

ORDINANCE NO. 1032

AN ORDINANCE DEFINING CONDEMNED PROPERTY; DESIGNATING AN OFFICIAL CONDEMNATION OFFICER; PROVIDING FOR THE POSTING OF PLACARDS ON UNINHABITABLE OR DANGEROUS BUILDINGS; PROVIDING FOR SECURING PLACARD BUILDINGS; PROVIDING FOR EMERGENCY CASES; PROVIDING A PROCEDURE FOR CONDEMNATION; PROVIDING A GUIDE FOR REPAIR, VACATION OR DEMOLITION OF UNINHABITABLE BUILDINGS; PROVIDING FOR ENFORCEMENT OF THE ORDER OF THE BOARD OF COMMISSIONERS; PROVIDING FOR POSTING OF WARNINGS OF UNSAFE BUILDINGS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

The City of Raymondville, by and through its Board of Commissioners, declares every substandard building or structure as herein defined to be a public nuisance and subject to repair, vacation or demolition to abate such nuisance as herein provided in order to protect the health, safety and welfare of the occupants and the public.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF RAYMONDVILLE, TEXAS:

SECTION 1. Definition of Condemned Property. Any building or structure of any type of material, whether public or private property, existing within the City limits of the City of Raymondville, Willacy County, Texas, which is determined to be unsafe for or dangerous to human occupancy, pursuant to this Ordinance, shall be declared and be and become a condemned building or structure:

a. Any building or structure which, for want of repair or by reason of age or dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein.

b. Any building or other structure which shall be determined to have a permanent or temporary plumbing condition existing in violation of the installation, maintenance and repair provision of the City of Raymondville Plumbing Code presently duly enacted or to be duly enacted from time to time, and which shall be further determined, by virtue of such condition in violation of said provisions of said Plumbing Code to endanger the safety of said building or structure or other buildings or structures or other property; and/or to endanger the safety and health of persons who may have occasion to occupy and/or be in, on or about said premises, or adjoining property, whether they be the owner thereof or not.

(4) Is in such condition as to make it dangerous to the health, safety, or general welfare, has been ordered vacated by the Board of Commissioners, and has not been cured of the defects within a reasonable time.

SECTION 8. Enforcement of the Order of the Board of Commissioners.

a. After any order of the Board of Commissioners made pursuant to this ordinance shall become effective, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor and upon conviction thereof such person shall be punished by a fine of not more than two thousand dollars (\$2,000.00).

b. If, after any order of the Board of Commissioners made pursuant to this ordinance has become effective, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the condemnation officer may cause such person to be prosecuted under Subsection a of this section, and/or the City may institute any appropriate action to abate such building as a public nuisance.

c. No person shall occupy any building which has been posted as specified in this ordinance. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the Board of Commissioners have been completed pursuant to the provisions of all the applicable building codes and ordinances.

d. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City, or with any person who owns or holds any real estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this ordinance, whenever such officer, employee, contractor or authorized representative of the City, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of this ordinance, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this ordinance.

e. Any person who is aggrieved by the actions taken under the provisions of this ordinance after he has exhausted his administrative remedy as provided herein, may file suit in the District Court of Willacy County, Texas, in the nature of an appeal from the action of the Board of Commissioners within fifteen (15) days, in which appeal questions presented to the said district courts the substantial evidence rule shall prevail, except said question of whether or not a nuisance exists shall be tried by the district courts de novo.

SECTION 9. Posting of Warnings of Unsafe Buildings.

a. In the event the Board of Commissioners makes a determination after the public hearing that the building is deemed to be in violation of the terms of this ordinance, the Condemnation Officer shall cause to be posted at each entrance to such building a notice to read as follows:

DANGEROUS.
DO NOT ENTER. UNSAFE TO OCCUPY
Condemnation officer of the City of Raymondville

b. Such notice shall remain posted until required repairs, demolition, or removal is completed and such premises have been rendered safe. Such notice shall not be removed without written permission of the condemnation officer, and no person shall enter the building except for making inspections or required repairs or to demolish such building.

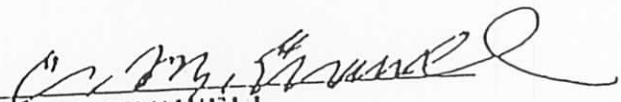
SECTION 10. Severability Clause. If any part or parts of this ordinance should for any reason be held invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 11. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 12. Effective Date. This ordinance shall take effect from and after the date of its passage and publication as provided by law.

PASSED, APPROVED AND ADOPTED this 14th day of April, 1998.

CITY OF RAYMONDVILLE, TEXAS

BY: 
C.M. CROWELL,
Mayor

ATTEST:


ELEAZAR GARCIA, JR.,
City Secretary

c. Any building or other structure which shall be determined to have a permanent or temporary electrical installation condition existing in violation of the installation, maintenance or repair provisions of the City of Raymondville Electrical Ordinance as it is presently duly enacted or may be enacted from time to time, and which shall be further determined, by virtue of such condition in violation of said provisions of said Electrical Ordinance to endanger the safety of said building or structure or other buildings or structures or other property, and/or to endanger the safety and health of persons who may have occasion to occupy and/or be in, on or about said premises, or adjoining property, whether they be the owner thereof or not.

d. Any building or structure which shall be determined to contain a faulty or defective structural condition existing in violation of the construction, maintenance and repair provisions of the City of Raymondville Building Code as is presently duly enacted or may be enacted from time to time, and which shall be further determined, by virtue of such condition in violation of said Building Code to endanger the safety of said building or structure or other buildings or structures or other property, and/or to endanger the safety and health of persons who may have occasion to occupy and/or be in, on or about said premises or adjoining property, whether they be the owner thereof or not.

e. Any building or structure which shall be determined to have a permanent or temporary sanitary condition existing in violation of the various health and sanitation ordinances duly enacted and to be enacted from time to time, and which shall be further determined, by virtue of such condition in violation of said provisions of said sanitation ordinances to endanger the safety of said building or structure or other buildings or structures or other property, and/or to endanger the safety and health of persons who may have occasion to occupy and/or be in, on or about said premises, whether they be the owner thereof or not.

SECTION 2. Designation of Official Condemnation Officer. The Director of Public Works of the City of Raymondville, as said office is created and duly existing under the Ordinances of the City of Raymondville, shall be and henceforth become the condemnation officer for the City of Raymondville and shall carry out the provisions of this Ordinance as hereinafter provided for.

SECTION 3. Posting of Placard on Uninhabitable, Dangerous Buildings.

a. If the Condemnation Officer or a designated representative, shall, upon inspection of any building within the City, find the same to be uninhabitable and dangerous, he shall place a placard on the uninhabitable and dangerous building reading as follows:

WARNING

This building has been found to be an UNINHABITABLE AND DANGEROUS STRUCTURE by the Condemnation Officer or a designated representative. This building is to be vacated immediately. This placard is to remain on the structure until it is repaired or demolished in accordance with the notice dated _____

which has been mailed to all known persons having an interest in this building or property as shown by the County Clerk of Willacy County, Texas. It is a violation of City Ordinance 1032, punishable by a fine up to \$2,000.00 for anyone to remove this placard until such notice has been compiled with.

Signed

Condemnation Officer or a Designee

b. No person shall occupy any building posted with such placard nor shall any person deface, destroy, or remove any such placard.

c. A copy of such notice shall be posted on the front door or as near to the front door as practicable on the uninhabitable and dangerous dwelling or building to which it relates.

SECTION 4. Placard Building to be Secured. When the placard authorized by this Ordinance has been posted on any building in the City found to be a violation of this ordinance, the owner or occupant thereof shall render it secure from entry by unauthorized persons.

SECTION 5. Emergency Cases. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless an uninhabitable and dangerous building is immediately repaired, vacated or demolished, the condemnation officer or a designated representative shall cause the immediate repair, vacation or demolition of such uninhabitable and dangerous building or dwelling. The costs of such emergency repair, vacation, demolition or other compliance shall be collected in the same manner as provided in Section 6.

SECTION 6. Procedure for Condemnation. The following procedure shall be followed in applying the foregoing conditions in determining if a building or other structure within the City of Raymondville is to be condemned and in condemning said building or other structure:

a. **Right of Inspection.** The condemnation officer or his designated representative shall cause to be inspected any building or structure for the purpose of determining whether conditions exist which render such place uninhabitable or substandard within the terms of this ordinance. Cause for inspection may be based on any of the following:

(1) A complaint filed by any person;

(2) A report filed by the City Plumbing Inspector, City Building Inspector, City Electrical Inspector, City Sanitation Inspector, the Police Department, Fire Department or any other city department of any building or structure which is or may be uninhabitable or substandard with the terms of this ordinance; or.

(3) General information or knowledge about the building or structure.

The condemnation officer shall have the right to enter upon and inspect the premises of any building or other structure, permanent or temporary, of any type of material, within the City of Raymondville, at any time (being reasonable and commensurate with any dangerous conditions reasonably believed to exist and with due consideration and regard for the safety, respect and dignity of the owners or other occupants of said premises) for the purpose of inspecting the same to determine if there is any imminently dangerous existing condition as defined above in Section 1.

b. Notice of Violation. Upon determination of a violation of this ordinance, the condemnation officer shall give notice of said violation as follows:

(1) Service. The condemnation officer or his authorized designee shall give notice of a violation of this ordinance. Such notice shall be in writing and shall be served by personal delivery or by certified mail, return receipt requested, to the record owners of the affected property, and to all unknown owners, by posting a copy of the notice on the front door of each affected improvement situated on the property or as close to the front door as practicable; and if the owner's address is different than the address shown for the property involved, to the address of the property, addressed to the occupant of such address. It is not necessary that the notice to the occupant of the property list any occupant by name or that the notice be mailed by certified mail or by personal delivery to any occupant of the property who is above the age of 18 years or older.

(2) Contents. The notice shall contain the following:

(i) The names of all persons to whom the notice is being served pursuant to this ordinance;

(ii) The street address or legal description of the premises;

(iii) A general description of the building, structure improvements or condition deemed substandard or otherwise in violation of this ordinance;

(iv) A description of the violation of municipal standards that are present at the building or structure;

(v) Notice of the date, time and place of the public hearing to determine whether the building complies with the standards set out in this ordinance;

(vi) A statement that the owner, lienholder, or mortgagee will be required

to submit at the public hearing 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;

(vii) Whether or not the building shall be vacated by the occupants and, if so the date by which such vacation shall be effected.

c. Hearing. Upon a determination of the condemnation officer that a violation of this ordinance exists, the condemnation officer shall set a time, date and place for a hearing before the Board of Commissioners of the City of Raymondville. The following procedures shall control said hearing:

(1) A quorum of the Board of Commissioners shall constitute the hearing board. ✓

(2) A record of the entire proceedings shall be made by tape recording, or by any other means of permanent recording determined to be appropriate by the Board of Commissioners. ✓

(3) A copy of the tape of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. ✓

(4) The Board of Commissioners may grant continuances for good cause shown. ✓

(5) In an proceedings under this ordinance, the mayor or any commissioner has the power to administer oaths and affirmations and to certify the official acts. ✓

(6) Hearings need not be conducted according to the technical rules relating to evidence and witnesses. However, oral evidence shall be taken only on oath or affirmation. ✓

(7) Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state. ✓

(8) Irrelevant and unduly repetitious evidence shall be excluded. ✓

(9) Each party shall have these rights on any matter relevant to the issues of the hearing: ✓

(i) To call and examine witnesses on any matter relevant to the issues of the hearing;

(ii) To introduce documentary and physical evidence;

(iii) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

(iv) To impeach any witness regardless of which party first called him to testify;

(v) To rebut the evidence against him; and,

(vi) To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

(10) The Board of Commissioners may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made and (ii) the parties are given opportunity to be present during the inspection.

(11) The decision of the Board of Commissioners shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested.

(12) The effective date of the order shall be as stated therein.

d. Order of the Council.

(A) After the public hearing before the Board of Commissioners of the City of Raymondville, if the building, structure or dwelling is found in violation of the standards set out in this ordinance, the City may order that the building be vacated, secured, repaired, removed and/or demolished by the owner within the time provided for in this ordinance. The City may also order that the occupants be relocated within a reasonable time. If the owner does not take the ordered action within the allotted time, the City shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building, structure or dwelling or in the property on which the building is located. The City shall send each identified mortgagee and lienholder a notice containing: ✓

(1) an identification, which is not required to be a legal description, of the building and the property on which it is located: (1)

(2) a description of the violation of the standards that are present at the building;
and

(3) 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 the time set out in this ordinance.

(B) As an alternative to the procedure prescribed above, the City 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 City may file notice of the hearing in the Official Public Records of the Real Property of Willacy County, Texas. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, 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. The order issued by the City may specify a 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 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. The City 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.

(C) Within 10 days after the date that the order is issued, the City shall:

(1) file a copy of the order in the office of the City Secretary; and,

(2) publish in a newspaper of general circulation in the City 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.

(D) After the hearing, the City shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building and to any lienholder or

mortgagee of the building. The City shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building through records of the Willacy County Clerk and through other sources available to the City.

(E) In conducting a hearing authorized under this ordinance, the City shall require the owner, lienholder, or mortgagee of the building to within thirty (30) days:

(1) secure the building from unauthorized entry; or

(2) 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.

(F) If the City allows the owner, lienholder, or mortgagee more than thirty (30) days to repair, remove, or demolish the building, the City 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 Board of Commissioners.

(G) The City will 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.

(H) If the City allows the owner, lienholder, or mortgagee more than ninety (90) days to complete any part of the work requires to repair, remove, or demolish the building, the owner, lienholder, or mortgagee must regularly submit progress reports to the City to demonstrate that the owner, lienholder, or mortgagee has complied 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 Board of Commissioners to demonstrate compliance with the time schedules.

(I) In a public hearing to determine whether a building complies with the standards set out in this ordinance, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of the work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

(J) 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,

or demolish the building or relocate the occupants at its own expense.

(K) If the City incurs expenses under Subsection (J), 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 building was 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 Willacy County Clerk. The notice must contain the name and address of the owner, if that information can be determined with 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.

(L) If the notice is given and the opportunity to relocate the tenants of the building or to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as authorized by this ordinance, the lien is a privileged lien subordinate only to tax liens.

SECTION 7. Guide for Repair, Vacation or Demolition of Uninhabitable Buildings.

The following guide shall be followed by the Board of Commissioners in determining whether to order the repair, vacation, or demolition of any uninhabitable or dangerous building, structure, or dwelling:

a. Repair. If a building, structure or dwelling can reasonably be repaired so that it will no longer exist in violation of the terms of this ordinance, the Board of Commissioners shall order it repaired within the time provided in this ordinance.

b. Vacation. If a building, structure or dwelling is in such conditions as to make it a danger to the health, safety, or general welfare of its occupants or the citizens of the City or if deemed necessary for the abatement of the nuisance, the Board of Commissioners shall order it vacated.

c. Demolition. The Board of Commissioners may order a building, structure or dwelling demolished if it:

(1) Is at least 50% damaged or deteriorated, on either a structural or original value basis;

(2) Is an immediate danger to life or safety of any person and such danger is not immediately remedied or corrected to eliminate the danger;

(3) Is in need of repair under this ordinance and is not repaired within the reasonable time set forth in the Order; or,