

TOWN OF DUBACH

ORDINANCE NO. 394

AN ORDINANCE OF THE TOWN OF DUBACH TO REPEAL THE EXISTING ABATEMENT OF DILAPIDATED OR DANGEROUS BUILDINGS OR STRUCTURE ORDINANCE AND TO ADOPT A NEW BUILDING ABATEMENT ORDINANCE TO PROVIDE FOR THE REGULATION AND ABATEMENT OF DILAPIDATED AND DANGEROUS BUILDINGS AND STRUCTURES.

WHEREAS, the Town of Dubach currently has Dilapidated and Dangerous Buildings Ordinances that are in need of updating for complete compliance with Louisiana Revised Statutes 33:4761, et. seq.;

WHEREAS, it has been determined to be in the best interest of the Town of Dubach and its citizens that the law clearly state the requirements regarding dilapidated buildings and structures;

NOW THEREFORE BE IT ORDAINED BY the Board of Aldermen of the Town of Dubach that the Dilapidated and Dangerous Building Ordinances as amended on the 15<sup>th</sup> day of June, 2009, are hereby repealed and replaced in their entirety and a new ordinance is adopted to read as follows:

**DUBACH BUILDING AND STRUCTURES ABATEMENT ORDINANCE**

**Section 1. Condemnation.** The Town of Dubach may condemn and cause to be demolished or removed any building or structure within the Dubach when it is in a dilapidated or dangerous condition which endangers the public welfare.

**Section 2. Notice.**

- A. Before the Town may condemn any building or structure, there must be submitted to it a written report recommending the demolition or removal of the building signed by some Town official or other person authorized to act in such matters for the Town of Dubach.
- B. The mayor, or the Mayor's designee shall thereupon serve notice on the owner of the building or structure requiring the owner to show cause before the Dubach Town Council, at either a regular or special meeting, why the building or structure should not be condemned.
- C. The date and hour of the meeting shall be stated in the notice which shall be



served at least ten (10) days prior to the date of the hearing, except in case of grave emergency as hereinafter provided.

- D. The notice may be served by registered or certified mail, postage prepaid, addressed to the owner at his last known address, as taken from Town records or the parish tax assessor's records.
- E. The notice may also be served by the Dubach Police Department or by any deputy sheriff or constable having jurisdiction and power to serve legal process where the owner of the building or structure is found in the State of Louisiana, and the officer shall make return of the service as in ordinary cases.
- F. If the owner is absent from the state or unrepresented therein, then the notice may 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. Domiciliary service may be made as in ordinary cases.
- G. In the event 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, minor or interdict upon whom the notices and other proceedings provided in this article may be served. The attorney shall be paid a reasonable fee to be taxed as costs.
- H. In case of grave public emergency where the condition of the building is such as to cause possible immediate loss or damage to person or property, the Town of Dubach may condemn the building after twenty-four hours notice served upon the owner or his agent or the occupant and attorney at law appointed to represent the absentee owner. Any such notice may be attached to a door or entrance of the premises and shall have the same effect as delivery to or personal service on the owner, occupant, or attorney at law appointed to represent the absentee owner.
- I. Any notices served pursuant to this section shall be filed with the recorder of mortgages where the property is located. Once filed, such notice shall be deemed notice to all subsequent transferees. Any transferee of such property takes the property subject to all recorded liens, mortgages, and notices thereunto pertaining.

### **Section 3. Decision of the Dubach; Order to Demolish or Repair.**

- A. After the hearing, if, in the opinion of the Town, the facts justify it, an order shall be entered condemning the building or structure and ordering that it be demolished or removed within a certain delay. In any event, except as



provided otherwise in this article, the actual demolition shall not commence until at least thirty (30) days after the entry of the order of demolition by the Town.

- B. If repairs will correct the dilapidated, dangerous or unsafe condition, the Town may grant the owner the option of making such repairs, but in such case the general nature or extent of the repairs to be made, the time thereof, and the defects to be corrected, shall be specified in the decision of the Town.
- C. The decision and order of the Town shall be in writing and shall be final unless appealed from within five (5) business days as hereinafter provided.
- D. If the building has been determined to be a grave emergency, the decision shall be final unless an appealed from within 48 hours as hereinafter provided. The Town may proceed to tear the building or structure down if no appeal has been filed within the appeal delay.

#### **Section 4. Appeal from Decision.**

- A. The owner, occupant, agent or other representative of the owner may appeal from the decision of the Town Council to the Louisiana District Court for the Parish of Lincoln.
- B. The appeal shall be made by the filing of a suit against the Town, setting forth the reasons why the decision or order of the Town is illegal or improper and the issue shall be tried de novo and by preference in the district court.
- C. Where a grave public emergency has been declared by the Town, the owner of the building or structure who desires to prevent the demolition or removal thereof must file his petition for appeal within forty-eight (48) hours and must, at the time of the filing of the petition, furnish such bond as may be fixed by the district judge to cover any damage that might be caused by the condition of the building.
- D. Either party may appeal from the judgment of the district court as in other cases.

#### **Section 5. Compliance with decision; demolition by Town.**

- A. The owner or his designated agent may proceed to demolish and remove the building, or have it repaired, in accordance with the order of the Town,



provided the owner or his agent executes a contract in writing obligating him or her to have the work done within the required time and files with the mayor a copy of the contract, together with a bond to guarantee performance.

- B. In the event that the owner or occupant of the building or structure fails or refuses to comply with the decision of the Town and fails to appeal therefrom within the legal delays provided herein, then, in that event, the Mayor may authorize his designee to proceed with the demolition or removal of the condemned building or structure, in which case neither the Town, Mayor, Town Councilmen, nor other Town employee or representative shall be liable for damages.
- C. All demolition and removal of condemned buildings by the Town of Dubach shall be conducted in accordance with the requirements of state and federal law, including all Environmental Protection Agency and Louisiana Department of Environmental Quality mandatory inspections. The costs of all such required inspections and removal of hazardous substances shall be deemed a cost of demolition.

#### **Section 6. Demolition Notice.**

- A. Prior to the demolition or removal of the building or structure by the Town, the Mayor or the Mayor's designee shall serve notice on the owner, or his agent, and on the occupant of the building, if any there be, 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, and instructing the owner, or his agent and the occupant of the building to remove any movable effects from the premises prior to the commencement of the demolition.
- B. The Town 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. In accordance with state law, the provisions of this Subsection shall be applicable when the budget for the demolition and removal of condemned structures has been expended by the Town. Any request shall be accompanied by documentation showing 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, its employees, and representatives and the national guard and their personnel shall not be liable to the owner of the building, structure, or public nuisance for any damages sustained resulting from the demolition of the building, structure, or public nuisance.



**Section 7. Lien and privilege for cost of inspection, demolition, and removal by the Town; interest; attorney fees.**

- A. The Town shall have a privilege and lien upon an immovable and its improvements for the cost to the Town of demolishing or removing, or both, a building or other structure situated upon the immovable or improvements, including but not limited to, all inspection costs and hazardous substance removal costs, clean up and removal of debris, and other expenses incurred pursuant to this ordinance.
- B. The Town shall have a privilege and lien for all expenses incurred in notifying the owner and/or his agents, including any appointed attorneys, any court costs incurred in an appeal, and for all attorney fees incurred by the Town in connection with such demolition or removal of property or an appeal thereof.
- 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 records of the Lincoln Parish Clerk of Court. The affidavit shall include a description of the property sufficient to reasonably identify the immovable and a statement of facts listing the approximate cost or costs incurred by the Town. The privilege and lien shall be enforced by ordinary process in the district court for Lincoln Parish within three (3) years after it is perfected.
- E. Alternatively, the privilege and lien may be enforced by assessing the amount of the privilege and lien against the immovable as a tax against the immovable, to be enforced and collected as any ordinary property tax lien to be 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 finance director or tax collector of the Town and/or the parish tax assessor, who shall add the amount of the bill to the next tax bill of the owner. The lien obtained by the Town pursuant to proper notification and filing shall include not only the costs provided for in this article, but shall include all attorney's fees and/or all costs of court incurred in the locating of the owner, the notification of the owner, and the enforcement



and collection of the amount secured by the lien against the immovable and the improvements.

- F. The Town of Town may also recover interest on the amounts secured by the lien, which interest shall be the maximum rate of legal interest provided in Louisiana Revised Statute 9:3500 and shall be computed from the date of recordation of the lien until paid.
- G. 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 section , 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.
- H. The lien shall not be cancelled until after the payment of all amounts, including costs, attorney fees, and interest.
- I. 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.
- J. 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 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 8. Alternative to Demolition; Repair by Municipality**

- A. Notwithstanding any other provision of law to the contrary, the Town, as an alternative to demolition or removal, may make the repairs necessary to correct the defects in a condemned structure within its jurisdiction.
- B. The Town may take such action only after a demolition or removal order has been issued and the delay for a legal appeal has run, or an appeal has been denied, and when in the discretion of the Town such action will restore the structure to a state of usefulness to the community.
- C. The decision of the Town to repair the structure may be appealed in the same manner as provided in Section 4 of this ordinance
- D. The costs of repairs made pursuant to Subsection A and a ten percent penalty thereon shall be reimbursed by the owner of the condemned property, and such costs and penalty shall operate as a lien and privilege on the property in favor of the Town. Until such time as the costs and penalty have been paid, the Town may lease such property and apply all revenue received to the amount owed by the owner and to the necessary maintenance of the structure.

#### **Section 9. Attorney to Represent Absentee, Minor, or Interdict**

In the event the building or structure is unoccupied and its owner is absent from the state and unrepresented therein, or in the event 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, minor, or interdict upon whom the notices and other proceedings provided in this Subpart may be served. The attorney shall be paid a reasonable fee to be taxed as cost and added to the lien and/or tax bill as provided for herein.

This Ordinance was duly introduced at the regular meeting of the Town Council on June 15, 2020, the title of this ordinance was duly published in accordance with law, a public hearing was held, and then duly read and adopted on the 15 day of June, 2020 by the following votes:

YEAS:     All    

NAYS: None

ABSTAIN: None

ABSENT: None

This Ordinance was adopted on the 15 day of June, 2020 and presented to the Mayor for her signature on the 15 day of June, 2020 (which is less than 3 days from the date the ordinance was adopted).

Pamela Spillers  
TOWN CLERK

Approved by the Mayor on this 15 day of June, 2020.

May Clair Smith  
MAYOR