

TEHUACANA ORDINANCE
52289

DANGEROUS, SUBSTANDARD AND DILAPIDATED BUILDINGS

Declaration of nuisance.

Every building within the city which is a public nuisance shall be subject to summary abatement upon the order of the city council in accordance with the terms and provisions of this article. The term "building" shall mean and include any building and/or other structure whatsoever or residue or debris left over from the dismantling, ruins and remains of such structure. The enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the meaning of the provisions hereof in context reasonably have application.

Notice to city council.

Upon receiving notice that any building within the city limits is deemed dangerous or hazardous, the city council shall, at a regular or special meeting, bring the matter to the attention of the city council.

Owner to show cause.

If it shall appear to the city council that one (1) or more of the following conditions probably exist, it shall order that the owner show cause why such building should not be ordered to be repaired, vacated, demolished or removed without the city limits:

- (1) That such building or any part thereof is liable to fall down and endanger life or property;
- (2) That such building was constructed and/or exists in violation of any code or any other applicable provision or law of the city;
- (3) That the building has been damaged by fire, wind or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the city;

- (4) That the building has become or is so dilapidated, decayed, unsafe or unsanitary that it becomes dangerous to life, safety or general welfare of the occupants in the city.
- (5) That the building, if within the prescribed fire limits of the city, by reason of construction, age, misuse or neglect has decayed or deteriorated to a condition which is calculated to create an immediate fire hazard;
- (6) That the building is designed for or is being used in the commission of crime.

Owner to be notified of hearing.

An order issued shall set a hearing before the city council to be held not less than thirteen (13) nor more than twenty-two (22) days from the date of the order. A true copy thereof shall be served upon the owner of the building alleged to be dangerous or hazardous not less than ten (10) days prior to the hearing date. If the owner lives within the city, it shall be served by delivery by a police officer to the owner in person. If the owner lives elsewhere than in this city, it shall be served by registered mail, return receipt requested, and an executed return receipt shall be prima facie evidence of service. Where, after diligence has been exercised to find the owner of the building his whereabouts cannot be ascertained, or where he is unknown, notice may be served by publication of a true copy of the order for two (2) successive days in the official newspaper of the city, the last such publication being at least ten (10) days prior to the date for which the hearing is set.

Procedure of hearing.

Upon the hearing held pursuant to this article, the owner of the building, the occupants thereof and all interested persons may make their appearance and be heard. The procedure shall

conform as near as may be to that which obtains in the district courts. Any evidence of probative value may be received and considered by the city council. The mayor, or in his absence the mayor pro tem, shall preside and shall determine all questions of order, procedure and as to the reception of evidence.

Decision of City Council.

If the city council by majority vote finds upon the evidence presented before it that one (1) or more conditions set forth exist, and that by reason of such condition the building constitutes a public nuisance, it shall then enter an appropriate order setting forth such findings. The order shall conform to one (1) of the following categories:

- (1) If the building can reasonably be repaired so that the condition found will no longer exist, the order shall direct the repairs to be made by the owner thereof within six (6) months thereafter, and shall further direct that if the owner thereof has not within fifteen (15) days commenced or within six (6) months completed the repair of same, the city council shall cause the same to be demolished, torn down, destroyed or removed without the city limits.
- (2) If the building cannot be reasonably repaired so that the condition found will no longer exist, the order shall direct the owner thereof to demolish the same or remove it without the city limits within six (6) months thereafter, and shall further direct that, if the owner thereof has not within thirty (30) days commenced or within six (6) months completed either demolition or removal of the same, the city council shall cause the same to be demolished, torn down, destroyed or removed without the city limits. In every case where the building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants or the occupants

of the city, the order shall direct that it be vacated. The expense of demolition, tearing down or removal of the building, when performed by the city council or under its direction, shall be charged to the account of the owner thereof, and shall be a lien upon the building and its parts and upon the land upon which the same is located, and the order adopted by the city council shall so state.

Appeals.

Appeals from the determination of the city council pursuant to this article may be taken within ten (10) days after the entry of the final order by the council to a court of competent jurisdiction in the manner prescribed by law.

Sale of condemned buildings.

Every building and every portion of every demolished building of which the city council has taken possession under the terms of this article may be put up for sale at public auction after notice of such sale has been published in the official newspaper of the city once not less than ten (10) days prior to the date of the sale. At any time before same is sold, the owner may recover possession thereof upon tendering to the city council, in cash or by cashier's or certified check, a sum of money equal to the expense of demolition, tearing down or removal. The balance, if any, shall be paid to the owner of the building. In its discretion the city council may order that suit be filed to foreclose the lien of the city, and that sale be made through judicial process.