

***** CONDEMNATION OF DANGEROUS STRUCTURES *****

AN ORDINANCE ESTABLISHING
REGULATIONS FOR CONDEMNATION OF DANGEROUS STRUCTURES

WHEREAS, On Sept 1, 2009, the issue of condemnation of dangerous structures in the City of Nome was considered by Council.

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

Sec. I. Dangerous structures defined.

All vacant structures, dwellings, dwelling units, and accessory structures which have any or all of the following defects shall be and are deemed dangerous structures:

- (1) All vacant buildings or structures whose walls or other vertical structural members list, lean or buckle in excess of three-fourths (3/4) inch of horizontal measurement for each foot of vertical measurement.
- (2) All vacant buildings or structures which show thirty-three (33) percent or more damage or deterioration of the supporting members, or fifty (50) percent or more damage or deterioration of the nonsupporting or outside walls or coverings.
- (3) All vacant buildings or structures which have parts thereof which are so attached that they may fall or injure members of the public or property.
- (4) All vacant buildings and structures which, by reason of dilapidated or deteriorated conditions, have unsafe or defective electrical wiring devices or equipment, unsafe or defective gas piping, or appliances which are liable to cause or promote fires.
- (5) All vacant buildings and structures which have been damaged by fire, explosion, wind, vandalism, or elements of nature so as to have become dangerous to life, safety or the general health and welfare of the occupants thereof or inhabitants of the city.
- (6) Those vacant structures which have become so dilapidated, decayed, unsafe, unsanitary or which utterly fail to provide amenities essential to decent living such that they are unfit for human habitation or likely to cause sickness or disease so as to work injury to the health, safety or general welfare of those living thereabout.

- (7) Those buildings and structures existing in violation of any provision of the building code of the city or any provision of the city fire code or other ordinances of the city, to such an extent that they are dangerous to the health, safety, and welfare of the citizens of the city.

Sec. II. Dangerous buildings declared nuisances.

All "dangerous buildings" within the terms of Section I are hereby declared to be public nuisances and shall be repaired, removed or demolished as hereinafter provided.

Sec. III. Standard for repair or demolition.

The following standards shall be followed in substance by the building official or designated enforcing officer and the city council in ordering repair or demolition of a "dangerous structure" within the terms of Section I:

- (1) If, after inspection by the mayor or designated enforcing officer a determination is made that the building is a dangerous structure, the mayor or designated enforcing officer shall tag the structure and the owner shall be ordered by a certified letter to contact the mayor or designated enforcing officer within fifteen (15) days from the date of said letter. The owner shall be ordered, by letter, to engage in a written contract with the city agreeing to repair the structure or demolish said structure within thirty (30) days.
- (2) If repairs or demolition are not completed within forty-five (45) days of the date of the letter provided for in subsection (1) above, the mayor or designated enforcing officer shall give notice, by letter, to the owner of said structure to appear before the city council to show cause why said structure should not be demolished and at the cost of the owner.
- (3) If a structure is to be repaired such that it is no longer a "dangerous structure" under the terms of this article, said structure shall be brought into compliance with provisions of the current International Property Maintenance Code. Repairs to such structures shall be completed within a period not exceeding one hundred fifty (150) days from the date of entering the contract addressed in Section III (1). Failure to obtain substantial completion within ninety (90) days from the date of the contract addressed in Section III (1), the structure may be brought before the city council for a condemnation order without further notice to the owner. Owner who contracts pursuant to Section III (1) shall agree that unless the structure is brought into compliance with the current International Property Maintenance Code it may be immediately brought before the city council for a condemnation order without further notice.

- (4) Any vacant structure found to be a “dangerous structure” as defined herein shall be posted as provided in Section I to prevent occupancy. It shall be unlawful for any person to occupy a structure that has been tagged as a “dangerous structure” in accordance with this section.
- (5) All notices, as provided herein, shall be served by delivering same to the owner or agent in person, or by mailing the same certified to the residence or business address, if known, of such owner or agent, or by posting the same in a prominent place upon such building or structure.
- (6) If, upon hearing, the city council finds that the building or structure is in violation of Section I hereof, the city council shall order the structure to be razed or repaired at such time and under such conditions as the city council may, in its discretion, stipulate at said hearing. Such owner or agent shall forthwith comply with said order of the city council, and any owner or agent of such building structure failing to comply with such order within the time therein stipulated shall be deemed guilty of a misdemeanor and punished as provided in this Code. If the owner voluntarily demolishes his/her structure, they are responsible for all costs incurred.
- (7) If any such building or structure condemned by the order of the city council, as provided herein, is not razed or repaired within the time and under the condition specified in such order, the council may, at its discretion, proceed to have the same, razed and charge the actual expense to the owner of the real estate or lot as shown on the tax roll. A statement of expenses incurred by the city in the demolition and removal of such building or structure under this section shall be mailed to the property owner shown on the tax roll at the time of service. The statement of expenses shall, in addition to giving the amount of such expense, provide the date upon which such work was done, and description of the lot or premises upon which such work was done. Payment is due and is considered delinquent if not received by the city within thirty (30) days. If payment is not made within ninety (90) days, the city’s authorized agent is hereby authorized to charge such costs and expenses as a lien against the property upon which such building or structure is situated, and upon all other property situated in the city belonging to the owner of such building or structure.

Sec. IV. Abatement of building or structures constituting a clear and present danger to the public safety

Notwithstanding all other provisions of this article, nothing herein shall be deemed a limitation on the duty of the city to summarily order the demolition of any vacant building

or structure where it is apparent that the immediate demolition of such building or structure is necessary for the preservation of life and property in the city.

Sec. V. Enforcing officer--Powers and duties

The mayor or his or her designee, hereinafter referred to as "enforcing officer," is charged with the duty of enforcing this article.

- (1) Neither the enforcing officer nor any employee of his division shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building or in the making of plans and specifications therefor for a profit unless such person is the owner of such structure.
- (2) Neither the enforcing officer nor any employee of his division shall engage in any work which is in conflict with his duties or the interest of the City of Nome.
- (3) The enforcing officer shall enforce this article in the following manner:
 - (a) The enforcing officer shall inspect or cause to be inspected, when necessary, all buildings or structures of any kind which are unoccupied or apparently abandoned, for the purpose of determining whether any condition exists which renders such place a "dangerous structure" within the terms of Section I.
 - (b) The enforcing officer shall inspect any building 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.

The enforcing officer shall notify in writing, by certified mail, the owner and/or all persons having an interest, as shown by the Jefferson County tax rolls, in any building found by the enforcing officer to be a "dangerous structure" within the standards set forth in Section I. Said notice shall state (i) a description of the building or structure; (ii) a statement of the particulars which make the building or structure a "dangerous structure"; (iii) that the owner must repair or demolish said building or structure; (iv) that any person notified under this subsection to repair or demolish any building or structure shall be given reasonable time, as provided in this Code of Ordinances, to do or have done the work required by the notice; and (v) that the owner of said structure shall appear before the city council to show cause why said structure should not be repaired, removed or demolished.

The enforcing officer shall also file a notice of declaration of dangerous structure in the deed records of Jefferson County, Texas. Such notice will provide lawful notice to any proposed purchaser of the property that the structure thereon has been declared a dangerous structure, may not be lawfully occupied, is subject to demolition and may be eligible for building permits necessary to rehabilitate the structure.

Sec. VI. Same – Assistance by other departments.

The enforcement officer is to seek the assistance of the fire department, the Jefferson County health department, and the Jefferson County Sheriff's department in order to effectively enforce the terms of this article, and said departments are to assist the enforcing officer in any way possible in said enforcement.

Sec. VII. No utilities to vacant dwellings

No water, gas, electricity, or sewer services shall be provided to any dwelling to any dwelling unit or rooming unit found to be substandard which is or becomes vacant until such dwelling or rooming unit has been brought into compliance with the provisions of this article.

Sec. VIII. Notices

All notices provided for herein shall be deemed sufficient if sent by United States mail, return receipt requested, to the last known address of the occupant, owner or persons having an interest in a structure as required above and if a copy of such notice is posted in a conspicuous place on the substandard building, dwelling unit, rooming house or rooming unit to which it relates.

Sec. X. Securing of unoccupied buildings

- (a) *Purpose.* An owner or person in control of an unoccupied building shall insure that the building is in such condition that an unauthorized person cannot enter into it through missing or unlocked doors or windows, or through other openings into the building. The City of Nome may secure unoccupied, unsecured structures after the owner(s) fail to do so after reasonable notice. A lien may be filed on the structures to assure recovery of the cost of securing.
- (b) *Definitions.* An unsecured unoccupied building is hereby defined to be any structure that currently has no legitimate occupant or tenant and which has missing or unlocked doors or windows, or other unsecured openings into the building through which unauthorized persons can enter. Any unoccupied, unsecured building is hereby declared to be a danger to the public health and safety.


- (c) *Notice.* Whenever it is found that an unoccupied building is in such condition that an unauthorized person can enter it through missing or unlocked doors or windows or other openings, the city shall cause a written notice or "Notice to Secure" to be given to the owner of the property as such owner appears on the tax rolls of Jefferson County or to the person having the control over the property. Such notice shall be in writing and shall be given by depositing the notice in the United States mail addressed to the owner at the owner's post office address. If personal service cannot be obtained and the owner's post office address is unknown, notice may be given by publishing such notice at least twice within a ten-day period in a newspaper of general circulation in Jefferson County. Alternatively, at the City's option if personal service cannot be obtained and the owner's post office address is unknown, notice may be obtained by posting the notice on or near the front door of the building. The notice must contain the following information:
- (1) An identification which is not required to be legal description of the building and property on which it is located;
 - (2) The description of the violation of the municipal standards that are present at the building;
 - (3) A statement that the municipality may secure the building within thirty (30) days of the date of notice; and
 - (4) An explanation that the owner is entitled to request a hearing within such thirty-day period concerning any matter relating to the municipality's proposed securing of the building.
- (d) Compliance with the provisions concerning the securing of unoccupied structures does not relieve the owner or occupant of the structure from the requirement to comply with other provisions of the dangerous structures ordinance.
- (e) *Appeal.* If the owner requests a hearing about the structure, the municipality shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the proposed securing of the building by the city. The hearing shall be conducted within twenty (20) days after the day the owner files a written request for such hearing. The hearing shall be before the mayor and two (2) members of the City Council, appointed by the mayor.

- (f) *Offenses.* An owner who fails to timely comply with a notice to secure as set out herein shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000.00). Each day's failure to comply after the expiration of the notice period shall constitute a separate offense.
- (g) If the owner fails to comply with a notice to secure, the city may order the boarding up of all openings so as to prevent entry or the reasonable securing of the structure by any other reasonable fashion and may assess the expenses of such securing as a lien on the property as allowed by Section 214.0011(f) of the Local Government Code.

This Ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.


PASSED AND APPROVED on the 1 day of September, 2009.

City of Nome, Texas



DAVID STUDDERT, Mayor

ATTEST:



CITY SECRETARY