

“CHAPTER 150: BUILDING REGULATIONS”

“PROPERTY MAINTENANCE”

Sec. 150.140 PURPOSE

Substandard properties negatively affect the health, security, privacy and stability of the community. The City declares every substandard building, structure or property, as herein defined, within the jurisdiction of the City, subject to repair, vacation, demolition or abatement as herein provided in order to protect the health, safety and welfare of the occupants and the public.

Sec. 150.141 CODES ADOPTED

- (A) The 2015 International Property Maintenance Code as well as approved local amendments are fully incorporated by reference as though copied into this section in its entirety. The material contained in the International Property Maintenance Code shall not be included in the formal municipal codification of ordinances but shall be maintained as a public record and will be available for public inspection and copying during regular business hours.
- (B) The City adopts the provisions of Texas Local Government Code Chapter 54, Subchapter C, and amendments thereto if any, which is entitled “Quasi-Judicial Enforcement of Health and Safety Ordinances” in a home-rule municipality, and does declare the implementation of that subchapter.
- (C) Properties shall comply with applicable federal, state and local laws and all adopted City codes and ordinances.
- (D) Unless otherwise stated, it shall be the responsibility of the property owner, property manager (if so designated by the property owner), or in some instances the tenant (if specified by City ordinance or lease agreement between owner and tenant); all of whom shall be collectively referred to as the “responsible party”, to comply with applicable federal, state and local laws and all adopted City codes and ordinances.

Sec. 150.142 DEFINITIONS

Unless otherwise expressly stated, the terms defined in the most recently adopted version of the International Property Maintenance Code in addition to the terms defined below, shall have the meaning ascribed, for the purposes of implementing and interpreting the International Property Maintenance Code and Cleburne Code of Ordinances, Sections 150.115 through 150.179.

Accessory Space shall mean any space in a dwelling used for bathrooms, toilet rooms, laundry rooms, unfinished attics, foyers, closets, halls, connecting corridors, storage spaces, cellars, utility spaces and similar areas not included in the definition of habitable space.

Boarding House shall mean a dwelling unit where sleeping units are let, with or without meals, and the dwelling unit is not occupied as a single-family dwelling. Occupants do not have exclusive access to kitchen and/or bathroom facilities and have limited or no access to non-common areas of the dwelling unit. Each occupant has a separate agreement with the owner and may be evicted individually without affecting the other occupants.

Cellar shall mean a portion of a dwelling located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Clean and Sanitary shall mean the absence of chemicals, organic material and other biological agents detrimental to the health, safety and welfare of human life.

Condemn shall mean a final order of the Cleburne Building and Standards Commission adjudging a building, equipment, structure or property unfit for use or occupancy and a public nuisance to the extent that the life, health, property, or safety of the public or occupants are endangered, ordering the City of Cleburne to abate the condition by demolition and/or removal of the hazard.

Crosswiring shall mean the condition where all or part of the electric service for one dwelling unit is connected to or paid for through the electric meter that serves another dwelling unit.

Duplex shall mean any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as two dwelling units or which is occupied as a home or place of residency by two families living in independent dwelling units.

Dwelling shall mean any building, structure or portion thereof, occupied by, or designed or intended for occupancy by, one or more persons for living purposes. Temporary housing, as defined below, shall not be regarded as a dwelling.

Family shall mean the functional equivalent of a traditional family; whose members are a non-transient interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibilities for common areas and sharing household activities and responsibilities, such as meals, chores, household maintenance and expenses; and where, if the dwelling unit is rented, all adult occupants have chosen to jointly occupy the entire premises of the dwelling unit, under a single lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the dwelling unit rather than the landlord or property manager. This definition shall not include any society, club, fraternity, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

Fuel Gas System shall mean all piping systems, appliances, equipment, devices, apparatus and appurtenances that distribute or utilize fuel gas within a structure or on a property.

Gender Words having a masculine gender shall include the feminine gender.

Graffiti shall mean any unauthorized inscription, word, signature, symbol, design, or other marking of any sort that is etched, written, painted, drawn, or applied in any other way to any structure, building, tree, vehicle, or property of any sort, or to any portion or element thereof.

Improved Surface shall mean a ground surface covered or paved with a material such as concrete, asphalt, brick and mortar, stone and mortar, concrete pavers and mortar, rock and/or gravel in such a manner as is designed to properly support the gross weight of the class of vehicle parked, support

all wheels of the vehicle and permanently prohibit both weed growth around and under the vehicle and leakage of oil, fuel and other fluids into the ground. Rock and gravel surfaces shall have an impervious underlayment, be dust free and shall be contained by a rigid border to prevent the rock or gravel from spreading beyond the improved surface area.

Kitchen shall mean an area used, or designated to be used, for the preparation of food.

Multi-Family (APARTMENT) shall mean any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as three or more dwelling units which are occupied as a home or place of residency by three or more families living in independent dwelling units.

Negligent Property shall mean any leased/let property that has three (3) or more documented violations of federal, state, or local laws and/or ordinances within a twelve (12) month period.

Negligent Property Program (NPP) shall mean the City of Cleburne's mandatory inspection program designed to eliminate and prevent substandard conditions on leased/let properties.

Notice of Violation shall mean a written notification that documents and communicates violations observed during an inspection.

Noxious and Invasive Plants as defined in Chapter 96.

Overcrowding. Occupancy of a dwelling by more occupants than allowed or permitted by the maximum occupancy requirements for habitable space in accordance with the IPMC and any approved amendments.

Plumbing System shall mean the water supply and distribution pipes; plumbing fixtures and traps; water treating or water using equipment; soil waste and vent pipes; and sanitary and storm sewers and building drains; in addition to their respective connections, devices and appurtenances within a structure or on a premises.

Refuse shall mean waste materials defined as garbage or rubbish by the IPMC.

Sewage means any liquid waste containing animal, vegetable or chemical matter in suspension or solution generated by residential, industrial, commercial, institutional, agricultural and other occupancies. Sewage includes but is not limited to waste generated by bathing, laundry, toilets, sinks, floor drains, equipment wash areas, and secondary containment areas.

Single Family Dwelling shall mean a building or structure with only one dwelling unit, occupied as, or designed or intended for occupancy as, a residence for one family.

Substandard shall mean any building, structure or property, or portion thereof which, as the result of the development, use and/or conditions created thereon, exists in any condition that endangers the life, limb, health, property, safety or welfare of the public or occupants thereof, or violates any code or ordinance of the City.

Supplied shall mean paid for, furnished, or provided by, or under the control of, the owner.

Temporary Housing shall mean any tent, trailer, recreational vehicle, or other structure used for human shelter that is designed to be transportable and is not attached to the ground, to another structure, or to any utility system on the same premises for more than thirty (30) consecutive days or more than forty-five (45) cumulative days in any calendar year.

Sec. 150.143 SUBSTANDARD PROPERTY

- (A) Any building, equipment, structure or property, or portion thereof which, as the result of the development, use and/or conditions created thereon, exists any conditions that endangers the life, limb, health, property, safety or welfare of the public or occupants thereof, or violates any code or ordinance of the City, is hereby deemed substandard.
- (B) Substandard buildings, equipment, structures or properties shall be repaired, removed from service, vacated, demolished and/or abated to comply with provisions of this code and applicable ordinances of the City.
- (C) Where inspection discloses defective material or design, improper placement or unworkmanlike construction not conforming to the requirements of City ordinances, the nonconforming work or material shall be removed, replaced and re-inspected.
- (D) Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by City ordinance shall be determined by the Code Official.
- (E) Complaints alleging a violation may be generated by the public, city staff members, or personnel from other agencies.
- (F) Upon receiving a complaint of an alleged violation, the Code Official shall cause the property to be inspected.
- (G) A written inspection report noting any violations discovered on the property shall be forwarded to the Code Official to determine if the property is substandard. If the Code Official deems the property substandard he may:
 - (1) Order the owner to abate, within a fixed period of time, violations of any provisions of this code and applicable ordinances of the City.
 - (2) Order the occupants to vacate the property if conditions represent an immediate danger to the occupants.
 - (3) Present charges to the Building and Standards Commission of violations of ordinances on the property. The Building and Standards Commission shall conduct a public hearing to consider the charges and/or order any necessary abatements.
- (H) Written notice of violation shall be served to the responsible party by personal delivery, certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service. The notice of violation shall contain any orders to abate, repair, remove from service, and/or vacate affected properties.
- (I) If the property owner fails to repair, remove from service, vacate, demolish and/or abate substandard conditions on a property within the fixed period of time, the Code Official may

present charges of violations of ordinances to the Building and Standards Commission. The Building and Standards Commission shall conduct a public hearing to consider the charges and issue orders necessary to abate substandard conditions. In addition, the property owner may be subject to penalties listed in this Chapter.

Sec. 150.144 COMMISSION CREATED; MEMBERSHIP; TERM OF OFFICE

- (A) Pursuant to the authority vested in the City under Texas Local Government Code Chapter 54, Subchapter C, a Building and Standards Commission is created which shall be composed of seven regular members appointed for staggered two-year terms.
- (B) The Commission shall appoint from its members a Chairperson and Vice Chairperson, who shall be selected at the January meeting of the Commission each year or when a vacancy occurs.

Sec. 150.145 AUTHORITY OF COMMISSION

- (A) The Building and Standards Commission shall have all powers, duties and responsibilities authorized by state law, it being the intent of the City to fully implement Texas Local Government Code, Chapter 54, Subchapter C, including specifically the authority to hear and determine cases concerning alleged violations of ordinances of the City:
 - 1. For the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits; or
 - 2. Relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits; or
 - 3. Relating to dangerously damaged or deteriorated buildings or improvements; or
 - 4. Relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; or
 - 5. Relating to a building code or to the condition, use, or appearance of property in a municipality; or
 - 6. Relating to animal care and control; or
 - 7. Relating to water conservation measures, including watering restrictions.
- (B) The Building and Standards Commission as created and provided for under the provisions of state law shall, in addition to the statutory duties and responsibilities, have such additional duties and responsibilities as shall be from time to time delegated by the City Council and shall, in addition, determine such issues and render decisions in accordance therewith which may be from time to time required of an appellate body. In such cases, a simple majority of the members of the Building and Standards Commission shall be sufficient to hear a case, unless by other law or ordinance a greater majority shall be required.

Sec. 150.146 NOTICE OF VIOLATIONS / PUBLIC HEARINGS

- (A) Whenever the Code Official determines there has been a violation of a federal, state, or local ordinance or code, or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in this code and the amended Section 107 of the International Property Maintenance Code.
- (B) Notice of violation shall be served by personal delivery, certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property and/or to the person responsible for the violation as specified in this code.
- (C) If the notice of violation is returned unclaimed and not delivered, the notice of violation shall be served by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practical. If the improvement is not a building, notice may be posted on a structure, equipment or premises.
- (D) Notice of public hearings before the Building and Standards Commission shall be served by personal delivery, certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the county clerk.
- (E) Notice of public hearings before the Building and Standards Commission shall be served to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practical.
- (F) Notice of public hearings before the Building and Standards Commission shall be posted, personally delivered or mailed on or before the tenth day before the date fixed for the public hearing conducted by the Building and Standards Commission.
- (G) Notice of public hearings before the Building and Standards Commission shall be published in a newspaper of general circulation in the city, on one occasion on or before the tenth day before the date fixed for the public hearing.
- (H) Notice under this section may be in the form of a charging instrument and shall be in accordance with the following:
 - 1. Be in writing;
 - 2. Include the street address and/or legal description of the affected property;
 - 3. Include a general description of the improvements;
 - 4. Include a statement of the violation(s) and why the notice is being issued;
 - 5. Include the name and address of the owner(s) 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;

6. If known, include the occupant(s), and other persons interested in the affected property;
 7. Include the date, time and location of the proceedings before the Building and Standards Commission if the Code Official presented charges of violations before the Commission;
 8. Include any orders issued by the Code Official or the Building and Standards Commission with the approved period of time to comply with such orders;
 9. Include the property owner's right to appeal.
- (I) Notice of violations and/or orders pertaining to equipment removed from service by the code official shall be posted on or as near as practical to the equipment removed from service.
- (J) Signs, tags or seals posted or affixed by the Code Official shall not be mutilated, destroyed or tampered with, or removed without authorization from the Code Official.

Sec. 150.147 COMMISSION PROCEEDINGS

- (A) The Building and Standards Commission shall adopt rules and procedures in accordance with Tex. Loc. Gov't Code Chapter 54, Subchapter C, governing the conduct of hearings before the Commission.
- (B) Meetings of the Building and Standards Commission shall be held at the call of the Chairperson, the Code Official, and at other times as determined by the Commission. All of the meetings shall be open to the public. The Chairperson or in the Chairperson's absence, the Vice Chair or in the absence of the Vice Chair, another member selected as an Acting Chairperson may administer oaths and compel the attendance of witnesses.
- (C) The Building and Standards Commission shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote. The Building and Standards Commission shall keep records of its examinations and other official actions. The minutes and records shall be filed in the office of the city secretary as public record.
- (D) The concurring vote of a majority of the members present at a hearing of Building and Standards Commission is necessary to take any action.
- (E) At a public hearing, the City, acting through the Code Official, shall present charges to the Building and Standards Commission of alleged violations of ordinances on a property. The City shall present evidence and testimony supporting the alleged violations of ordinances on said property.
- (F) At a public hearing, the Building and Standards Commission shall provide ample opportunity for the presentation of evidence and testimony by respondents or persons opposing charges brought by the City relating to alleged violations of ordinances on said property.

Sec. 150.148 FINDINGS OF THE COMMISSION

- (A) Following the presentation of evidence and testimony at a public hearing, the Building and Standards Commission, by majority vote, may affirm or decline charges of alleged violations of City ordinances on a property.

- (B) If the Commission, by a majority vote, finds upon evidence presented at the public hearing that the property is not in violation of applicable City codes, the Commission shall order that the enforcement action cease, provided, however, that such order shall neither prevent the Code Official from instituting a new enforcement action for other violations the Code Official alleges have been determined to exist, nor shall such order prevent the Code Official from instituting a new enforcement action for the same violations if the city manager later determines that the conditions as determined by the Commission have materially changed as to such violations.
- (C) If the Commission, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of applicable City ordinances, the Commission may:
- (1) Declare a property substandard;
 - (2) Order the owner to abate or repair, within a fixed period, any ordinance violation identified on a property;
 - (3) Authorize the City to abate or repair, within a fixed period, any ordinance violation identified on a property;
 - (4) Order, in an appropriate case, the immediate removal of persons or property found on private property, entry on private property to secure the removal if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;
 - (5) Issue orders or directives to the code official, peace officer of the state, including a sheriff or constable or the chief of police of the municipality, to enforce and carry out the lawful orders or directives of the commission panel;
 - (6) Determine the amount and duration of the civil penalty the municipality may recover as provided by Texas Local Government Code, Chapter 54, Section 54.017; and
 - (7) When the Commission finds defects or conditions of structures exist to the extent that the life, health, property, or safety of the public are endangered, condemn the substandard structures and authorize the City to remove the structures and bring the grounds to a clean and sanitary condition.
- (D) If, at the initial public hearing on a property, charges brought by the City relating to alleged violations of ordinances are contested by any party of record with an interest in the property the Building and Standards Commission shall, if it finds that the structure should be condemned, order the property owner to appear at a second hearing, not less than 28 days from the date of the first hearing, and show cause why the Building and Standards Commission shall not order the condemnation and removal of the substandard structure.
- (E) If the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within thirty (30) days and the Commission allows the owner, lienholder or mortgagee more than thirty (30) days to repair, abate, remove or demolish a substandard structure, the Commission shall establish specific time schedules as the Commission determines are appropriate 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.

- (F) If the owner, lienholder, or mortgagee establishes at the hearing that the complexity and scope of the work prohibits the completion of all required work within ninety (90) days and the Commission allows the owner, lienholder or mortgagee more than ninety (90) days to repair, abate, remove or demolish a substandard structure, the owner, lienholder or mortgagee shall:
- (1) Within a reasonable fixed period set by the Commission, submit a detailed plan of all repairs, abatement processes and/or demolitions required to comply with City ordinances; and
 - (2) Within a reasonable fixed period set by the Commission, submit a detailed time schedule for all repairs, abatement processes and/or demolitions required to comply with City ordinances; and
 - (3) Within a reasonable fixed period set by the Commission, secure all structures on the property in a reasonable manner from unauthorized entry while the work is being performed; and
 - (4) Maintain the property in a clean and sanitary condition during the performance of work including maintenance of the yard and other landscape on the property.
- (G) If the Commission grants an owner, lienholder or mortgagee, more than ninety (90) days to repair, abate, remove or demolish a substandard structure on property within the jurisdiction of the City and the value of the property and all improvements exceed fifty thousand dollars (\$50,000), the Commission may require the owner, lienholder, or mortgagee to post a cash or surety bond or letter of credit or third-party guaranty to cover the cost of the work ordered by the Commission.

Sec. 150.149 COMMISSION ORDERS

- (A) All orders of the Commission must allow a lienholder or mortgagee of record at least thirty (30) additional days to complete the ordered work in the event the owner fails to comply with the order within the time provided for action by owner, prior to remedial action by the City.
- (B) Contents of order. The order of the Commission must contain at minimum:
- (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 each violation of minimum standards present in the building;
 - (3) A description of each of the ordered actions, including a statement that the owner may repair, if determined feasible by the Commission, or demolish or remove at his option;
 - (4) If the order is that the building shall be removed or demolished, a statement of the Commission's finding that conditions exist to the extent that the life, health, property or safety of the public are endangered; and

- (5) 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 allowed, and charge the cost of such actions to the owner and impose a lien against the property for all expenses incurred. Expenses shall include a nuisance abatement fee of \$100, an administrative fee of \$100, court/record filing fees and other actual expenses for each abatement/action performed on each individual lot or parcel of land.

Sec. 150.150 APPEALS

- (A) Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Cleburne Building and Standards Commission, provided that a written application for appeal is filed within thirty (30) calendar days after the day the decision, notice or order was served.
- (B) An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.
- (C) Appeals of notice and orders of the Code Official (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Building and Standards Commission.
- (D) The Building and Standards Commission shall conduct one or more public hearings to consider an appeal on a decision, notice or order of the Code Official and may issue any lawful order permitted by state law or this ordinance.
- (E) A copy of the final decision of the Building and Standards Commission shall be mailed by first class mail, certified return receipt requested, to all parties entitled to notice of the original public hearing.
- (F) All persons aggrieved of a final decision of the Building and Standards Commission may present a petition to any district court in Johnson County, duly verified, setting forth that the decision is illegal, in whole or part, and specifying the grounds of the illegality.
- (G) A petition of review must be presented to a district court within thirty (30) calendar days of the date copies of the final decision are sent to interested parties.
- (H) If no appeals are taken from a final decision of the Building and Standards Commission within the required period, the decision of the Building and Standards Commission is, in all things, final and binding.

Secs. 150.151—150.179 RESERVED.

Sec. 150.999 PENALTY.

It is an offense for a person, firm, company, or corporation to violate, disobey, omit, neglect, or refuse to comply with or resist the enforcement of any of the provisions of this chapter. Each day that a violation is permitted to exist shall constitute a separate offense. Any offense for which no other penalty is set forth in this chapter shall be subject to the penalty set forth in §10.99 of this code.