

ORDINANCE NO. 208

AN ORDINANCE PROVIDING FOR CONDEMNATION OF DILAPIDATED BUILDINGS - NOTICE - REMOVAL - COSTS - LIEN AND DECLARING A NUISANCE; BOARDING AND SECURING DILAPIDATED BUILDING; DEFINING TERMS; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF STILWELL, OKLAHOMA:

SECTION 1. Pursuant to authority granted by the State legislature in 11 O.S., 1981, Section 21-112, the City Council may cause dilapidated buildings within City limits to be torn down and removed in accordance with the provisions of this Ordinance.

SECTION 2. At least fifteen (15) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the governing body takes action or holds a hearing. A copy notice shall be posted on the property to be affected. In addition, a copy of said notice shall be sent by certified mail with return receipt requested to the property owner at the address shown by the current year's tax rolls in the office of the County Treasurer. Written notice shall also be mailed to any mortgage holder, as shown by records in the office of the County Clerk, to the last known address of the mortgagee. However, if neither the property owner nor the mortgage holder can be located, notice may be given by publication, as defined in 11 O.S., 1981, Section 1-102. Such notice may be published once not less than ten (10) days prior to any hearing or action by the City pursuant to the provisions of this Section or, in the alternative, notice may be given by first class mail to the property owner and mortgage holder.

SECTION 3. A hearing may be held by the City Council to determine if property is dilapidated and had become detrimental to the health, safety or welfare of the general public and the community or if said property creates a fire hazard which is dangerous to other property, as defined in 11 O.S., 1981, Section 1-102.

SECTION 4. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefitted by the removal of such conditions, the City Council may cause the dilapidated building to be torn down and removed. The City Council shall fix reasonable dates of the commencement and completions of the work. The City Clerk shall immediately file a notice of lien with the County Clerk, describing the property and the findings of the City at the hearing and stating that the City claims a lien on said property for the destruction and removal costs. The agents of the City are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the City, if the work is not performed by the property owner within dates fixed by the City Council.

SECTION 5. The City Council shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The City Clerk shall forward a statement of the actual costs attributable to the dismantling and removal of the buildings and a demand for payment of such costs, be certified mail with return receipt requested, to the property owner. In addition, a copy of said statement shall be mailed to the mortgage holder at the address provided for in Section 2 of this Ordinance. If the City dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

SECTION 6. When payment is made to the City for costs incurred, the City Clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within 6 months from the date of the mailings of the statement to the owner of such property, the City Clerk shall forward a certified statement of the amount of the cost to the County Treasurer of the County where the property is located. Said costs shall be levied on the property and collected by the County Treasurer as are other taxes authorized by law. The cost and the interest thereon shall be a lien against the property from the date the notice of lien is filed with the County Clerk. Said lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At any time prior to collection as provided for in this Section, the City may pursue any civil remedy for collection of the amount owing and interest thereon. Upon receiving payment, the City Clerk shall forward to the County Treasurer a notice of such payment and shall direct discharge of the lien.

SECTION 7. For the purpose of this Section, "dilapidated building" means a structure which, through neglect or injury, lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that said structure is a hazard to the health, safety or welfare of the general public. "Owner" means the owner of record, as shown by the most current tax rolls of the County Treasurer.

SECTION 8. Nothing in the provisions of this Ordinance shall prevent the City from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety or welfare of the general public.

SECTION 9. After a building has been declared dilapidated, as provided in 11 O.S., 1981, Section 22-112, and before the commencement of the tearing and removal of a dilapidated building, the City Council may authorize that such building be boarded and secured.

SECTION 10. The City Council may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with the provisions of this Ordinance.

SECTION 11. Before the City Council orders such action, at least ten days' (10) notice that such unsecured building is to be boarded and secured shall be given by certified mail with return receipt requested to any property owners and mortgage holders, as provided in 11 O.S., 1981, Section 22-112. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by publication, as defined in 11 O.S., 1981, Section 1-102. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the City pursuant to the provisions of this Section, or, in the alternative, notice may be given by first-class mail to any property owners and mortgage holders.

SECTION 12. The owner of the property may give his written consent to the City to authorize the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving said written consent, the owner waives his right to a hearing by the City Council.

SECTION 13. If the property owner does not give his written consent to such actions, a hearing may be held by the City Council to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building, held pursuant to the provisions of

Ordinance No. 42. In making such determination, the City Council shall apply the following standard: The City Council may order the boarding and securing of the unsecured building when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard created by such building or decrease the hazard that such building would constitute an attractive nuisance to children.

SECTION 14. After the City Council orders the boarding and securing of such non-secured building, the City Clerk shall immediately file a notice of lien with the County Clerk describing the property, stating the findings of the City at the hearing at which such building was determined to be unsecured and stating that the City claims a lien on said property for the costs of boarding and securing such building.

SECTION 15. Pursuant to the order of the City Council, the agents of the City are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the City.

SECTION 16. After an unsecured building has been boarded and secured, the City Council shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith. The City Clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs, by certified mail with return receipt requested, to any property owners and mortgage holders as provided in 11 O.S., 1981, Section 22-112. If the City boards and secures any unsecured building, the cost to the property owner shall not exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

SECTION 17. When payment is made to the City for costs incurred, the City Clerk shall file a release of lien, but if payment attributable to the actual costs of boarding and securing of the unsecured building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the City Clerk shall forward a certified statement of the amount of the costs to the County Treasurer of the County in which the property is located. Said costs shall be levied on the property and collected by the County Treasurer as are other taxes authorized by law. The costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the County Clerk. Said lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. At any time prior to collection as provided for in this Section, the City may pursue any civil remedy for collection of the amount owing and interest thereon. Upon receiving payment, the City Clerk shall forward to the County Treasurer a notice of such payment and shall direct discharge of the lien.

SECTION 18. For the purpose of the Ordinance:

- a. "boarding and securing" or "boarded and secured" means the closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure, and
- b. "unsecured building" shall mean any structure which is not occupied by a legal or equitable owner thereof or by a lessee of a legal or equitable owner and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which

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would facilitate an unauthorized entry into the structure.

SECTION 19. The Mayor is hereby designated as the administrative officer to carry out the duties of the City Council. The property owner shall have the right of appeal to the municipal governing body from any order of the Mayor. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) days after the administrative order is rendered.

SECTION 20. For the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist by reason whereof this Ordinance shall take effect and be in force from and after its passage and approval.

PASSED and APPROVED this 2<sup>nd</sup> day of January, 1990.

(Seal)

H. E. ZIMMERMAN, JR.  
Mayor

ATTEST: SUE CATRON  
City Clerk

(Published in the Stilwell Democrat-Journal, January 11, 1990)

[Related Ordinance, No. 42]