

**ORDINANCE 320-2006**  
(Replaces Ordinance 296-2005)

**DANGEROUS STRUCTURES**

**AN ORDINANCE OF THE CITY OF VENUS, TEXAS, PROHIBITING DANGEROUS BUILDINGS IN THE CITY OF VENUS, JOHNSON AND ELLIS COUNTIES, TEXAS; DEFINITIONS OF TERMS; INSPECTION; NOTIFICATION OF VIOLATION AND REINSPECTION, HEARING; REPAIR AND/OR DEMOLITION; FILING OF STATEMENT OF EXPENSE AND CREATION OF LIEN; AND ESTABLISHING PENALTIES FOR VIOLATION.**

Section 1. Dangerous Structures defined.

Any building or other structure that has any of the following defects shall be deemed a "Dangerous Structure":

- (1) Interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) A building that, exclusive of the foundation, shows thirty-three per cent (33%) or more, damage or deterioration of a supporting member or members, or fifty per cent (50%) damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (3) A building that has improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which has insufficient strength to be reasonably safe for the purpose used.
- (4) A building that has been damaged by fire, wind, water or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the city.
- (5) A building that has become so dilapidated, decayed, unsafe, unsanitary or so utterly fail to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein.
- (6) A building having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
- (7) A building having inadequate facilities for egress in case of fire or panic or a building having insufficient stairways, elevators, fire escapes, or other means of evacuation.
- (8) A building in which parts thereof which are so attached that they may fall and injure members of the public or property.
- (9) A building that, because of its condition, is unsafe, unsanitary, or dangerous to the health, safety or general welfare of the people of this city.
- (10) A building that has become an attractive nuisance to children or a haven for homeless persons and that exhibits a condition that is unsafe or unsanitary.
- (11) A building existing in violation of any provision of the building, fire, gas, mechanical and electrical provisions of any City Ordinance.

## Section 2. Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the Building Ordinance Compliance Officer or his authorized designee and the Building Appeals Board in ordering repair, vacation or demolition:

- (1) Repair: If the Dangerous Structure can reasonably be repaired so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired.
- (2) Vacation: If the Dangerous Structure is in such condition as to make it an immediate danger to the life, health, or safety of its occupants, it shall be ordered to be vacated.
- (3) Demolition: If a Dangerous Structure cannot be repaired within a reasonable period of time as determined by the Building Appeals Board, so that it will no be in violation of the terms of this Ordinance, it shall be demolished.

## Section 3. A Dangerous Structure constitutes a nuisance.

Any Dangerous Structure, within the meaning of this Ordinance, is hereby declared to be public nuisances, and shall be repaired, vacated or demolished as herein provided.

## Section 4. Duties of Building Ordinance Compliance Officer or his designee.

The Building Ordinance Compliance Officer (BOCO) can perform each of the following duties himself or may act through an authorized designee. The BOCO shall:

- (1) Complaints: Receive written complaints from a member of the public, the Fire Chief or the Police Chief and investigate each such complaint.
- (2) Inspect: Inspect, or cause to be inspected, any public building, school, hall, church, theaters, hotel, tenement, commercial, manufacturing, or loft building or other structure about which he has received a complaint or at his own discretion for the purpose of determining whether any condition exists that renders such place a Dangerous Structure within the meaning of this Ordinance.
- (3) Notice to Repair: If the building is determined to be a Dangerous Structure, he shall notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building as shown by the land records of the Johnson or Ellis County Clerk of the building found by the Building Ordinance Compliance Officer to be a Dangerous Structure within the standards set forth in this Ordinance, which notice shall include:
  - a. a description of the structure sufficient to identify the building in question;
  - b. a statement of the specific conditions which make the building or structure a Dangerous Structure, which must be repaired; and
  - c. the date by which such conditions must be repaired, which date shall not be less than 10 or more than 30 days from the date the owner of the structure receives actual notice.

Notice shall be sent by United States Certified Mail, any overnight delivery service with confirmation of delivery, or personal courier. If the owner of the property cannot be located, notice shall be given by publication in the local newspaper and/or

posting such notice on the structure. A copy of such notice shall be given to the occupant of the structure, if the occupant is not the owner and a copy shall be given to the Chair of the Building Advisory Board.

- (4) Reinspection: Immediately after the date that repairs were required to be completed as described in subsection (3) above or by an Order of the Building Appeals Board, the BOCA shall reinspect the structure. If the structure has been satisfactorily repaired, the BOCA shall notify the owner, occupant and Building Appeals Board. If the structure remains in a condition that renders it a Dangerous Structure, the BOCA shall refer the matter to the Building Appeals Board for a hearing.
- (5) Structures Requiring More Than 30 Days to Repair and Unrepairable Structures: If the Dangerous Structure cannot be repaired in 30 days or at all, notice as described in subsection (3) above shall be given by the BOCA to the owner, occupant and the Building Appeals Board. The Building Appeals Board shall schedule a hearing as promptly as possible to determine the date by which the building must be repaired or demolished. Notice of any hearing shall be in compliance with the requirements set out in subsection (3) above.
- (6) Emergency. If it is determined that the building is not only a Dangerous Structure, but also constitutes an immediate threat of danger to life or safety of any person and, the BOCA shall order the building to be vacated immediately, notify the owner and refer the matter to the Building Appeals Board for a hearing as soon as possible.
- (7) Serve as Witness: Appear at all hearings conducted by the Building Appeals Board, and testify as to the condition of dangerous structures.
- (8) Posting Notice on Structure: After a hearing before the Building Appeals Board at which it is determined that the building continues to be a Dangerous Structure, place a notice on such structure reading as follows:  
***"This building has been found to be a dangerous structure by the Venus Building Appeals Board or his authorized representative. This notice is to remain on this building or structure until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building or structure, and all other persons having an interest in said building or structure, as shown by the land records of the County Clerk of Johnson or Ellis County. It is unlawful to remove this notice until such notice is complied with."***

#### Section 5. Duties of Fire Department.

The Chief of the Fire Department shall make a report in writing to the Building Ordinance Compliance Officer of any building or structure which is, may be, or is suspected to be a Dangerous Structure within the terms of this Ordinance. Such report must be delivered to the Building Ordinance Compliance Officer as soon as practicable after the discovery of the condition of such building by any member of the Fire Department.

#### Section 6. Duties of Police Department.

The Chief of the Police Department shall make a report in writing to the Building Ordinance Compliance Officer of any building or structure which is, may be, or is suspected to be a Dangerous Structure within the terms of this Ordinance. Such report must be delivered to the Building Ordinance Compliance Officer as soon as practicable

after the discovery of the condition of such building by any member of the Police Department.

#### Section 7. Members and Terms of the Building Appeals Board

- (1) The Building Appeals Board shall be composed of the City Council and Mayor, with the Mayor serving as Chairperson; **or**,
- (2) The City Council may by majority vote create a Building Appeals Board as follows:
  - a. 5 or more persons, appointed by the City Council. The mayor shall appoint one member to serve as Chairperson.
  - b. Neither the City Administrator, nor any member of the City Council, nor the Building Ordinance Compliance Officer shall be eligible to serve on the Building Appeals Board.
  - c. The term of service on the Building Appeals Board shall be for two (2) calendar years, and the members shall serve in staggered terms.

#### Section 8. Duties of Building Appeals Board.

The Building Appeals Board shall:

- (1) Schedule Hearing: Upon receipt of a report of the BOCO that a building has been determined to be a Dangerous Structure, as provided in this Ordinance, and that;
  - a. the condition of the building constitutes an emergency under Section 4(6);or
  - b. cannot be repaired within 30 days or less; or
  - c. the owner has been given notice to repair the Dangerous Structure within a certain period of time as provided in the notice in accordance with Section 4 (3) and the owner has failed, refused or neglected to do so; or has failed to complete the repairs within the time allowed or the repairs fail to pass inspection under Section 4 (4), The Building Appeals Board shall schedule a hearing.
- (2) Notice: The Building Appeals Board shall give no less that 10 days written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building or structure as shown by the land records of the County Clerk, to appear before the Building Appeals Board on the date specified in the notice to show cause why the building or structure reported to be a Dangerous Structure should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the BOCO's report provided for herein. Notice shall also be given to the BOCO and to the City Attorney. Notice shall be sent by United States Certified Mail, return receipt requested personal delivery. In addition, notice shall be given by publication at least 10 days before the hearing in the local newspaper. If the owners are not known or cannot be located, notice shall be given by newspaper publication and by posting the notice on the front door of the structure.
- (3) Hearing: Hold a hearing and consider such testimony as the BOCO or his designee and/or other witnesses on behalf of the city, the owner, occupant, mortgagee, lessee or any other person having an interest in said building structure or other witnesses shall offer relative to the Dangerous Structure. The city shall be represented at the hearing by the City Attorney and the owner of the structure or

mortgagee may be represented by an attorney or appear *pro se*. No other witness may appear through counsel. The hearing may be adjourned from time to time to hear additional testimony and receive additional evidence at the sole discretion of the Building Appeals Board.

- (4) Findings of Fact: After the hearing has concluded the Building Appeals Board shall make written findings of fact from the testimony offered at the hearing as to whether or not the building or structure in question is a Dangerous Structure within the terms of this Ordinance.
- (5) Order: If the Buildings Appeals Board finds the building to be a Dangerous Structure, it shall issue an Order based upon findings of fact made pursuant to subsection (4) of this section, commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building or structure to repair, vacate, or demolish the Dangerous Structure including the dates by which the repairs or demolition must be commenced and completed. In the event that the Building Appeals Board orders that the Dangerous Structure be repaired, any person having an interest in said building as shown by the land records of the County Clerk may elect to demolish the Dangerous Structure instead of repairing it. The Order shall be delivered to the owner and others interested in the property in the same manner that notice is given as set out in Section 8 (2) above.
- (6) Failure to Comply: If the owner, occupant, mortgagee, or lessee fails to comply with the Order provided for in subsection (5) of this section, within the date given to commence or complete the repairs or demolition, the Building Appeals Board shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards provided in Section 2, and shall, with the assistance of the City Attorney, cause the costs of such repair, vacation, or demolition to be charged against the land on which the building or structure existed as a municipal lien or cause such costs to be added to the tax roll as an assessment, or to be levied as a special tax against the land upon which the building or structure stands or did stand, as provided by this Ordinance, or to be recovered in a suit at law against the owner. The Building Appeals Board shall notify the City Attorney to take legal action notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the County Clerk of any building found to be a Dangerous Structure within the standards set forth in this Ordinance, that the Dangerous Structure will be repaired or demolished on or after a date certain. The owner may request an additional hearing with the Building Appeals Board to request additional time to make the repairs or to demolish the building. The Building Appeals Board may at its sole discretion grant or deny an additional hearing.

#### Section 9. Duties of City Attorney.

The City Attorney shall:

- (1) Hearings: Appear at all hearings on behalf of the City before the Building Appeals Board in regard to Dangerous Structures.
- (2) Bring Suit: Bring suit to collect all municipal liens, assessments, or costs incurred by the City in repairing or causing to be vacated or demolished dangerous structures.

- (3) Prosecute: Prosecute in Municipal Court, all persons failing to comply with the terms of this Ordinance as described in Section 14.
- (4) Other Duties: Take other such legal action as is necessary to carry out the terms and provisions of this Ordinance.

#### Section 10. Duties of the City Secretary

The City Secretary shall:

- (1) Lis Pendens: File with the County Clerk of Johnson or Ellis County a statement of expenses incurred for any repair or demolition giving the amount of such expenses and the date on which said work was done or such improvement was made with the legal description of the land on which the structure is or was located and the matter shall be filed as a lis pendens against the property. The City shall thereby have a privileged lien on such lot, lots, other premises, or real estate upon which said building was located in order to secure the repayment of the expenditures so made. Such lien shall be second only to tax liens and liens for street improvement and the said amount shall bear interest at the highest legal rate per annum from the date said document was filed.
- (2) Report to Attorney and City Council: Report to the City Attorney such liens and the City Council which may request that the City Attorney file suit to recover expenses.
- (3) Report to the Chief of Police: Report to the chief of Police any violations of an order to repair or demolish property, under Section 14 hereof, so that citation may be issued and prosecuted.

#### Section 11. Emergency cases.

In cases in which it reasonably appears there is immediate danger to life or safety of any person unless a dangerous structure is immediately repaired, vacated, or demolished, the Building Ordinance Compliance Officer or his authorized designee shall report such facts to the Building Appeals Board, and the Board shall, after holding an emergency meeting, cause such immediate repair, vacation, or demolition of such Dangerous Structure deemed necessary to abate the immediate danger. The costs of such emergency repair, vacation or demolition of such dangerous structure shall be collected in the same manner as provided in Section 8 (6) above.

#### Section 12. Service on Persons Absent from City.

In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the city, all notices or orders provided for herein shall be sent by United States certified mail, any overnight delivery service with confirmation of delivery, or personal courier to the owner, mortgagee, lessee and all other persons having an interest in said building or structure as shown by the land records of the County Clerk to the last known address of each, and a copy of such notice shall published in the local newspaper and/or be posted in a conspicuous place on the dangerous structure to which it relates. Such mailing and posting shall be deemed adequate service.

### Section 13. Administrative Liability.

No officer, agent, attorney or employee of the City shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such person's duties under this Ordinance. Any suit brought against any officer, agent or employee of the city as a result of any act required or permitted in this discharge of such duties under this Ordinance shall be defended by the City Attorney until the final determination of the proceedings therein.

### Section 14. Violations and Penalties.

- (1) The owner of any Dangerous Structure who fails to comply with any notice of order to repair, vacate, or demolish said building or structure given by any person authorized by this Ordinance to give such notice or order shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined an amount not to exceed of One Thousand Dollars (\$1,000.00) for each offense and for each day such failure to comply continues beyond the date fixed for compliance.
- (2) The occupant or lessee in possession who fails to comply with any notice to vacate given as provided for in this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not in excess of Five Hundred Dollars (\$500.00) for each offense and for each day such failure to comply continues beyond the date fixed for compliance.
- (3) Any person removing the notice provided for in Section 4 (8) shall be guilty of a misdemeanor, and upon conviction, shall be fined shall be fined in an amount not in excess of Five Hundred Dollars (\$500.00) for each offense.

### Section 15. Repealer Clause

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall only be to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in the ordinance. Any cause of action accruing prior to the passage of this ordinance shall proceed under this Ordinance, if possible, and if not, shall continue as if this ordinance had not been passed or any other ordinance had not been repealed.

### Section 16. Severability Clause

It is hereby declared that the sections, subsections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and if any section, subsection, paragraph, sentence, clause, or phrase shall be declared void, ineffective or unconstitutional by a valid judgment or final decree of a court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses, and phrases of this Ordinance since the same would have been enacted by the City Council without the incorporation herein of

any such void, ineffective or unconstitutional section, subsection, paragraph, sentence, clause, or phrase.

Section 17. Engrossment and Enrollment Clause

The City Secretary is hereby direction to engross and enroll this Ordinance by copying the caption, penalty clause, publication clause and effective date clause in the minutes of the City Council and filing this Ordinance in the ordinance records of the City.

Section 18. Publication Clause

The City Secretary is hereby directed to post or publish in the official newspaper of the City, the caption, penalty clause, publication clause and effective date clause of this Ordinance in every issue for two days of the official newspaper of the City, as authorized by Section 52.011 of the Texas Local Government Code.

Section 19. Effective Date

This ordinance shall be effective after final passage and publication, as required by law.

PASSED AND APPROVED this the 14<sup>th</sup> day of August 2006.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary