazards.** Buildings/Structures or portions thereof shall be deemed substandard when they are or contain structural hazards. Structural hazards shall include but not be limited to the following:

- (1) Deteriorated or inadequate foundation.
- (2) Defective or deteriorated flooring or floor supports.
- (3) Flooring or floor supports of insufficient size to carry imposed load with safety.
- (4) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
- (5) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
- (6) Members of ceilings, roofs, ceiling and roof supports or other original members which sag, split or buckle due to defective material or deterioration
- (7) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.
- (8) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration.
- (9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
- (10) Heating flues and exhausts which list, bulge or settle due to defective material or deterioration.

(d) **Nuisance.** Buildings/Structures or portions thereof in which there exists any nuisance as defined by any city ordinance are deemed substandard buildings. Nuisance can also be defined as any overhang or awning covering a public walkway not kept in safe and good condition.

(e) **Hazardous Electrical Wiring.** Electrical wiring which was installed in violation of code requirements in effect at the time of installation, or which has not been maintained in good condition or which is not being used in a safe manner shall be considered substandard.

(f) **Hazardous Plumbing.** Plumbing which was installed in violation of code requirements in effect at the time of installation or which has not been maintained in good condition or which is not free of cross-connections of siphonage between fixtures shall be considered substandard.

(g) **Hazardous Mechanical Equipment.** Mechanical equipment which was installed in violation of code requirements in effect at the time of installation, or which has not been maintained in good and safe condition shall be considered substandard.

(h) **Faulty Weather Protection.** Buildings/Structures or portions thereof shall be considered substandard when they have faulty weather protection which shall include but not be limited to the following:

(1) Grossly deteriorated, crumbling or loose plaster, so as to cause the imminent demolition of walls.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split or buckled exterior wall coverings or roof coverings.

(i) **Fire Hazard.** Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the chief of the fire department or the fire marshal, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any case shall be considered a substandard building.

(j) **Faulty Materials or Construction.** The use of materials of construction except those which are specifically allowed or approved by the building official and the currently adopted building code and which have been adequately maintained in good and safe condition shall cause a building to be substandard.

(k) **Hazardous or Insanitary Premises.** The accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage offal, rat harborages, stagnant water, combustible materials and similar materials or conditions on a premises constitutes a nuisance to be abated as provided by

this article. Un cut lawn in excess of 10 inches can harbor hazards, lawn area must be cut regularly.

(l) **Inadequate Exits.** Except for those buildings/Structures or portions thereof which have been provided with adequate exit facilities conforming to the provisions of this code, buildings or portions thereof whose exit facilities were installed in violation of code requirements in effect at the time of their construction or whose exit facilities have not been increased in number or width in relation to any increase in occupant load due to alterations, additions or change in use or occupancy subsequent to the time of construction shall be considered substandard.

Notwithstanding compliance with code requirements in effect at the time of their construction, buildings or portions thereof shall be considered substandard when the building official finds that an unsafe condition exists through an improper location of exits, a lack of an adequate number or width of exit or when other conditions exist which are dangerous to human life.

(m) **Inadequate Fire Protection or Fire-Fighting Equipment.** Buildings/Structures or portions thereof shall be considered substandard when they are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by the codes of the city, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) **Improper Occupancy.** All buildings/Structures or portions thereof occupied by living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies shall be considered substandard.

## **Section 2) Notices and Orders of Building Official**

(a) **Commencement of Proceedings.** Whenever the building official has inspected or caused to be inspected any building and has found and determined that such building is:

- (1) Dangerous, substandard or unfit for human habitation; or a hazard to the public health, safety and welfare;
- (2) Regardless of its structural condition, unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or caused by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
- (3) 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 in the manner described by subsection (a)(2) hereof, he shall commence proceedings to cause the repair, rehabilitation, vacation or demolition of the building.

(b) Notice. The building official shall issue a notice directed to the record owner of the building. The notice shall contain:

- (1) The street address and legal description sufficient for identification of the premises upon which the building is located;
- (2) A statement that the building official has found the building to be substandard with a brief and concise description of the conditions found to render the building substandard;
- (3) A statement of the action required to be taken as determined by the building official;
- (4) A requirement that the owner or person in charge of the building or premises secure required permits and commence the required action within fifteen (15) days from the date of such notice and that all work be completed within such time as the building official shall determine is reasonable;
- (5) If the building official has determined that the building or structure must be vacated, the notice shall contain a requirement that the building be vacated within such time from the date of the notice as determined by him to be reasonable;
- (6) A statement advising that if any required repair or demolition work is not commenced within the time specified the building official will, without further notice, order the building vacated and posted to prevent further occupancy until the work is completed;
- (7) A statement advising that if any required repair or demolition work is not commenced or completed within the time specified, proceedings will be commenced to have the building repaired or demolished and the cost of such assessed as a charge against the land.

(c) Service of Notice. The notice and any amended notice shall be served upon the record owner.

(d) Methods of Service. Service of notice shall be made upon all persons entitled hereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last tax roll of the city or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be published twice within ten (10) consecutive days in a newspaper of general circulation in the city. Failure to receive such notice or order shall not affect the validity of any proceeding taken under this section. Service by

certified mail in the manner provided in this section shall be deemed effective on the date of mailing. Service by publication shall be deemed effective on the date of the second publication.

(e) Order to Vacate. An order to vacate immediately may be issued only if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or of the occupants.

(f) Posting. Every notice to vacate shall, in addition to being served as provided in subsection (d), be posted at or upon each exit of the building, and shall be substantially the following form:

***DO NOT ENTER***

***UNSAFE TO OCCUPY***

***It is a Misdemeanor to Occupy this Building***

***or to Remove or Deface this Notice.***

***Building Official, City of Linden***

### **Section 3) Violations**

No person shall remain in or enter any building/Structure which has been posted as provided in Section 2(f), except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the adopted building code. Any person violating this section shall be guilty of a Class C misdemeanor, and any person who fails to meet the requirements made in any notice duly served as provided in this article shall be guilty of a misdemeanor for each day such failure continues after the date the notice requires compliance.

### **Section 4) City Repair or Demolition**

If the required repair or demolition has not been commenced within fifteen (15) days from the date of any notice served pursuant to this article, or if required action has not been completed as required by such notice, the building official shall commence proceedings as follows:

(a) The building official shall cause such building to be vacated by posting at each entrance thereto a notice reading:

***SUBSTANDARD BUILDING***

***It is a Misdemeanor to Occupy this Building***

***or to Remove or Deface this Notice***

***Building Official, City of Linden***

(b) The city council shall be notified and hold a public hearing to decide whether to order the repair, removal or demolition specified in such notice to be done and whether to cause the cost of such work to be paid and levied as a special assessment against the property.

(1) The city council will set a date and time for a public hearing to consider ordering the improvement and assessment of any property the owner has failed to improve as required by notices described in this article. Such public hearing shall be held not less than fifteen (15) nor more than sixty (60) days from the date from the date notice was served to the owner/owners.

(2) A title search shall be conducted to discover each mortgagee, and notice of the public hearing to be held before the city council shall be given by causing a notice thereof to be served on the owner of such property and upon each mortgagee and lienholder having an interest in the building or in the property on which the building is located. Such notice shall be mailed to such owner and lienholder by certified mail, return receipt requested. The notice shall include the date, time and place of such hearing and shall state that the owner, lienholder or mortgagee will be required to submit proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work together with:

(A) An identification, which is not required to be a legal description of the building and the property on which it is located;

(B) A description of the violation of city standards that is present at the building; and

(C) A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

(3) The city administrator shall, at the time notices are mailed, file a notice of the hearing in the Cass County Clerk's Office, describing the land, owner and stating the purpose, time and place of the hearing.

(4) After conducting a hearing authorized under this section, if the council finds that the allegations are true, the council shall require the owner, lienholder or mortgagee of the building to within thirty (30) days:

(A) Secure the building from unauthorized entry; or

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



(5) If the council allows the owner, lienholder or mortgagee more than thirty (30) days to repair, remove or demolish the building, the council 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 as determined by the council.

(6) The owner, lienholder or mortgagee shall not be allowed more than ninety (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:

(A) Submits a detailed plan and time schedule for the work at the hearing; and

(B) Establishes at the hearing that the work cannot reasonably be completed within ninety (90) days because of the scope and complexity of the work.

(7) If the council allows the owner, lienholder or mortgagee more than ninety (90) days to complete any part of the work required to repair, remove or demolish the building, the owner, lienholder or mortgagee shall be required to regularly submit progress reports to the city council in writing by the first Monday of each month. These will be reviewed at regularly scheduled city council meetings to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The city council may require that the owner, lienholder or mortgagee appear before the council or its designee to demonstrate compliance with the time schedule.

(8) In a public hearing to determine whether a building complies with the standards set out in this article, the owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work. The council shall specify reasonable time for the building to be vacated, secured, repaired, removed or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time for the ordered action to be taken by the mortgagees or lienholder in the event the owner fails to comply with the order within the time provided for action by the owner.

(9) The council's requirement shall be reduced to writing and shall be considered an order. Within the (10) days after the date that the order is issued the city administrator shall:

(A) File a copy of the order in Linden City Hall; and

(B) Publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:

(i) The street address or legal description of the property;

- (ii) The date of the hearing;
- (iii) A brief statement indicating the results of the order; and
- (iv) Instructions stating where a complete copy of the order may be obtained.

(10) After the hearing, the city secretary shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building, and if the owner does not take the ordered action within the allotted time, the municipality shall promptly mail by certified mail, return receipt requested, a copy of the order to any lienholder or mortgagee of the building.

### **Section 5) Performance**

(a) **Procedure.** If the building is not vacated, secured, repaired, removed or the occupants are not relocated within the allotted time pursuant to the provisions of the order of the city council, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot shall be cleaned. The building, building contents or building materials may be sold if removal is ordered and the proceeds shall be used to offset other costs of cleaning the lot. Lot will be reduced to level, mow able land.

(b) **Costs.** The cost of such work shall be paid from the city funds and shall constitute a special assessment and a lien against such property to secure its payment from the date the lien is recorded in the county clerk’s office. Such liens shall be privileged as provided by law. The city attorney may bring an action in any court of proper jurisdiction to foreclose the lien and to recover the costs incurred by the city.

### **Section 6) Notice of Lien**

A sworn account of the expense incurred by the city in the repair, removal or demolition of any building done pursuant to the provisions of this article, shall be filed by the building official with the city administrator. The city administrator shall file such notice of the city’s assessment and lien in the records of the county clerk. Such notices shall read substantially as follows:

STATE OF TEXAS

COUNTY OF CASS

NOTICE OF LIEN

, Building Official for the City of Linden, makes oath and says that the City of Linden has incurred as expense of \$            in improving property, the legal description of which is            . Such expense was incurred to repair, remove or demolish

substandard buildings after notices pursuant to ordinance and to Chapter 214, Texas Local Government Code, were served on the record owner thereof,

, whose address is .

Building Official

City of Linden, Texas

SWORN AND SUBSCRIBED before me by the said this day of , 20 , to  
certify which witness my hand and seal of office.

Notary Public

Sate of Texas

### **Section 7) Prohibitions Against Service or Use**

No utility service, building permit, use for storage or certificate of occupancy shall be allowed for any such property until any lien imposed pursuant to this article is discharged. All articles within the building lot are also held under said lien.