

## DUBACH ORDINANCE 308-C

An ordinance providing for the abatement of dilapidated or dangerous buildings or structures, the collection of abatement costs by the Town of Dubach, and a lien and privilege on the property to secure payment of the abatement costs incurred by the Town of Dubach.

### ABATEMENT OF DELAPIDATED OR DANGEROUS BUILDINGS OR STRUCTURES

#### Section 1 Findings of fact.

The purpose of this article is to promote the health, safety and welfare of the residents of the Town, and protect neighborhoods against physical, visual and economic deterioration. Pursuant to R.S. 33:4761--33:4768, the Town Council may condemn and cause to be demolished or removed any building or structure within the Town limits when such building or structure is in a dilapidated and dangerous condition.

#### Section 2 Definitions.

For the purpose of this article, certain abbreviations, terms, phrases, words and other derivatives and definitions shall be construed as set forth in this ordinance. If a specific definition is not set forth, the order of defining such term shall be by reference to the revised statutes of the state, and in the absence of such definition in such statutes, such definition shall be given the general definition as accepted by the most current edition of Webster's New World Dictionary.

Section 3 Administration and enforcement.  
The administration and enforcement of this article shall be the responsibility of the Mayor or his designated representative.

#### Section 4 Notice of violations.

- (a) Before the Town Council may condemn any building or structure within the Town limits, there must be submitted to it a written report recommending the demolition or removal of such building, which report shall be signed by the Mayor or his designated representative, or any other person authorized to act in such matters for the Town.
- (b) The Mayor shall then serve notice to the owner of the building or structure, requiring him to show cause at a regular or special meeting of the Town Council as to why the building or structure should not be demolished and/or removed under the conditions set forth in this article.
- (c) The date and hour of the meeting of the Town Council shall be stated in the notice, which shall be served at least ten days prior to the date of the hearing, except in case of grave public emergency, as defined and provided for in section 5. The notice may be served by registered or certified mail, postage prepaid, addressed to the owner of such building or structure at his last known address. The notice may also be served by any person having jurisdiction and power to serve legal process, where the owner of the building or structure is found in the state, and the officer shall make return of the service as in cases conducted by ordinary process.

- (d) If the owner is absent from the state or unrepresented, then the notice shall be served upon the occupant of the condemned building or structure, if any, and also upon an attorney at law appointed by the Mayor to represent the absentee owner. Domiciliary service may be made as in ordinary cases.

#### **Section 5 Grave public emergency.**

- (a) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

**Grave public emergency means that the condition of a building is such as to cause possible immediate loss or damage to persons or property.**

- (b) **Condemnation.** In case of a grave public emergency, the Town Council may condemn the building after 24 hours' notice served upon the owner of such building, his agent or the occupant and the attorney at law appointed to represent the absentee owner.

#### **Section 6 Notice of proceedings.**

Any notice served pursuant to this article shall be filed with the recorder of mortgages in the parish. Once filed, such notice shall be deemed notice to all subsequent transferees. Any transferee of such property shall take the property subject to all recorded liens, mortgages and notices pertinent to such property.

#### **Section 7 Decision of Town Council.**

- (a) After the public hearing, if, in the opinion of the Town Council, the facts justify it, an order shall be entered condemning the building or structure and ordering that such building or structure be demolished or removed within a certain delay. If, however, repairs to such building or structure will correct or rectify the dilapidated, dangerous or unsafe condition of the building or structure, the Town Council may grant the owner of the premises the option of making such repairs, but, in such a case, the general nature or extent of the repairs to be made, the time of such repairs and the defects to be corrected shall be specified in the decision of the Town Council, and shall be reflected in the minutes of the meeting.
- (b) The decision and order of the Town Council shall be in writing, and shall be final, unless appealed from within five days, as provided in section 8.

#### **Section 8 Appeal from decision.**

- (a) The owner of the condemned building or structure, the occupant of such building or structure, or the agent or other representative of the owner may appeal from the decision of the Town Council to the district court having jurisdiction over the property, which is the Third Judicial District Court of Lincoln Parish, State of Louisiana. The appeal shall be made by filing a suit against the Town, setting forth the reasons why the decision or order of the Town Council is illegal or improper, and the issue shall be tried de novo and by preference in the district court.

- (b) In the event of a grave public emergency, as declared by the Town Council, the owner of the condemned building or structure, who desires to prevent the demolition, repair or removal of such building or structure, must file a petition within 48 hours of the official declaration of the grave public emergency, and must, at the time of the filing of the petition, furnish such bond as may be fixed by the district court to cover any damage that may be caused by the condition of the building or structure.

**Section 9 Compliance with decision; demolition by Town when owner fails to comply; notice.**

- (a) If the owner of the condemned building or structure or his agent executes a contract in writing, obligating himself to the Town Council to have the work done within the required time, and upon furnishing to the Mayor a certified copy of the contract, together with a bond to guarantee performance, the owner or his designated agent may proceed to demolish and remove the building or structure, or have it repaired, as the case may be, in accordance with the order of the Town Council.
- (b) If the owner or occupant of the condemned building or structure fails or refuses to comply with the decision of the Town Council, and fails to appeal from such decision within the legal delays provided in this article, then, and in such event, the Mayor may proceed with the demolition or removal of the condemned property, in which case neither the Mayor nor the Town Council, individually or collectively, nor the Town, shall be liable in damages.

**Section 10 Demolition notice.**

- (a) Prior to the demolition or removal of the condemned building or structure by the Town, the Mayor shall serve notice on the owner or his agent and on the occupant of the building, if applicable, or upon the attorney at law appointed to represent the minor, interdict or absentee owner, giving the time when work will begin upon the demolition or removal of the building or structure.
- (b) The Town Council may request and the adjutant general may assign, subject to the approval of the governor, national guard personnel and equipment to assist in the removal and demolition of condemned buildings, structures or public nuisances. This subsection shall be applicable when the budget for the demolition and removal of condemned buildings, structures or public nuisances has been expended by the Town Council, and the request to the adjutant general is accompanied by documentation that all procedural protections and substantive restraints have been adhered to by the Town.
- (c) If all procedural protections and substantive restraints have been adhered to by the Town Council, the Town and its personnel, and the national guard and their personnel, shall not be liable to the owner of the condemned building, structure or public nuisance for any damages sustained resulting from the demolition of the building, structure or public nuisance.

**Section 11 Lien and privilege for cost of demolition, removal and maintenance by Town; interest; attorney fees.**

- (a) The Town shall have a privilege and lien upon an immovable and its improvements, and the owner shall be personally liable for the cost to the Town of:
- (1) Maintenance of the immovable or improvements; and
  - (2) Demolishing and/or removing a building or other structure situated upon the immovable or improvements, and all attorney fees incurred by the Town in connection with such demolition or removal.
- (b) For the purpose of this section, the term "maintenance" shall include, but shall not be limited to, grass cutting, weed abatement and trash and garbage removal.
- (c) The privilege and lien shall be preserved and enforced only after the owner has refused, after notification by the Town and reasonable opportunity to be heard, to pay the costs incurred by the Town.
- (d) The privilege and lien shall be preserved by the filing and recording of an affidavit signed by the Mayor in the mortgage office of the parish in which the immovable is situated. The affidavit shall include a description of the property which is sufficient to reasonably identify the immovable and a statement of facts listing the approximate costs incurred by the Town.
- (e) The privilege and lien shall be enforced by ordinary process in the district court having jurisdiction of the immovable within three years after such privilege and lien is perfected. Alternatively, the privilege and lien may be enforced by assessing the amount of the privilege and lien against the immovable as any ordinary property tax lien assessed against the property. Such lien and privilege may be collected in the manner fixed for collection of taxes, and shall be subject to the same civil penalties for delinquencies. After the Town has incurred such costs as constitute the lien and privilege on the property, the Mayor may send an attested bill of such costs and expenses which constitute the lien and privilege to the treasurer or property tax director, who shall add the amount of such bill to the next tax bill of the owner of such property. The lien obtained by the Town pursuant to proper notification and filing shall include not only the costs provided for in subsection (a) of this section, but such lien shall include all attorney's fees and/or all costs of court incurred in the location and notification of the owner, and the enforcement and collection of the amount secured by the lien against the immovable and the improvements. The Town may also recover interest on the amount secured by the lien. The interest shall not exceed the rate of legal interest as provided in C.C. art. 2924, and shall be computed from the date of recordation of the lien until such lien is paid. The Town's privilege and lien shall prime all other liens or privileges against the property filed after the notice to the owner to

- show cause is filed with the recorder of mortgages pursuant to R.S. 33:4762(D), regardless of the date on which the Town's lien and privilege is perfected, except that the Town's lien and privilege will not prime other tax liens against the property
- (f) The lien shall not be canceled until after payment of all amounts, including costs, attorney fees and interest.
- (g) In addition to the lien and enforcement procedures authorized under this section, the Town has a cause of action against the owner personally for the costs incurred by the Town, if such owner is not indigent and has the ability to pay a judgment obtained by the Town. Such action may be brought by ordinary proceeding in any court of competent jurisdiction.
- (h) If property which may be subject to a lien and privilege granted in favor of the Town under this section is owned in indivision and the owners in indivision, with their proportionate share in the property, are listed separately by the tax assessor on the ad valorem tax roll for the Town, then the Town shall notify each owner in indivision of his liability under this section.
- (1) Upon failure of each owner in indivision to pay his proportionate share on the charges incurred under this section, that part of the property for which the charges are not paid shall be subject to a lien and privilege in favor of the Town, as provided in this section.
- (2) Notwithstanding the provisions of subsection (f) of this section to the contrary, upon payment by an owner in indivision of his proportionate share listed on the ad valorem tax roll for the Town of the charges, attorney fees and interest incurred under this section, and after certification of such proportionate interest by the tax assessor, the lien and privilege granted under this section shall be removed from the proportionate interest of the paying owner in indivision. If outstanding charges levied under this section are added to the annual ad valorem tax bill, the proportionate payment by the paying owner in indivision shall be reflected on the bill and as interest in the property free of such charge shall be distinguished on the tax bill.
- (3) Notice of the lien and privilege required in this section shall be made upon the owner's indivision at their actual address, or the last known address listed on the tax rolls of the parish.

### **Section 12 Attorney to represent absentee minor or interdict.**

If the dilapidated building or structure is unoccupied and its owner is absent from the state, or his whereabouts are unknown, and he is unrepresented, or if the building is owned by a minor who has no tutor, or an interdict who has no curator, the Mayor shall appoint an attorney at law to represent the absentee owner, minor or interdict upon whom the notices and other proceedings provided for in this article shall be served. The attorney shall be paid a reasonable fee to be taxed as cost.

**Section 13 Compliance with department of environment quality; office of air quality.**

All renovation and demolition projects concerning commercial or industrial structures, or residences greater than a quadruplex, shall be announced to the air quality division of the department of environment quality ten days prior to the start of the renovation and demolition projects.

**Section 14**

If any section, paragraph, sentence, clause and/or phrase of this Ordinance or the application thereof is declared unconstitutional, unenforceable or invalid by the valid judgment of any court of competent jurisdiction such unconstitutionality, unenforceability or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses and/or phrases of this Ordinance, since the same would have been enacted by the Town of Dubach without the incorporation in this Ordinance of any such unconstitutional, unenforceable or invalid section, paragraph, sentence, clause or phrase. To this end, the provisions of this Ordinance are hereby declared severable.

All other Ordinances, or any parts thereof, which are in conflict with the provisions of this Ordinance, are hereby repealed. To the extent that any provision or provisions of this Ordinance are inconsistent or in conflict with any other provision of the Code of Ordinances or any regulation of the Town, the provisions of this Ordinance shall be deemed to control.

This Ordinance shall become effective upon signature of the Mayor.

This Ordinance was introduced on MAY 18, 2009 by Council member Mary Billberry Notice of Public Hearing having been published on MAY 20, 2009 and said Public Hearing having been held, the title having been read and the Ordinance considered, on motion to adopt by Council member R.C. Sparks, seconded by Council member DAVIE Powell, a record vote was taken and the following result was had:

YEA:

MARY Billberry  
VALLIE Carrico  
HATTIE Graham  
DAVIE Powell  
R.C. Sparks

NAY:

NONE  
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ABSENT:

NONE  
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WHEREUPON, the presiding officer declared the above Ordinance duly adopted on the 15 day of JUNE, 2009.

ATTEST:

Justina Hensley  
TOWN CLERK

Margaret Rojas  
MAYOR

Dubach-Building Ordinances (06.09.sy)