

ORDINANCE NO. 368

AN ORDINANCE REGULATING DANGEROUS BUILDINGS AND STRUCTURES; AMENDING ORDINANCES AND CODES IN CONFLICT; PROVIDING DEFINITIONS; PROVIDING FOR INSPECTIONS OF BUILDINGS AND STRUCTURES WITHIN THE CITY; PROVIDING FOR NOTICE TO RECORD OWNERS AND PERSONS WITH INTERESTS IN DANGEROUS BUILDINGS; PROVIDING FOR HEARINGS TO DETERMINE COMPLIANCE WITH THE MINIMUM STANDARDS OF THIS ORDINANCE; REQUIRING THE OWNER(S) AND PERSONS WITH INTERESTS IN DANGEROUS BUILDINGS TO REPAIR, REMOVE, OR DEMOLISH SUCH BUILDINGS; PROVIDING FOR REPAIR AND DEMOLITION; PROVIDING FOR THE ASSESSMENT OF EXPENSES FOR REPAIR AND/OR DEMOLITION; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the City Council recognizes the need to regulate and control unsafe, dangerous, dilapidated, and substandard buildings within the City of Bronte (the "City") in order to preserve and protect the public health and safety and preserve property values;

WHEREAS, the City has adopted the International Property Maintenance Code, 2003 Edition (the "Code");

WHEREAS, the Code provides regulations outlining minimum criteria for all permanent commercial and residential buildings erected within the City, to provide procedures for the repair or demolition of unsafe, dangerous, and substandard buildings; to provide for efficiency and compliance with all applicable statutory requirements, to provide interested property owners with an opportunity for voluntary compliance; and

WHEREAS, it has been determined that adoption of the Code, together with certain deletions, additions, and amendments thereto, is in the best interest of the health, safety, and welfare of the citizens, and will more adequately protect life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use, and occupancy of buildings, structures, and premises;

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

Section 1. Findings of Fact. The findings and recitations set out hereinabove are found to be true and correct and are hereby adopted by the City Council and made a part, hereof for all purposes as findings of fact.

Section 2. Definitions. As used in this Ordinance, the following terms shall have the meanings given below:

(a) "Building Official" means the Public Works Director or a person employed, appointed, or designated by the Mayor for purposes of making inspections, sending notices, and otherwise enforcing the provisions of this Ordinance.

(b) "Dangerous Building" or "Unsafe Building" means any structure or building located within the incorporated limits of the City that is within the definition of "Dangerous Building" or "Unsafe Building" as defined in the International Property Maintenance Code (2003 Edition), that is:

(1) in such a state or condition of repair or disrepair that all or any of the following conditions exist:

- (i) Walls or other vertical structural members list, lean, or buckle;
- (ii) Damage or deterioration exists to the extent that the building is unsafe;
- (iii) Loads on floors or roofs are improperly distributed or the floors or roofs are of insufficient strength to be reasonably safe for the purposes used;
- (iv) Damage by fire, wind, or other cause has rendered the building or structure dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City;
- (v) The building or structure is so dilapidated, substandard, decayed, unsafe, unsanitary, or otherwise lacking in the amenities essential to decent living or use that the same is unfit for human habitation or occupancy, or is likely to cause sickness, disease or injury or otherwise to constitute a detriment to the health, morals, safety, or general welfare of those persons assembled, working, or living therein or is a hazard to the public health, safety, and welfare;
- (vi) Light, air, and sanitation facilities are inadequate to protect the health, morals, safety, or general welfare of persons who assemble, work, or live therein;
- (vii) Stairways, fire escapes, and other facilities of egress in case of fire or panic are inadequate;

- (viii) Parts or appendages of the building or structure are so attached that they are likely to fall and injure persons of property;
- (2) dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare of the City's residents;
- (3) 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 used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
- (4) boarded up, fenced, or otherwise secured in any manner if:
 - (i) the building constitutes a danger to the public even though secured from entry; or
 - (ii) 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; or
 - (iii) defined as a dangerous or unsafe building by the Code.

(c) "Responsible Parties" means the owner, occupant, or person in custody of the building or structure, and any mortgagee or lienholder, as identified or listed on the current tax rolls of the Tax Appraisal District for the property, together with any additional person or interest, if any, shown in the current records of the City applicable to such property.

Section 3. Uniform Code Adoption. The International Property Maintenance Code (2003 Edition), published by the International Code Council, Inc., a copy of which was adopted on May 13, 2004, by the City Council of the City of Bronte, and certified copies of which are on file in the offices of the City Secretary of the City of Bronte, has hereby been adopted by reference and declared to be the Unsafe Building Abatement Code of the City of Bronte for the regulation, vacation, removal, repair, or demolition of unsafe buildings in a timely and legal manner in the City of Bronte.

Section 4. Unsafe Buildings Declared a Nuisance.

(a) It shall be unlawful for any person to maintain or permit the existence of any Unsafe Building in the City; and it shall be unlawful for any person to permit same to remain in such condition.

(b) All Unsafe Buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures provided in this Ordinance.

(c) The Building Official shall enforce the provisions of this Ordinance.

Section 5. Duties of the Building Official. The Building Official shall inspect, or cause to be inspected, every building, or portion thereof, reported to be unsafe. If such building, or any portion thereof, is determined to be unsafe, the Building Official shall give the responsible parties notice in accordance with the requirements set forth in the Code and in compliance with Sections Six and Seven of this Ordinance. The Building Official shall further:

(a) Inspect or cause to be inspected, when necessary, any building or structure within the incorporated limits of the City, including public buildings, schools, halls, churches, theaters, hotels, tenements, apartments, multifamily residences, single-family residences, garages, warehouses, and other commercial and industrial structures of any nature whatsoever for the purpose of determining whether any conditions exist which render such places a "Dangerous Building" as defined herein.

(b) Inspect any building, wall, or structure about which complaints have been filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this Ordinance.

(c) Report to the Board of Appeals any non-compliance with the minimum standards set forth in this Ordinance. The Building Official shall obtain from the secretary of the Board of Appeals a hearing date for a public hearing by the Board of Appeals on any structure believed to be a Dangerous Building and shall provide the secretary of the Board of Appeals with copies of the written notice to persons with interests in the property as provided for in Section Seven hereof.

(d) Appear at all hearings conducted by the Board of Appeals and testify as to the conditions of Dangerous Buildings within the City.

(e) Place a notice on all Dangerous Buildings reading as follows: "This building has been found to be a dangerous building by the City of Bronte 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 interests in the property as shown by the records of the City Secretary and the Tax Appraisal District. It is unlawful to remove this notice until such notice is complied with."

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

Section 6. Notice to Repair. Should the Building Official determine that any building or structure within the incorporated limits of the City is a Dangerous Building or Unsafe Building he/she shall deliver personally; cause written notification to be sent by certified or first-class mail addressed to the last known address; or if the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Such notice shall:

- (a) be in writing;
- (b) include a description of the real estate sufficient for identification;
- (c) include a statement of the violation or violations and why the notice is being issued;
- (d) include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code;
- (e) inform the property owner of the right to appeal; and
- (f) include a statement of the right to file a lien in accordance with Section 106.3.

Section 7. Sufficiency of Notice. Notwithstanding any other term of provision of this Ordinance or the Code, notice given pursuant to this Ordinance shall be sufficient and deemed properly served upon the Responsible Parties if a copy thereof is:

- (a) served upon him/her personally; or
- (b) sent by registered or certified mail, return receipt requested, to the last known address of such person as shown on the records of the City and the Tax Appraisal District; and

- (c) posted in a conspicuous place in or about the building affected by the notice.

Section 8. Duties of the Board of Appeals. The board of Appeals shall:

(a) Schedule and hold a public hearing and hear testimony from the Building Official, the owner, and other persons having an interest in the Dangerous Building, and any person desiring to present factual evidence relevant to the Unsafe 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 Board of Appeals shall determine by majority vote whether the building or structure in question is a Dangerous Building. Upon a determination that the building or structure in question constitutes a Dangerous Building, the Board of Adjustments and Appeals shall issue an order:

- (i) containing an identification of the building and the property on which it is located;
- (ii) making written findings of the violations of the minimum standards that are present at the building;
- (iii) requiring the owner and persons having an interest in the building to repair, vacate, or demolish the building within thirty (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 thirty (30) days, in which instance the Board of Appeals shall specify a reasonable time for the completion of the work; and
- (iv) containing a statement that the City will vacate, secure, remove, or demolish the Dangerous Building and relocate the occupants of the building if the ordered action is not taken within the time specified by the Board of Appeals.

(c) The Board of Appeals 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, as such persons appear on the rolls of the Tax Appraisal District, and in the official records of the City regarding such building, including all identifiable mortgagees and lienholders as soon as is practicable after the hearing. Within ten (10) days after the date that the order is issued, the municipality shall:

- (1) file a copy of the order in the office of the municipal secretary or clerk; and
- (2) publish in a newspaper of general circulation in the municipality in which the building is located 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.

After the hearing, the municipality shall promptly mail by certified mail, return receipt requested, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The municipality shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.

(d) If the municipality allows the owner, lienholder, or mortgagee more than thirty (30) days to repair, remove, or demolish the building, the municipality 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 hearing official.

(e) A municipality may not allow the owner, lienholder, or mortgagee 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:

- (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 ninety (90) days because of the scope and complexity of the work.

(f) If the municipality 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 municipality shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the municipality 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 hearing official or the hearing official's designee.

(g) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the municipality may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. In the event the owner or a person with an interest in a Dangerous Building fails to comply with the Order within the time specified therein, absent appeal to the City Council, the City may, at any time after the expiration of forty-five (45) days from the date a copy of the final decision of the Board of Appeals is mailed to each known owner, lienholder, or mortgagee 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, unless it is a homestead as protected by the Texas Constitution, the property on which the Dangerous Building was located. The lien is 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 the Dangerous Building if that information can be determined by a diligent 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 and all previously recorded bona fide mortgage liens attached to the real property.

(h) In addition to the authority set forth in Subsection (g) above, after the expiration of the time allotted in the 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 by this Section 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. This Section shall be applicable only to residential buildings with ten (10) or fewer dwelling units. the City shall follow the procedures set forth in Subsection (g) above for filing a lien on the property on which the building is located.

Section 9. Appeal to the City Council. Any responsible party that is aggrieved by the decision of the Board of Appeals may appeal such decision to the City Council within ten (10) days from the date of the decision appealed from. In such event, the City Council shall set a time and date for hearing such appeal and hold such hearing within forty-five (45) days from the date of the appeal.

(a) The purpose of the public hearing of the appeal shall be to determine whether or not the building is an Unsafe Building or a Dangerous Building in accordance with the standards set forth in Section Three (b), and to uphold, reverse, or modify the decision of the Board of Appeals.

(b) The matter shall be set for public hearing before the City Council at the earliest practicable date and notice of said hearing shall be served on the Responsible Parties, each known mortgagee and lienholder, and the Building Official not less than ten (10) days prior to date of said hearing. All interested persons shall have the opportunity to be heard and may introduce evidence to the City Council for its consideration.

(c) After the public hearing, the City Council shall make such findings and orders as it shall deem appropriate.

(d) After the public hearing, if a building is found in violation of standards set out in Section Three (b) of this Ordinance, the City Council may order that the decision of the Board of Appeals be affirmed, reversed, or modified and in the latter instance, that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time. The City Council also may order that the occupants be relocated within a reasonable time. The City Secretary shall mail to each identified owner, mortgagee, and lienholder a notice containing:

- (i) an identification and address of the building and the property on which it is located;
- (ii) a description of the violation of the Code of Ordinances (if any) that is found by the City Council to be present at the building; and
- (iii) a statement that the municipality will vacate, secure, remove, repair, or demolish the building or relocate the occupants of the building if ordered action is not taken within a reasonable time; or that the City will take no action.

(e) As an alternative to the procedure prescribed by Subsection (d), the municipality may make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and may give them a notice of and an opportunity to comment at the hearing. In addition, the municipality may file notice of the hearing in the Official Public Records of Real Property in the county in which the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined, a legal description of the affected property, and a description of the hearing. 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 hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice. If the municipality operates under this subsection, the order issued by the municipality may specify a reasonable time as provided by this section 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 as provided by this section for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner. Under this subsection, the municipality is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

(f) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove, repair, or demolish the building or relocate the occupants at its own expense.

(g) If the City incurs expenses under Subsection (f), the City may assess the expenses on the property and the City has a lien against the property, unless it is a homestead as protected by the Texas Constitution, the property on which the building was or is located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property 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 Coke County Clerk. The notice must contain the name and address of the owner if that information can be determined by 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.

(h) If the notice is given and the opportunity to repair, remove, or demolish the building is afforded to each mortgagee and the lienholder as provided in Subsection (d) or (e) above, the lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property to which the City's lien attaches.

Section 10. Assessment of Expenses and Penalties.

(a) If an appeal has been made to the City Council by any interested party, and if the City Council has held a hearing pursuant to Section 10(b) and the time allotted for the repair, removal, or demolition of a building under Section 10(d) or Section 10(e) has expired, then the City Council may, in addition to the authority granted under Chapter 214, Loc. Gov't Code and Section 10 of this Ordinance:

- (i) order the repair of the building at the City's expense and assess the expenses on the land on which the building stands or to which it is attached, or
- (ii) assess a civil penalty against the responsible party for failure to repair, remove, or demolish the building.
- (iii) the City Building Official shall invite at least two (2) or more building contractors to make estimates pertaining to the needed repair, removal, or demolition of a building. The Building Official shall cause to be made an assessment of expenses or civil penalty based on such estimates. The Building Official shall endeavor to minimize the expenses of any building repairs, removal, or demolitions order pursuant to this subchapter.

(b) The City may repair a building under Subsection (a) only to the extent necessary to bring the building into compliance with the minimum standards of the City and only if the building is a residential building with ten (10) or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum standards prescribed by the City.

(c) The City shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the Texas Constitution, to secure the payment of the repair, removal, or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the City shall file for record, written notice of the imposition of the lien. The notice shall contain a legal description of the land.

(d) The City's lien to secure the payment of a civil penalty or the costs of repairs, removal, or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the City's lien attaches if the mortgage lien was filed for record in the office of the Coke County Clerk before the date the civil penalty is assessed or the repair, removal, or demolition is begun by the City. The City's lien is superior to all other previously recorded judgment liens.

(e) Any civil penalty or other assessment imposed under this section accrues interest at the rate of ten (10) percent a year from the date of the assessment until paid in full.

(f) In any judicial proceeding regarding enforcement of the City's rights under this section, the prevailing party is entitled to recover reasonable attorney's fees as otherwise provided by statute.

(g) A lien acquired under this section by the City for repair expenses may not be foreclosed if the property on which the repairs were made is occupied as a residential homestead by a person sixty-five (65) years of age or older.

Section 11. Violations.

(a) The owner of any Unsafe Building or Dangerous Building who shall fail to comply with any notice or order to repair, vacate, or demolish said building or structure, such notice or order given by the authority of the Board of Appeals, or the City Council, shall be guilty of a misdemeanor.

(b) An occupant or lessee in possession of any Unsafe Building or Dangerous Building who fails to comply with any notice or order to vacate such building and fails to repair such building in accordance with an order given by the Board of Adjustments and Appeals shall be guilty of a misdemeanor.

(c) Any person removing the notice of a Dangerous Building as provided for in Section Six (e) of this Ordinance, shall be guilty of a misdemeanor.

(d) The municipality by order may assess and recover a civil penalty against a property owner at the time of an administrative hearing on violations of an Ordinance, in an amount not to exceed one thousand (\$1,000.00) dollars 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 ten (\$10.00) dollars a day for each violation, if the municipality proves:

- (1) the property owner was notified of the requirements of the Ordinance and the owner's need to comply with the requirements; and
- (2) after notification, the property owner committed an act in violation of the Ordinance or failed to take an action necessary for compliance with the Ordinance.

Section 12. Amendment of Conflicting Ordinances. All Ordinances or parts thereof in conflict herewith are hereby amended, and are repealed to the extent of such conflict only.

Section 13. Severability. It is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph, or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such invalid phrase, clause, sentence, paragraph, or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 14. Effective Date. This Ordinance shall take effect immediately upon its approval and passage and publication as required by law.

Section 15. Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required 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 Government Code.

EFFECTIVE DATE: June 15, 2004

PASSED AND APPROVED on this the 25th day of May, 2004.

THE CITY OF BRONTE

Martin Lee
Martin Lee, Mayor

ATTEST:

Pat Martindale
Pat Martindale, City Secretary