

DANGEROUS BUILDINGS AND STRUCTURES

AND ORDINANCE REQUIRING THE OWNER OF ANY STRUCTURE WITHIN THE CITY OF KENEFICK TO KEEP THE SAME FROM BECOMING UNSAFE, A FIRE HAZARD, OR A HAZARD TO THE PUBLIC HEALTH, SAFETY AND WELFARE;

PROVIDING DEFINITIONS OF TERMS USED HEREIN; PROVIDING FOR NOTICE TO THE OWNER OF SUCH PROPERTY; PROVIDING FOR THE REMOVAL OF STRUCTURE AND OTHER OBJECTIONABLE UNSIGHTLY OR UNSANITARY MATTER OF WHATEVER NATURE AT THE EXPENSE THEREOF TO BE ASSESSED ON THE OWNER OR OWNERS OF THE STRUCTURE OR STRUCTURES UPON WHICH SUCH EXPENSE WAS INCURRED; PROVIDING FOR THE FILING A OF STATEMENT IN THE OFFICE OF THE COUNTY CLERK FOR A PRIVILEGED LIEN UPON SUCH STRUCTURE OR STRUCTURES TO SECURE THE EXPENDITURES SO MADE, AND PROVIDING FOR INTEREST THEREON AT THE RATE OF TEN (10%) PERCENT PER ANNUM; PROVIDING FOR A TIME FOR VIOLATING ANY PROVISION OF THIS ORDINANCE; PROVIDING REPEALER AND SEVERABILITY CLAUSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENEFICK:

SECTION 1: Defined

Dangerous buildings and structures are defined as:

- (1) All buildings or structures of any nature including any trailer houses, mobile homes, wells, septic tanks or swimming pools that are found to be dangerous, dilapidated, or a fire hazard, and a hazard to the public health, safety, and welfare;
- (2) Regardless of structural condition, those buildings or structures unoccupied by the owners, lessees or other invitees, and unsecured from unauthorized entry to the extent they could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
- (3) Despite being secured in any manner, the means of securing the building or structure are inadequate to prevent unauthorized entry or use in a manner described by subsection (2) of this section.

SECTION 2: Declared to be Public Nuisances

All dangerous structures within the terms of Section 1 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as provided in this article.

SECTION 3: Standards for Repair, Vacation, or Demolition

(a) The following standards shall be followed by the \ fire chief, and the city council, acting in its capacity as building commission, under the terms of this article in ordering the repair, vacation or demolition:

- (1) If the dangerous structure can reasonably be repaired so that it will no longer exist in violation of this article, it shall be ordered repaired.
- (2) If the dangerous structure is in such a condition as to make it dangerous to the health, safety, morals, or general welfare of its occupants, it shall be ordered to be vacated.
- (3) In any case where a dangerous structure is fifty percent (50%) or more damaged, decayed, or deteriorated from its original value or structure, it shall be demolished, and, in all

(b) Included in the term "demolished" in this article is the cleaning of the property and removal of all debris and trash.

SECTION 4: Duties of Building Official or Fire chief

The duties of the building official or fire marshal under this article shall be as follows:

- (1) Inspect or cause to be inspected annually all public buildings, schools, halls, churches, or other structures as may be deemed necessary for the purpose of determining whether any conditions exist which render such places dangerous structures.
- (2) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this article.
- (3) Inspect any building, wall, or structure reported by the fire or police department of the town as probably existing in violation of the terms of this article.
- (4) Notify in writing, by certified mail, the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in such building or structure as shown by the town's tax roll or the deed records of the county clerk, of any building or structure found by him to be a dangerous building or structure, stating: (A) the name and address of the owner of the affected property; (B) a legal description of the property; (C) a description of the hearing including the time and place; (D) a description of the building or structure deemed a nuisance; and (E) a statement of the particulars which make the structure a nuisance as defined in Section 1.

The notice shall direct all interested parties to appear before the building commission to show cause why the building or structure reported to be a dangerous structure should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building official's and fire marshal's notice.

- (5) File a copy of the notice required by subsection (4) in the official public records of real property for the county.
- (6) Appear at all hearings conducted by the town council in its capacity as building commission and testify as to the conditions of dangerous buildings.
- (7) Place a notice on all dangerous structures upon determination, reading as follows: "This building has been found to be a dangerous building by the town building official or fire marshal. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building as shown by the Deed Records in the office of the County Clerk of Liberty County, Texas. It is unlawful to remove this notice until such notice is complied with."
- (8) After the hearing, mail by certified mail, return receipt requested, a copy of the order to the owner, mortgagee, occupant, lessee and all others having an interest in the building.

SECTION 5: Duties of City Council Acting as Building Commission

The duties of the city council acting in its capacity as building commission under this article shall be as follows:

- (1) Hold a hearing and hear such testimony as the building official or fire marshal and the owner, occupant, mortgagee, lessee, or any other person having an interest in the structure as shown by the deed records of the county clerk's office shall offer relative to the determination of the question of whether the building or structure in question is a dangerous structure.
- (2) Make written findings of fact from the testimony offered, pursuant to subsection (1) of this section as to whether or not the building in question qualifies as a nuisance as defined in Section 1.
- (3) Upon a determination that the building or structure in question does constitute a dangerous building, issue an order based upon findings of fact made pursuant to subsection (2) of this

(4) If it is found that the work cannot be completed within thirty (30) days, the building commission may allow up to ninety (90) days provided specific time schedules for the commencement and performance of the work are established and the property can be secured in a reasonable manner from unauthorized entry while the work is being performed.

(5) If the building or structure is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, it may be demolished at the expense of the owner thereof by the town or its contractor. The materials of such structure shall be sold and the net cost of the demolition shall be charged to the owner and, if any balance remains, it shall be held for the owner or any other parties entitled thereto. If the cost of the demolition exceeds the value of the materials of such building, such excess shall be charged as a lien upon the real property on which the building is situated and the town may file suit to foreclose and satisfy the lien to the extent allowed by law.

SECTION 6: Mailing and Posting of Notices When Owner, Lessee, Et Cetera, is Absent from City

In cases, save those that constitute a clear and present danger as defined in Section 5, where the owner, occupant, lessee, or mortgagee is absent from the town, all notices or orders provided for in this article shall be sent by certified mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in the structure as shown by the deed records of the county clerk's office, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the building or structure in question. Such mailing and posting shall be deemed sufficient notice for the building commission to hold its hearing.

SECTION 7: Methods of Notification

Before the eleventh day after the date the building is secured pursuant to Section 5, or action is ordered pursuant to this article, or the building is repaired, removed or demolished pursuant to this article, the building official shall give notice to the owner by:

- (1) Personally serving the owner with written notice; or
- (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address; or
- (3) Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county in which the building is located, 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; and
- (5) In addition to the above, depositing notice in the United States mail to all lien holders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the county clerk. If the required notice is mailed and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice shall be deemed as delivered.

(Ordinance adopting Code)

SECTION 8: Applicability

This article is hereby added to the ordinances of the town, and the provisions contained in this article shall apply to all dangerous buildings as herein defined, which are in existence or which may hereafter become dangerous in the jurisdiction of the town.

SECTION 9: Penalty

Any person, firm, company, partnership, corporation, or association violating any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with the general penalty provision found in Section 1.109 of this code, and each and every day that the provisions of this article are violated shall constitute a separate and

SECTION 10: All ordinances or parts of ordinances in conflict with this ordinance are expressly repealed.

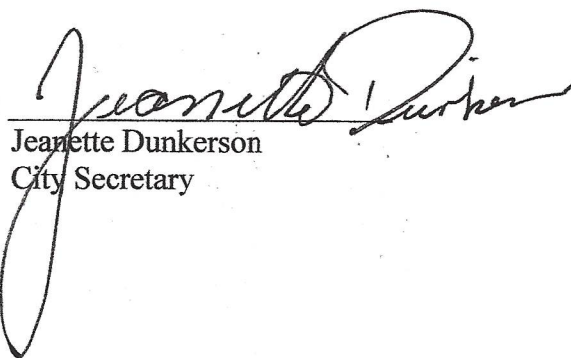
SECTION 11: If any part of this ordinance is held invalid or unenforceable for any reason, the remainder of this ordinance shall continue in full force and effect.

SECTION 12: This Ordinance Shall Be Effective from and after its passage and publications as required by law.

READ, APPROVED AND ADOPTED THIS 17th DAY OF January 2007

By: _____
Mayor Steven Ames, Jr.

Attest:


Jeanette Dunkerson
City Secretary