

**ORDINANCE NO. 2004**

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS,  
AMENDING ORDINANCE NO. 1529, BUILDING  
REGULATIONS, SECTION 19: SUBSTANDARD  
BUILDINGS; PROVIDING FOR REPEAL OF  
CONFLICTING ORDINANCES; PROVIDING  
SEVERABILITY CLAUSE; AND PROVIDING AN  
EFFECTIVE DATE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL,  
TEXAS THAT:**

**SECTION I.**

That Chapter 4, Section 19, Substandard Buildings of the Terrell City Code is hereby amended to read as follows, in all other respect, said Code to remain in full force and effect:

**DIVISION 1 - GENERALLY**

**A. Dangerous Building Defined**

1. All buildings or structures which have any or all the following defects shall be deemed dangerous buildings:
  - a. Those which have interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
  - b. Those which, exclusive of the foundation, show 33% percent or more damage of members or 50% percent damage or deterioration of the nonsupporting enclosing or outside walls or covering.
  - c. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purposes used.
  - d. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, morals or the general health and welfare of the occupants or the people of the city.
  - e. Those which are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living, that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety or general welfare of those occupying such building.

- f. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live therein.
  - g. Those, regardless of their structural condition, which have, during times that they were not actually occupied by their owners, lessees or other invitees, been left unsecured from unauthorized entry to the extent that they may be entered and utilized by vagrants or other uninvited persons as a place of harborage or may be entered and utilized by children as a play area.
  - h. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
  - i. Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this city.
  - j. Those buildings existing in violation of any provisions of this article, the building code, the fire code or other ordinances of this city, if the violation is of such a nature that the building constitutes a danger to its occupants and to others.
2. A building that is boarded up, fenced or otherwise secured in any manner may, nevertheless, be deemed to be a dangerous building under the foregoing criteria if:
- a. The building constitutes a danger to the public, even though secured from entry; or
  - b. It is found that the means utilized to secure the building are not adequate to prevent unauthorized entry of the building in contravention of subsection (1)(g) above.

B. Duties of the building official

The building official or his designee shall:

1. 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 the terms of this article.
2. Inspect any building, wall or structure reported (as hereafter provided for) by the fire, health or police department of this city as probably in violation of the terms of this article.
3. Inspect buildings in the city to determine whether they are dangerous buildings within the terms of section A.
4. Notify the city manager or his designee of buildings that are found to be dangerous so that hearings may be scheduled pursuant to section D et seq.
5. Appear at all hearings conducted pursuant to section D et seq. and testify as to the conditions existing in the dangerous building.

C. Duties of city attorney

The city attorney shall:

1. Prosecute all persons failing to comply with the terms of the notices and orders provided for in this article.
2. Appear at hearings before the building standards commission, (referred to in this article as the commission), in regard to dangerous buildings when necessary.
3. Bring suit to collect all municipal charges, liens or costs incurred by the city in preparing or causing to be vacated or demolished dangerous buildings.

D. Notice of hearing

1. If a building has, upon inspection, been found to be a dangerous building, written notice shall be served on all persons having an interest in the property, as shown by the deed records of the county where the land is located, by personal service or by certified mail, return receipt requested. This notice shall inform such person that a hearing will be held before the commission in which the city will seek an order requiring the building to be vacated or requiring the building to be repaired or demolished or secured upon a finding that the building is dangerous and that it constitutes a hazard to the health, safety or welfare of its occupants or citizens of this city. Such notice shall also set forth:
  - a. The specific conditions which render the building a dangerous building within the standards set forth in section A.
  - b. That a hearing will be held before the commission in which the city will seek an order that the building be vacated or that the building also be repaired or demolished or secured as provided in section G;
  - c. The date, time and place of such hearing;
  - d. That all persons having an interest in the property may appear in person or be represented by an attorney and may present testimony and may cross-examine all witnesses.
2. If the address of any person having an interest in the property as shown in the deed records is unknown, or if notice to any person having an interest in the property is returned undelivered, a copy of such notice shall be posted in a conspicuous place on the building found by the building official or his designee to be dangerous. The posting of such notice shall constitute notice to any person having an interest in the property who does not receive personal notice or notice by mail.

E. Building standards commission

There is hereby created a building standards commission, to be composed of seven (7) members, each of whom shall have a personal or business residence in the city, who shall be appointed for terms of two (2) years or until their successors are appointed. At least one (1) member of the board shall be a plumber duly licensed by the State of Texas and at least one (1) member shall be an electrician licensed by the City of Terrell. As near as practical, all other members of the board shall be qualified in one (1) or more of the fields of fire prevention, building construction, sanitation, or health and public safety. In addition to the seven (7) members the fire marshal and the chief building inspector of the city shall be ex officio non-voting members of the commission.

F. Conduct of hearing

1. All hearings shall be held by the building standards commission. The commission shall be referred to as the hearing officers.
2. All hearings shall be conducted under rules consistent with the nature of the proceedings; provided, however, the following rules shall apply to such hearings:
  - a. All parties shall have the right to representation by a licensed attorney, though an attorney is not required.
  - b. Each party may present witnesses in his own behalf.
  - c. Each party has the right to cross-examine all witnesses.
  - d. Only evidence presented before the commission at such hearing may be considered in rendering the order.
3. The city attorney or designated representative shall be present at each such hearing to advise the building official as to procedural matters; however, such attorney shall not otherwise participate in the proceeding.
4. If no person having an interest in the building appears before the commission at the time and date specified, the building official shall produce evidence showing the building to be a dangerous building within the standards set forth in section A, and that the same constitutes a hazard to the health, safety and welfare of the citizens.

G. Issuance of order; placards

1. After completion of the presentation of testimony by all parties appearing, the commission shall make written findings of fact as to whether or not the buildings are dilapidated, substandard or unfit for human habitation and constitute a hazard to the health, safety of welfare of occupants or the citizens, and whether or not the buildings in question are dangerous within the standards set forth in section A, setting out the underlying facts supporting the findings.

2. If the commission finds that any building is dilapidated, substandard or unfit for human habitation and that same constitutes a hazard to the health, safety or welfare of its occupants or the citizens, and that same is a dangerous building within the terms of section A, the commission shall issue an order directing the owner, occupant and all other persons having an interest in such building, as shown by the deed records of the county clerk of the county where the land is located:
  - a. That the building shall be vacated if same is occupied and the commission finds that the building is in such condition as to make it dangerous to the health, safety or welfare of its occupants;
  - b. That the building shall be either repaired or demolished (at the owner's option) if it can reasonably be brought into compliance by repair;
  - c. That the building shall be demolished if it cannot reasonably be repaired; or
  - d. If the building is unoccupied and the condition of the building is such that it may be brought into compliance by securing it from unauthorized entry, that it be so secured and be kept secured. The order may include or adopt written specifications that must be complied with in securing the building, and the order may provide that the building be demolished if it is not secured in compliance therewith.
3. If the commission finds that the building is substandard as above described and in such condition as to make same dangerous to health, safety or welfare of its occupants or to the citizens, the commission shall order that the city place a notice in a conspicuous place on such building, such notice to have the heading "DANGEROUS BUILDING" in letters 1 ¼ inches high, and the following words:

**DANGEROUS BUILDING**

THIS BUILDING HAS BEEN FOUND TO BE A DANGEROUS BUILDING. OCCUPANCY OF THIS BUILDING IS PROHIBITED BY LAW, AS SUCH OCCUPANCY IS DANGEROUS TO THE HEALTH, SAFETY OR WELFARE OF ITS OCCUPANTS. THIS NOTICE IS POSTED (here the notice shall set forth the date and hour such notice is posted). ALL PERSONS MUST VACATE THIS BUILDING NOT LATER THAN FORTY-EIGHT (48) HOURS AFTER THE TIME OF POSTING AND SHALL NOT RE-ENTER THE SAME UNTIL THE BUILDING OFFICIAL FINDS THAT THE BUILDING HAS BEEN REPAIRED SO AS TO BE IN COMPLIANCE WITH THE ORDINANCES OF THE

CITY OF TERRELL. THIS NOTICE SHALL REMAIN ON THIS BUILDING UNTIL IT IS REPAIRED OR DEMOLISHED.

4. If the commission finds that the building is in such condition that it is dangerous for anyone to enter, the commission shall order that the city place a notice in a conspicuous place on such building, such notice to have a heading stating "DANGEROUS BUILDING" in letters at least 1 ¼ inches high and contain the following words in letters at least 1 ¼ inches high:

DANGEROUS BUILDING

THIS BUILDING HAS BEEN FOUND TO BE A DANGEROUS BUILDING BY THE CITY OF TERRELL. NO PERSON SHALL ENTER THIS BUILDING, EXCEPT PERSONS AUTHORIZED BY THE OWNER WHO ENTER SOLELY FOR THE PURPOSE OF CORRECTING THE HAZARDOUS CONDITIONS THEREIN AND INSPECTORS OF THE CITY OF TERRELL. THIS NOTICE SHALL REMAIN ON THIS BUILDING UNTIL IT IS REPAIRED OR DEMOLISHED.

H. Compliance with order

1. The persons having an interest in the property coming under this article shall be given a reasonable period of time in which to comply with the commission's order, such period not to exceed 30 days unless, in the judgment and discretion of the commission, it is determined that a greater period of time is necessary. The order shall state the date by which the action ordered must be completed and state that the building official shall cause the building to be vacated, repaired or demolished if the persons having an interest in the property do not comply with the order.
2. The order of the commission shall be served on all persons having an interest in the property, as shown on the deed records of the county in which the land lies, by registered mail or certified mail, return receipt requested. If the address of a person having an interest in the property as shown on the deed records is unknown, or if such order is returned undelivered, a copy of such order shall be posted in a conspicuous place on such building. Such posting of the order shall constitute notice to any person having an interest in the property who does not receive personal service.

3. A copy of the order of the commission shall also be filed in the deed records of the county in which the land lies.
4. If the persons having an interest in the property fail to comply with the order of the commission within the time specified in the order for compliance, the building official shall cause such building to be vacated, repaired or demolished as the facts may warrant.
5. In any instance in which an order has been issued, pursuant to section G, that the building be secured, and the owner complies with the order by securing the building, the commission's case file shall, nevertheless, remain active for period of three years from the date of signature of the order. The building official may request that the commission reconvene the hearing if he receives evidence that the building has not remained secured and is in contravention of section A. Upon notice to the owner, lienholders, occupants and other persons having an interest in the property, the commission shall reconvene the hearing. If the commission finds that the building remains a dangerous building, notwithstanding the owner's efforts to secure it, they may issue a revised order that the building be demolished.

I. Charges when building demolished by city

1. The city council hereby finds and declares that the general administrative expenses of inspecting buildings, locating owners, conducting hearings, and issuing notices and orders, together with all associated administrative functions, require the reasonable charge of \$500.00 for each lot, adjacent lots under common ownership or tract of land, and such minimum charge is hereby established and declared to be the charge for such administrative expenses to be assessed in each instance where the city demolishes or contracts for the demolition of a building or buildings thereon. Notwithstanding any tabulation or recorded costs, a charge of \$500.00 is hereby expressly stated to be the minimum charge. Further, the cost of demolishing the building, either by the city or by persons doing so under contract with the city, shall be separately calculated and assessed in each instance where the city demolishes or causes the demolition of a building pursuant to this article.
2. The building official or his designee shall certify all administrative expenses and costs of demolishing a building by the city or by persons doing so under contract with the city, as a charge which shall be assessed the owner thereof, and which shall constitute a lien on the land on which the building is or was situated. Such charge shall bear interest at the rate of ten percent per annum until paid.
3. If an order has been issued pursuant to this article for the repair or demolition of a building and the city has let a contract for demolition, and the building is subsequently repaired or demolished by the owners prior to completion of the contracts let by the city, the administrative expenses and

all costs for cancellation of the contract shall be certified as a charge which shall be assessed against the owners thereof, and which shall constitute a lien on the land on which the building is or was situated. Such charge shall bear interest at the rate of ten percent per annum until paid.

J. Release of lien; notice of compliance

1. Upon full payment of the charges assessed against any property, or if the lien is placed on the property through error, the city secretary is hereby authorized to execute, for and in behalf of the city, a written release approved in each case by the city attorney.
2. Upon compliance with an order of the commission to repair or demolish a building, the building official is hereby authorized to execute a written notice of compliance setting forth the date the notice of compliance is issued, the date the building was found to be repaired or demolished in compliance with the order, and if the building has not been demolished, whether or not the building is in such condition that it may be occupied.
3. A fee shall be imposed for such release of lien provided for hereunder as specified by the city manager.

K. Emergency Work

1. In cases where it is reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building is immediately repaired, vacated, demolished or secured, the building official shall report such facts to the city manager. If the city manager finds there is in fact an immediate danger to the health, life or safety of any person unless the building is immediately repaired, vacated, demolished or secured, he shall cause the immediate repair, vacation, demolition, or securing of such building.
2. Whenever the city manager causes a building to be repaired, vacated, demolished or secured pursuant to this section, he shall cause a notice, as described in section G, to be posted on the building.
3. Whenever the city manager causes a building to be repaired, vacated, demolished or secured pursuant to this section, the commission shall cause notice to be given to the owners and lienholders of the building, all persons having possession of any portion thereof, and all other persons who may have an interest in the building that a hearing will be held concerning the orders issued in connection therewith, and whether the building constitutes a dangerous building. The notice shall set forth the specific conditions which render the building a dangerous building within the standards set for in section A, the date, time and place of such hearing, and that all person having an interest in the building may appear in person or be represented by an attorney and may present testimony and may cross

examine all witnesses. Such notice shall comply with the provisions set out in section D; however, the hearing shall be held as soon as it is reasonably possible but in no case later than ten days after the city manager has caused the building to be repaired, vacated, demolished, or secured, unless all persons having either an ownership interest or possessory interest in the building request a continuance of the hearing. All such hearings shall be held by the commission in accordance with the provision of section F. At such hearing, the burden shall be upon the city to show that there was an immediate danger to health, life or safety necessitating the immediate action and whether the building constitutes a dangerous building within the provisions of this article at the time of the hearing. After completion of the presentation of the testimony by all parties appearing, the commission shall make written findings of fact as to whether or not the building was an immediate danger to health, life or safety necessitating the action taken by the city manager and whether the building was a dangerous building within the provisions of this article. If the commission finds that there was an immediate danger to public health, life or safety that required the action that was taken, all administrative expenses and any cost of repair or demolition shall be calculated and assessed to the owners of the building, and shall constitute a lien on the land on which the building stands or stood which shall bear interest as provided in section I. If the commission finds that the building, at the time of the hearing, constitutes a dangerous building within the provisions of this article, it shall issue an order for its abatement as set out in section H. The provisions of section D shall be applicable to any such order.

L. Service of notices and orders when owner is absent from city

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the city, all notices or orders provided for herein shall be sent by registered mail or certified mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in any building coming under this article, as shown by the deed records of the county clerk of the county where the land is located, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such posting and mailing shall be deemed adequate service.

M. Duty of city employees to report dangerous buildings

It shall be the duty of all city employees to make a report in writing to the building official of all buildings or structures, which they believe, are, may be or are suspected to be dangerous buildings within the terms of this article. Such reports are to be made within a reasonable time after the discovery of such buildings or structures.

N. Applicability of state law

In addition to the provisions of this article, the city will comply with the requirements of V.T.C.A., Local Government Code 214.001

O. Violation

1. The owner of any dangerous building who shall fail to comply with any order to repair, vacate, demolish or secure such building by any person authorized by this article to give such order shall be guilty of a misdemeanor.
2. The occupant or lessee in possession who fails to comply with any order to vacate, and anyone having an interest in such building as shown by the deed records of the county clerk of the county where the land is located and under a legal duty to repair, who fails to repair or secure such building in accordance with any order given as provided for in this article, shall be guilty of a misdemeanor.
3. Any person removing any notice provided for in this article shall be guilty of a misdemeanor.
4. The penalty upon conviction for violation of this section shall be as provided in division 3 of this article.

DIVISION 2 - DEMOLITION OR REMOVAL OF STRUCTURES

P. Cleanup of property after building demolition or removal

1. Within thirty (30) days after any building or structure is demolished or removed from any lot or tract of land:
  - a. All debris must be removed from the property.
  - b. All holes or depressions in the ground must be filled to grade level.
  - c. All lumber, pipes and other building materials must be removed from the property or stored in such a manner that they are not a hazard to safety and do not create a condition where rats are likely to live or mosquitoes likely to breed.
  - d. All pipes and conduits must be removed from above grade and must be removed or sealed below grade.
  - e. All piers, pilings, steps and other appurtenances must be removed above grade.
2. Each owner and each person having control over the property on which the building or structure stood prior to removal or demolition is individually responsible for completing such work or causing such work to be completed.

Q. Notice to complete work

Whenever it shall come to the knowledge of the building official that a building or structure has been demolished or removed and that the work required by this article has not been completed, the building official shall cause written notice to be given by personal service or by certified mail, return receipt requested, to the owner of the property or to any person having control over the property, setting out the work required by this article which has not been completed. In such notice, the building official shall order the owner of the property or person having control over the property complete or cause to be completed all work required by this article within thirty (30) days of service of such notice.

R. Reserved

DIVISION 3 – ENFORCEMENT

S. Penalty

Any person who violates any terms of this article shall be guilty of a misdemeanor and shall be fined to an amount not to exceed \$500.00; each day such violation continues shall constitute a separate violation of this article.

SECTION II

A. Severability

If any section or part of any section or paragraph of this ordinance is declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect any section or sections or part of a section or paragraph of this ordinance.

B. Violations

It shall be unlawful for any person, corporation or other entity to rent, offer for rent, or permit occupancy by human beings of any building have been declared substandard under this section, and anyone found guilty of such offense shall be punished by a fine, and each and every day's violation shall constitute a separate and distinct offense.

PASSED on first reading on the 4<sup>th</sup> day of January, 2000.

PASSED on second reading on the 18<sup>th</sup> day of January, 2000.

---

Henry C. Madgwick, Jr., Mayor

Attest:

---

John Rounsavall, City Secretary

Approved as to form:

---

Mary Gayle Ramsey, City Attorney