

ORDINANCE NO. 24-06

AN ORDINANCE OF THE CITY OF DANBURY, TEXAS, REQUIRING THE VACATION, RELOCATION OF OCCUPANTS, SECURING, REPAIR, REMOVAL OR DEMOLITION OF SUBSTANDARD BUILDINGS; PROVIDING DEFINITIONS; ESTABLISHING MINIMUM STANDARDS FOR THE CONTINUED USE AND OCCUPANCY OF ALL BUILDINGS REGARDLESS OF THE DATE OF THEIR CONSTRUCTION; PROVIDING FOR GIVING NOTICE TO THE OWNER OF A BUILDING; PROVIDING FOR A PUBLIC HEARING TO DETERMINE WHETHER A BUILDING COMPLIES WITH THE STANDARDS OF THIS ORDINANCE; PROVIDING FOR AN ORDINANCE THAT THE BUILDING BE VACATED, SECURED, REPAIRED, REMOVED OR DEMOLISHED; PROVIDING FOR TIME PERIOD TO RESPOND TO THE CITY; PROVIDING FOR THE SECURING OF UNSAFE BUILDINGS, NOTICES TO OWNERS, HEARINGS, EXPENSES, LIENS, AND ADDITIONAL AUTHORITY; PROVIDING FOR REPAIR BY THE CITY, ASSESSMENT OF EXPENSES AND CIVIL PENALTIES, EXTENT OF REPAIR, LIENS, PRIORITIES OF LIENS, INTEREST, NON-TRANSFERABILITY OF LIENS, ATTORNEY'S FEES, HOMESTEADS, CIVIL PENALTIES NOT TO EXCEED \$1,000 PER DAY PER VIOLATION, OR FOR HOMESTEADS \$10 PER DAY PER VIOLATION, FINALITY OF ASSESSMENTS, AND JUDGMENTS; REPEALING ORDINANCE NO. 07-07; PROVIDING FOR NOTICES, HEARING PROCEDURES, JUDICIAL REVIEW, AUTHORITY, ENTRY ON PROPERTY, OFFENSES, CRIMINAL PENALTIES NOT TO EXCEED \$2,000 PER DAY PER VIOLATION, CONFLICTS OF ORDINANCES, NONLIABILITY OF THE CITY AND ITS REPRESENTATIVES, CUMULATIVE REMEDIES, A SEVERANCE CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 214 of the Texas Local Government Code authorizes the City Council of the City of Danbury, Texas ("City Council"), by Ordinance to require the vacation, relocation of occupants, repair, removal, or demolition of a building or structure that is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare; and

WHEREAS, Chapter 214 of the Texas Local Government Code also requires that the Ordinance establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; provide for giving proper notice to the owner of the building; and provide for a public hearing to determine whether a building complies with the standards set out in the Ordinance; and

WHEREAS, this Ordinance does establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; provides for giving proper

notice to the owner of the building; and provides for a public hearing to determine whether a building complies with the standards set out in this Ordinance; and

WHEREAS, the City Council has determined that the following Ordinance is necessary to protect the public health, safety, and welfare of its citizens.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DANBURY, TEXAS, DULY ASSEMBLED:

PART ONE

SECTION 1. Definitions.

Sec. 1.1. “Substandard Building” as used in this ordinance shall mean any of the following:

- (a) Any building or structure that has any of the following conditions, such that the life, health, property, or safety of its occupants or the general public are endangered, including but not limited to one or more of the following:
 - (1) Any means of egress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.
 - (2) Any means of egress or portion thereof, such as but not limited to fire doors, closing devices, and fire resistive ratings, as in disrepair or in a dilapidated or nonworking condition such that means of egress could be rendered unsafe in case of fire or panic.
 - (3) The stress in any material, member or portion thereof, due to all imposed loads including dead load exceeds the stress allowed in the City’s Building Code for new buildings.
 - (4) The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than the minimum requirements established by the City’s Building Code for new buildings.
 - (5) Any exterior appendage or portion of the building or structure is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Standard Building Code for new buildings.

- (6) For any reason the building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.
- (7) The building, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.
- (8) The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Standard Codes or of a city, county or state law.
- (9) Any building, structure or portion thereof that is in such a condition as to constitute a public nuisance.
- (10) Any building, structure or portion thereof that is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

The City Council hereby finds that any Substandard Building as defined in this section 1.1(a) is dilapidated, substandard, and unfit for human habitation and a hazard to the public health, safety, and welfare, within the meaning of Section 214.001 of the Texas Local Government Code and is a nuisance within the meaning of Chapter 217 of the Texas Local Government Code; or

- (b) Any building or structure, regardless of its structural condition, that is 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
- (c) Any building or structure that is boarded up, fenced, or otherwise secured in any manner if:
 - (1) The building or structure constitutes a danger to the public even though secured from entry; or
 - (2) The means used to secure the building or structure are inadequate to prevent unauthorized entry or use of the building or structure in the manner described by section 1.1(b).

SECTION 2. Minimum Standards for the Continued Use and Occupancy of All Buildings.

Sec. 2.1. Minimum Standards. The City Council hereby adopts Chapter 214 of the Texas Local Government Code, as amended, and establishes minimum standards for the continued use and occupancy of all buildings and other structures, regardless of the date of their construction, as follows: the definition of "Substandard Building" in section 1.1 is that standard. Any building or other structure that is a Substandard Building, as defined in section 1.1, fails to meet the minimum standards for continued use and occupancy. Any such real property, building, structure, or any portion thereof, or any premises, including a vacant lot, in or in which there exists a condition not in compliance with this Ordinance, shall be deemed and is hereby declared to be a public nuisance, a violation of this Ordinance, and subject to the penalty clauses and remedies available to the City of Danbury. This Ordinance shall be cumulative of any other law prohibiting or restricting the use or occupancy of a building or other structure, and this ordinance shall not be construed to permit or enlarge the use or occupancy of a building or structure in violation of any other law.

Sec. 2.2 Use and Occupancy Prohibited. After proper notification and public hearing as required by this Ordinance, the use or occupancy of any building or other structure defined as a Substandard Building by this Ordinance is prohibited, regardless of the date of construction of the building or structure.

SECTION 3. Hearing Required to Determine Whether a Building or Structure Complies With the Standards of This Ordinance.

Sec. 3.1. Notice of Violation and Hearing Required. If a building official determines that a nuisance requires the vacation, securing, repair, or removal of a building, structure, or nuisance condition on the property, or relocation of the occupants of the property, the building official shall:

- (a) Give notice of the nuisance to the owner of the property as well as any known tenant or occupant,
- (b) Provide detail in such notice of the standard(s) violated under this Ordinance and the necessary action to abate the nuisance;
- (c) Advise such owner, tenant, or occupant the date and time of the public hearing at which a determination will be made the City Council;
- (d) Include a statement in such notice that the owner, lienholder, or mortgagee will be required to submit proof of 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; and
- (e) Provide a copy of such notice of nuisance, the required action necessary to abate the nuisance, and the date and time of the public hearing to any mortgagee or lienholder of record after diligent effort to discover such mortgagee or lienholder.

A public hearing must be held by the City Council to determine whether a building or structure complies with the standards set out in this Ordinance. Prior to the hearing, the Building Official

shall prepare a report stating the structural deficiencies and make a recommendation as to whether the structure can be repaired or should be demolished.

Sec.3.2. Notice Required. No less than fifteen (15) days prior to the public hearing, a notice must be sent to an owner, lienholder, or mortgagee. The notice must include a statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the provisions of this Ordinance and the time it will take to reasonably perform the work. The notice shall also be filed with the County pursuant to Texas Loc. Gov't Code 214.001(e).

Sec.3.3. Burden of Proof. 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 any work that may be required to comply with this ordinance and the time it will take to reasonably perform the work.

SECTION 4. Ordinance that Building be Vacated, Secured, Repaired, Removed or Demolished.

Sec. 4.1. Ordinance requiring Vacation, Relocation, Securing, Repair, or Demolition. After the public hearing, if a building or other structure is found in violation of the standards set out in this ordinance, the City Council may, by ordinance, require that the building or structure be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this Ordinance. The City may also require that the occupants be relocated within a period as prescribed by this Ordinance.

Sec. 4.2. Failure to Comply with Ordinance. If the owner fails to comply with a City Council ordinance under section 4 within the allotted time, the City shall: (a) make a diligent effort to discover each mortgagee and lienholder having an interest in the building or structure or in the property on which the building or structure is located; and (b) the City shall send to 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;
2. A description of the violation of these standards that is present at the building or structure; 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 a reasonable time, to be stated in the notice.

Sec. 4.3. Alternative Procedure with Notice to Lienholders and Mortgagees Before Hearing. As an alternative to the procedure stated in sections 4.1 and 4.2 of this Ordinance, 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 Real Property in the county in which the property is located. The notice must contain:

- (1) the name and address of the owner of the affected property if that information can be determined as provided in section 7 of this Ordinance;
- (2) a legal description of the affected property; and
- (3) a description of the hearing.

The filing of any notice or ordinance under any portion of this ordinance shall be binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice or ordinance, 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 or ordinance.

If the City operates according to this subsection 4.3, the Ordinance enacted by the City Council may specify a reasonable time in accordance with the provisions of this Ordinance for the building or structure to be vacated, secured, repaired, removed, or demolished by the owner or for the occupants to be relocated by the owner and an additional time in accordance with the provisions of this Ordinance for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply within the time provided for action by the owner. Under this section, the City is not required to furnish any notice to a mortgagee or lienholder other than a copy of the ordinance in the event the owner fails to comply with the ordered action in the time provided by the City Council.

Sec. 4.4. Filing and Publication of Ordinance. Within ten (10) days after an ordinance is issued, the City shall;

- (1) file a copy of the ordinance in the Office of the City Secretary; and
- (2) publish in a newspaper of general circulation in the City 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 ordinance; and
 - d. instructions stating where a complete copy of the ordinance may be obtained.

Sec. 4.5. Mailing of Ordinance to Owner of Building and to Any Lienholder or Mortgagee of Building. After the hearing, the City shall promptly mail by certified mail, return receipt requested, or personally deliver a copy of the ordinance 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.

SECTION 5. Time Period to Comply.

Sec. 5.1. Ordinance for Action Within Thirty (30) Days. If the City Council determines, as a result of the hearing required by this ordinance, that a building or other structure is in violation of the minimum standards set by this ordinance, the City Council shall require the owner, lienholder, or mortgagee of the building to within thirty (30) days:

- (1) secure the building or other structure from unauthorized entry; or
- (2) repair, remove, or demolish the building or other structure, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within thirty (30) days. If the City Council allows the owner, lienholder, or mortgagee more than thirty (30) days to repair, remove, or demolish the building, the City Council 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.

Sec.5.2. Time to Repair Limited to Not More Than Ninety (90) Days. The City Council may not allow the owner, lienholder, or mortgagee more than ninety (90) days to repair, remove, or demolish the building or other structure or fully perform all the work required to comply with the ordinance 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.

If the City Council 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 or other structure, the City Council shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the City to demonstrate compliance with the time schedules established for commencement and performance of the work. The ordinance may require that the owner, lienholder, or mortgagee appear before the City Council to demonstrate compliance with the time schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the municipal boundaries that exceeds \$100,000 in total value, the City Council may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the City Council may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party

approved by the City Council. The bond must be posted, or the letter of credit or third-party guaranty provided, not later than the 30th day after the date City Council enacts the ordinance.

SECTION 6. Remedial Action by City.

Sec.6.1. Remedial Action by City. If the building or other structure is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, all as ordered by the City Council, then the city may vacate, secure, remove, or demolish the building or other structure or relocate the occupants at its own expense, regardless of whether the City Council ordinance recites such authorization of the City. This subsection does not limit the ability of the city to collect on a bond or other financial guaranty that may be required by this ordinance.

Sec. 6.2. Expenses and Lien. If the city incurs expenses under section 6.1, 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. Such expenses and lien shall also include clerical, administrative, legal and other professional costs. 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 Brazoria 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.

Sec.6.3. Privileged Lien. 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 section 4.1, 4.2, or 4.4, the lien is a privileged lien subordinate only to tax liens.

SECTION 7. Search For Owners, Lienholders, and Mortgagees. Whenever this Ordinance requires the City to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee, the City shall be deemed to have satisfied such requirement if the City searches the following records:

- (a) Brazoria County Real Property Records;
- (b) Brazoria County Appraisal District Records;
- (c) Records of the Secretary of State of Texas;
- (d) Brazoria County Assumed Name Records;
- (e) City of Danbury Tax Records; and

- (f) City of Danbury Utility Records.

PART TWO

SECTION 8. City May Secure Unsafe Structures.

Sec. 8.1. Securing Unsafe Building. The City may secure a structure the Building Official determines:

- a. Is a Substandard Building, as defined in Section 1; and
- b. Is unoccupied or is occupied only by persons who do not have a right of possession to the structure.

Sec. 8.2. Notice to Owner. Within ten days after the date the structure is secured, the city shall give notice to the owner by:

- a. Personally serving the owner with written notice;
- b. Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- c. Publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the structure is located if personal service cannot be obtained and the owner's post office address is unknown; or
- d. Posting the notice on or near the front door of the structure if personal service cannot be obtained and the owner's post office address is unknown.

The notice must contain:

- a. An identification, which is not required to be a legal description, of the structure and the property on which it is located;
- b. A description of the violation of the municipal standards that is present at the structure;
- c. A statement that the city will secure or has secured, as the case may be, the structure; and
- d. An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing of the structure.

Sec. 8.3. Hearing Upon Timely Request. The City Council shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building if, within 30 days after the date the city secures the structure, the owner files with the City Secretary a written request for the hearing. The City Council shall conduct the hearing within 20 days after the date the request is filed. A hearing under this section may be combined with a hearing under any other provision of this ordinance.

Sec. 8.4. Expenses and Liens. The City has the same authority to assess expenses incurred pursuant to this section as it has to assess expenses under Section 6. A lien is created under this section in the same manner that a lien is created under Section 6 and is subject to the same conditions and scope as a lien created under Section 6.

Sec. 8.5. Cumulative, Additional Authority. The authority granted by this Section 8 is in addition to that granted by the other sections of this ordinance.

PART THREE

SECTION 9. Additional Enforcement Authority.

Sec. 9.1. Repair by City. Expenses. Penalties. In addition to the authority granted to the city by other sections of this ordinance, after the expiration of the time allotted under Section 4, 4.1, or 4.2 for the repair, removal, or demolition of a building, the city may:

- a. Repair the building at the expense of the city and assess the expenses on the land on which the building stands or to which it is attached; or
- b. Assess a civil penalty against the property owner for failure to repair, remove, or demolish the building.

The city shall assess such expenses or civil penalty by the same method provided in Section 6.2. The city shall give written notice of the assessment or civil penalty to any owner, lienholder, or mortgagee, whose name and address are ascertainable by reasonable efforts. Such notice shall include the amount of the assessment or civil penalty, a statement that the assessment or civil penalty was made under this ordinance, the names and addresses of any owner, lienholder, or mortgagee that can be learned by reasonable diligence, and a legal description of the property subject to the assessment or civil penalty. Such notice shall be given by the method provided by Section 10. Such notice shall also be recorded in the Official Records of Real Property of the Brazoria County Clerk.

Sec. 9.2. Extent of Repair by City. The city may repair a building under Section 9.1 to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with 10 or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum housing standards.

Sec. 9.3. Lien. The city shall have 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 must file for record, in recordable form in the office of the Brazoria County Clerk, a written notice of the imposition of the lien. The notice must contain a legal description of the land.

Sec. 9.4. Priority of Liens. Except as provided by Section 6.3, 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 Brazoria 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.

Sec. 9.5. Interest. Any civil penalty or other assessment imposed under this section accrues interest at the rate provided by law from the date of the assessment until paid in full.

Sec. 9.6. Lien is Non-Transferable. The city's right to the assessment lien may not be transferred to third parties.

Sec. 9.7. Senior Citizen Homestead. 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 65 years of age or older.

Sec. 9.8. Amount of Civil Penalty. The City Council by ordinance may assess and recover a civil penalty against a property owner at the time of an administrative hearing on violations of this ordinance, in an amount not to exceed \$1,000 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 \$10 a day for each violation, if the city 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.

A hearing on civil penalties may be held separately or together with any other hearing under this ordinance. If held separately, notice of the hearing shall be given to the owner at least 15 days before the hearing.

Sec. 9.9. Assessment is Final and Binding. An assessment of a civil penalty under Subsection 9.9 is final and binding and constitutes a prima facie evidence of the penalty in any suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty.

Sec. 9.10. Basis for Judgment. To enforce a civil penalty under this ordinance, the clerk or secretary of the city must file with the district clerk of Brazoria County a certified copy of an ordinance issued under Subsection 9.8 stating the amount and duration of the penalty. No other proof is required for a district court to enter a final judgment on the penalty.

PART FOUR

SECTION 10. Notices.

Sec. 10.1. Method of Giving Notice. Any notice required or permitted by this ordinance shall be given by personal delivery or by certified mail, return receipt requested, except to the extent that any specific provision of this ordinance expressly and specifically provides for notice by another method.

Sec. 10.2. Refused or Unclaimed Notice. When the city mails a notice in accordance with this ordinance to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice as "Refused" or "Unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

SECTION 11. Authority. Wherever this ordinance provides for an action to be taken by the city, without specifying which agent of the city shall take such action, the Code Enforcement Officer, Building Official, City Secretary, Clerk of the Municipal Court, City Attorney, any Police Officer, or any of them, is hereby authorized to take such action.

SECTION 12. Inspection. Entry on Premises. The City shall have the right to enter and inspect any premises to determine whether the premises are in compliance with the standards adopted by this ordinance, any order issued pursuant to this ordinance, or any other aspect of this ordinance, or to enforce or administer this ordinance.

SECTION 13. Hearings.

Sec. 13.1. Jurisdiction. The City Council of the City of Danbury shall have jurisdiction of any hearing provided for in this ordinance.

Sec. 13.2. Civil Proceeding. A proceeding under this ordinance shall be a civil proceeding, and the burden of proof shall be a preponderance of the evidence.

Sec. 13.3. Commencement of Proceedings. A proceeding under this ordinance shall be commenced by the filing of a petition by the City.

Sec. 13.4. Request to Postpone Hearing. A hearing under this ordinance shall not be postponed unless: (1) a party files a written, sworn, motion for the postponement, stating the reason it is requested; (2) the court finds good cause for such postponement; and (3) all parties waive any deadlines or time restrictions that would be violated by the postponement.

SECTION 14. Judicial Review.

Sec. 14.1. Any owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an ordinance issued under Parts One or Two of this ordinance may file in District Court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the City is personally delivered or mailed to them by first class mail, certified return receipt requested, or such decision shall become final as to each of them upon the expiration of each such 30 calendar day period.

Sec. 14.2. On the filing of the petition, the District Court may issue a writ of certiorari directed to the City to review the ordinance of the City Council and shall prescribe in the writ the time within which a return on the writ must be made, which must be longer than 10 days, and served on the relator or the relator's attorney.

Sec. 14.3. The City may not be required to return the original papers acted on by it, but it is sufficient for the City to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ.

Sec. 14.4. The return must concisely set forth other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

Sec. 14.5. The issuance of the writ does not stay proceedings on the decision appealed from.

Sec. 14.6. Appeal in the district court shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.

Sec. 14.7. Costs may not be allowed against the city.

Sec. 14.8. If the decision of the City is affirmed or not substantially reversed but only modified, the District Court shall allow to the city all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners, lienholders, or mortgagees as well as all persons subject to the proceedings before the city.

SECTION 15. Offenses and Penalties. Each owner of any interest in any building or structure shall maintain such building or structure so that it is not a substandard building, as defined herein. No person shall occupy any building or structure that is a substandard building, as defined herein. A violation of this section is a misdemeanor offense, punishable upon conviction by a fine not to exceed \$2,000. Each day or portion of a day that an offense continues shall constitute a separate offense. A criminal penalty under this section may be imposed separately from, or in addition to, any other right or remedy of the City.

SECTION 16. Cumulative Remedies. All rights and remedies of the City provided in this ordinance shall be cumulative of all other rights and remedies provided herein, by other ordinances, or by any applicable law. Furthermore, the exercise of one right or remedy by the City shall not be construed as an election of remedies and shall not impair any other right or remedy of the City. The City may exercise any right or remedy herein either alone or together with any other right or remedy under this ordinance, any other ordinance, or any applicable law.

SECTION 17. Repeal of Prior Ordinances. Ordinance No. 07-07 is hereby repealed and is superseded by this ordinance.

SECTION 18. Conflicting Ordinances. In the event of any conflict between the terms of this ordinance and any other ordinance, the more stringent or restrictive provision shall govern and control.

SECTION 19. Nonliability. Neither the City, nor its officers, employees, agents, or representatives shall be liable to any person, other than the City, for any act, omission, or condition in any way concerning this ordinance or the subject matter hereof.

SECTION 20. Severance Clause. In the event any provision, of whatever size, of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining provisions of this ordinance, and such remaining provisions shall remain in full force and effect.

SECTION 21. Effective Date. This Ordinance shall become effective immediately upon passage and approval.

PASSED AND APPROVED this 18th day of April , 2024.

CITY OF DANBURY, TEXAS

By: Suzanne Powell
Suzanne Powell, Mayor

ATTEST:

Erin Nolan
Erin Nolan, City Secretary

