

**ORDINANCE NO. 1943**

**AN ORDINANCE OF THE CITY OF EULESS, TEXAS AMENDING CHAPTER 14 “BUILDINGS AND BUILDING REGULATIONS”, OF THE CODE OF ORDINANCES OF THE CITY OF EULESS (1993), AS AMENDED, BY AMENDING ARTICLE XII “ABATEMENT OF DANGEROUS BUILDINGS”, TO INCLUDE REGULATIONS APPLICABLE TO SUBSTANDARD AND DANGEROUS BUILDINGS; PROVIDING FOR THE REPAIR, DEMOLITION, REMOVAL, SECURING, AND VACATION OF DANGEROUS AND SUBSTANDARD BUILDINGS; PROVIDING FOR A CIVIL PENALTY; PROVIDING THAT THIS ORDINANCE SHALL NOT LIMIT THE AUTHORITY OF THE CITY; AMENDING CHAPTER 14, ARTICLE X TO PROVIDE PROCEDURES IN THE “EULESS MINIMUM HOUSING CODE” CONSISTENT WITH ARTICLE XII; REPEALING ARTICLE XIII “SECURE SUBSTANDARD OR DANGEROUS STRUCTURES”; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Euless is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council of the City of Euless desires to update, revise and clarify the standards and regulations that apply to substandard buildings in conformance with legislative amendments, and to provide for a civil penalty as permitted by law; and

**WHEREAS**, the City Council of the City of Euless deems it necessary to adopt this ordinance providing minimum standards to safeguard the health, property and welfare of the citizens of Euless by regulating and controlling the use, occupancy, maintenance, repair, vacation, removal, demolition, and abatement of substandard and dangerous buildings within the City of Euless; and

**WHEREAS**, in addition to the City’s authority as a home rule city to adopt these regulations, Chapter 214 of the Local Government Code authorizes a municipality to regulate substandard buildings and establishes procedures therefore; and

**WHEREAS**, it is the intention of the City Council of the City of Euless to establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction and to provide for the giving of proper notice to the owner of a building and to provide for a public hearing to determine whether a building complies with the standards set out in this ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EULESS, TEXAS:**

**SECTION 1.**

That Article XII of Chapter 14 of the Code of Ordinances of the City of Euless, Texas, is hereby amended to read as follows:

**ARTICLE XII. – ABATEMENT OF DANGEROUS BUILDINGS**

**Sec. 14-331.- Purpose and Scope.**

- (A) *Purpose.* It is the purpose of this article to provide a just, equitable and practical method, to be cumulative with and in addition to any other remedy provided by the residential code, building code, electrical code, fire code, mechanical code, plumbing code, housing code, property maintenance code, chapter 214 of the Texas Local Government Code, or otherwise available at law, whereby buildings, as defined herein, which from any cause endanger the life, limb, health, property, safety, morals or welfare of the general public or their occupants, may be required to be repaired, vacated, demolished, removed or secured.
- (B) *Scope.* The provisions of this article shall apply to all buildings which are hereinafter defined as dangerous or substandard, whether now in existence or whether they may hereafter become dangerous or substandard.

**Sec. 14-332.- Definitions.**

*Building* means and includes any building, fence, awning, canopy, sign, shed, garage, house, tent or other structure whatsoever. The enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the sense and meaning of the provisions hereof in context reasonably have application.

*Housing and Structure Board* (sometimes referred to as "the board") means the body as designated by the City Council for the purpose of hearing appeals under applicable housing and substandard building codes of the City.

*Building code* means the International Building Code, as adopted and amended by the city.

*Building official* means the officer or other designated authority charged with the administration and enforcement of the chapter and the codes adopted herein, or the Building Official's duly authorized representative such as Deputy Building Official, building inspector, code enforcement officer, and health officer.

*Electric code* means the National Electrical Code, as adopted and amended by the city.

*Fire code* means the International Fire Code, as adopted and amended by the city.

*Fire Marshal* means the fire marshal of the City of Euless or his designee.

*Housing code* means Article X, Euless Minimum Housing Code, of Chapter 14 of the City of Euless Code of Ordinances, as adopted and amended by the city.

*Mechanical code* means the International Mechanical Code, as adopted and amended by the city.

*Person* means any individual, proprietorship, corporation, firm, association, or other legal entity.

*Plumbing code* means the International Plumbing Code, as adopted and amended by the city.

*Property Maintenance Code* means the International Property Maintenance Code, as adopted and amended by the city.

*Residential Code* means the International Residential Code, as adopted and amended by the city.

**Sec. 14-333.- Enforcement.**

(A) *General.*

- (1) *Administration.* The building official is hereby authorized to enforce the provisions of this article. The building official shall have the power to render interpretations of this article and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this article.
- (2) *Inspections.* The building official and the fire marshal are hereby authorized to make such inspections and take such further actions as may be required to enforce the provisions of this article.
- (3) *Right of entry.* When it is necessary to make an inspection to enforce the provisions of this article, or when the building official has a reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this article which makes the building or premises unsafe, dangerous, or hazardous, the building official and his designated assistants may enter the building or premises at reasonable times to inspect or perform the duties imposed by this article, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises are unoccupied, the building official or his designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the

building official shall have recourse to the remedies provided by law to secure entry.

- (B) *Abatement of dangerous or substandard buildings.* All buildings or portions thereof which are determined after inspection by the building official to be dangerous or substandard as defined by this article are hereby declared to be public nuisances and shall be abated by repair, vacation, demolition, removal or securing in accordance with the procedures specified in this article.
- (C) *Unlawful to violate article.* It shall be unlawful for any person, to erect, construct, use, occupy or maintain any building that is deemed herein to be a nuisance or cause or permit the same to be done in violation of this article.
- (D) *Inspection authorized.* All buildings within the scope of this article and all construction or work for which a permit is required shall be subject to inspection by the building official.

**Sec. 14-334. - Substandard buildings declared.**

- (A) For the purposes of this article, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described shall be deemed to be a substandard building, and a nuisance:
  - (1) Whenever any building is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare in the opinion of the building official.
  - (2) Whenever any building, regardless of its structural condition, is unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children.
  - (3) Any building that is boarded up, fenced or otherwise secured in any manner if:
    - a. The building constitutes a danger to the public even though secured from entry; or
    - b. The means used to secure the building are inadequate to prevent unauthorized entry or use of the building.
  - (4) Whenever any building, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
  - (5) Whenever any building is in such a condition as to create a public nuisance known under common law or in equity jurisprudence.

- (6) Whenever any portion of a building remains on a site after the demolition or destruction of the building.
  - (7) Whenever any building is abandoned so as to make such building or portion thereof an attractive nuisance or hazard to the public.
  - (8) Any building existing in violation of any provision of the residential code, building code, fire code, plumbing code, mechanical code, electrical code, housing code, or property maintenance code of the city to the extent that the life, health or safety of the public or any occupant is endangered.
- (B) For the purposes of this article, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety, morals or welfare of the public or the occupants of the building shall be deemed and hereby is declared to be a substandard building, and a nuisance:
- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
  - (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
  - (3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.
  - (4) Whenever any portion of the building has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the building code for new buildings of similar structure, purpose or location.
  - (5) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
  - (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.

- (7) Whenever any portion of a building has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- (8) Whenever the building, or any portion thereof, is likely to partially or completely collapse because of:
  - a. Dilapidation, deterioration or decay;
  - b. Faulty construction;
  - c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
  - d. The deterioration, decay or inadequacy of its foundation; or
  - e. Any other cause.
- (9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (10) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.
- (11) Whenever the building, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- (12) Whenever the building has been so damaged by fire, wind, earthquake, flood or any other cause, or has become so dilapidated or deteriorated as to become:
  - a. An attractive nuisance to children; or
  - b. A harbor for vagrants, criminals or immoral persons.
- (13) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building code, or of any law or ordinance of this state or city relating to the condition, location or structure of buildings.
- (14) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly

constructed building of like area, height and occupancy in the same location.

(15) Whenever a building, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the building official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, the following:

- a. Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit.
- b. Lack of, or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel.
- c. Lack of, or improper kitchen sink in a dwelling unit.
- d. Lack of hot and cold running water to plumbing fixtures in a hotel.
- e. Lack of hot and cold running water to plumbing fixtures in a dwelling unit
- f. Lack of required heating facilities.
- g. Lack of, or improper operation of, required ventilating equipment.
- h. Lack of minimum amounts of natural light and ventilation required by this code.
- i. Room and space dimensions less than required by this code, the building code, or the housing code.
- j. Lack of required electrical lighting.
- k. Dampness of habitable rooms.
- l. Infestation of insects, vermin or rodents.
- m. General dilapidation or improper maintenance.
- n. Lack of connection to required sewage disposal system.
- o. Lack of adequate garbage and rubbish storage and removal facilities.
- p. Accumulation of animal or human urine or feces, mold, or any condition that could likely harbor or spread disease.

(C) For purposes of this article, any building, regardless of its date of construction, which

exists in violation of Chapters 3 through 7 of the property maintenance code, or similar provisions in any later version of the property maintenance code which may hereafter be adopted or amended by the city, to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof, shall be deemed and hereby is declared to be a substandard building and a nuisance.

**Sec. 14-335. - Determination by building official.**

When the building official has inspected or caused to be inspected any building and has found and determined that the building is substandard, the building official may take any or all of the following actions, as he deems appropriate:

- (1) Issue notice to the record owner that the building is substandard and must be repaired, listing the deficiencies, or issue notice to the record owner that the building is substandard, and that the nature and/or the extent of the deficiencies make repair infeasible, so that the building must be demolished, listing the deficiencies;
- (2) Issue citation(s) for violation(s) of this article;
- (3) Secure the building if permitted by subsection 14-342(A) below;
- (4) Recommend to the board that abatement proceedings be commenced pursuant to section 14-336 below.

**Sec. 14-336. - Public hearing for abatement of substandard buildings.**

- (A) *Commencement of proceedings.* When the building official has found and determined that a building is a substandard building, the building official may commence proceedings to cause the repair, vacation, relocation of occupants, removal, demolition or securing of the building.
- (B) *Public hearing to be held.* Except when the building official finds that a building is likely to immediately endanger persons or property, a public hearing before the board shall be held to determine whether a building complies with the standards set out in section 14-334 above. If the building official determines that the building constitutes an immediate danger, the procedures set forth in section 14-342(B) shall be followed.
- (C) *Notice.* Not less than ten days prior to the date on which the hearing is set, the building official shall issue a notice of the public hearing directed to the record owner of the building and to all mortgagees and lienholders. The city shall use diligent efforts to determine the identity and address of any owner, lienholder or mortgagee of the building through search of the county real property records; appraisal district records; records of the secretary of state; assumed name records of the county; tax records of the city; and utility records of the city. The notice shall contain:
  - (1) The name and address of the record owner;

- (2) The street address or legal description sufficient for identification of the premises upon which the building is located;
  - (3) A statement that the building official has found the building to be substandard or dangerous, with a brief and concise description of the conditions found to render the building dangerous or substandard under the provisions of section 14-334 above.
  - (4) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this article, and the time it will take to reasonably perform the work.
  - (5) Notice of the time and place of the public hearing.
  - (6) A statement that if the building is found to be in violation of this article, the board may order that the building be vacated, secured, repaired, removed or demolished within a reasonable time.
- (D) *Additional notice of public hearing.* Prior to the public hearing, the city may file a copy of the notice mailed pursuant to subsection (C) above in the official public records of real property in the county.
- (E) *Burden of proof.* At the public hearing, the city has the burden of proof to establish that the building or structure at issue is not in compliance with applicable city codes, and is substandard as defined by this article, and to identify the specific deficiencies or code violations; and the owner, lienholder and mortgagee have the burden of proof to establish the scope of any work that may be required to comply with this article, the time it will take to reasonably perform the work, and the financial ability and willingness of the owner, lienholder and/or mortgagee to perform the work with diligence and dispatch.
- (F) *Conduct of public hearing.* At the public hearing, the owner of the building, and all other interested persons may make their appearance and be heard. Any evidence may be received and considered by the board, provided, however, that the board shall not consider evidence as to the existence or extent of any deficiencies or code violations which were not identified in the notice to the record owner described in this section. The chairman of the board, or in his absence, any officer designated by rules adopted by the board to preside at meetings, shall preside and shall determine all questions of order. The hearing may be adjourned from day to day or continued upon a majority vote of the board.

**Sec. 14-337. - Order of Housing and Structure Board.**

- (A) *Findings of the board.*
- (1) If the board, by a majority vote, finds upon evidence presented at the public hearing that the building is not in violation of standards set out in section 14-334, the board shall order that the enforcement action cease; provided, however, that

such order shall neither prevent the building official from instituting a new enforcement action for other violations the building official alleges have been determined to exist, nor shall such order prevent the building official from instituting a new enforcement action for the same violations if the building official later determines that the conditions as determined by the board have materially changed as to such violations.

- (2) If the board, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in section 14-334, that such conditions can reasonably be remedied by repair within a reasonable time, and that the owner, lienholder, or mortgagee is financially able and is willing to conduct or cause such repairs to be made within a reasonable time, the board shall identify the specific violations found to exist, and order that the owner, mortgagee and/or lienholder repair such violations, and, if necessary to the public safety, vacate, secure, or relocate the occupants, within such reasonable times as determined by the board to be appropriate, as provided herein.
- (3) If the board, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in section 14-334, and that such conditions cannot reasonably be remedied by repair, or that neither the owner, lienholder, nor the mortgagee are financially able or willing to conduct or cause such repairs to be made within a reasonable time, board shall identify the specific violations found to exist, and order that the owner, mortgagee or lienholder remove or demolish the building, and, if necessary to the public safety, vacate and secure the building and/or relocate the occupants, within such reasonable times as determined by the board to be appropriate, as provided herein, or order such other relief as is permitted by this article.

(B) *Time allowed to complete work.*

- (1) Unless the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within 30 days, the order shall require the owner, lienholder or mortgagee of the building to, within 30 days, take one or more of the following actions:
  - a. Vacate the building;
  - b. Secure the building from unauthorized entry;
  - c. Repair the violations; and/or
  - d. Remove or demolish the building.
- (2) If the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within 30 days, and the board allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the board shall establish specific time schedules as the board 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.

- (3) The board may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:
  - a. Submits a detailed plan and time schedule for the work at the hearing; and
  - b. Establishes at the hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work.
- (4) If the board allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the board shall require the owner, lienholder or mortgagee to regularly submit progress reports to the building official to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the board or the building official to:
  - a. Demonstrate compliance with the time schedules; and
  - b. If the owner, lienholder or mortgagee, owns property, including structures and improvements on property within the city's boundaries of a value that exceeds \$100,000.00, to post cash, a surety bond, a letter of credit or third party guaranty to cover the cost of the work ordered by the board.

(C) *Contents of order.* The order of the board 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; and
- (3) A description of each of the ordered actions, including a statement that the owner may repair, if determined feasible by the board, or demolish or remove, the building at his option;
- (4) A statement that the city will vacate, secure, remove or demolish the building and/or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the costs of such actions to the owner, and impose a lien against the property for all such costs; and
- (5) If the board has determined that the building will endanger persons or property and that the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the to the owner, and impose a

lien against the property if the ordered action is not taken within the time allowed.

**Sec. 14-338. - Notice of Order of Housing and Structure Board.**

- (A) *Order shall be mailed.* After the public hearing, the building official shall promptly mail, by certified mail, return receipt requested, a copy of the order to the record owner of the building, and each identified lienholder and mortgagee of the building.
- (B) *Order shall be filed with city secretary.* Within ten days after the date that the order is issued by the board, the building official shall file a copy of the order in the office of the city secretary.
- (C) *Order shall be published.* Within ten days after the date the order is issued by the board, the building official shall publish in a newspaper of general circulation within the city a notice containing:
  - (1) The street address or legal description of the property;
  - (2) The date the hearing was held;
  - (3) A brief statement indicating the results of the order; and
  - (4) Instructions stating where a complete copy of the order may be obtained.

**Sec. 14-339. - Enforcement of the Order of Housing and Structure Board.**

- (A) If the order is not complied with, the city may take action as provided herein. If the building is not vacated, secured, repaired, removed or demolished within the time specified by the order, the city may vacate, secure, repair, remove or demolish the building or relocate the occupants at its own expense; provided, however that remedial action by the city does not limit the ability of a municipality to collect on a bond or other financial guarantee that may be required by subsection 14-337(B)(4) of this article.
- (B) *Posting of notice to vacate building.* If the order requires vacation and if compliance is not had with the order within the time specified therein, the building official is authorized to require that the building be vacated. Notice to vacate shall be mailed by certified mail, return receipt requested, to the occupant of the building and it shall be posted at or upon each entrance to the building and shall be in substantially the following form:

"SUBSTANDARD BUILDING  
DO NOT ENTER  
UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building or to remove or deface this notice.

\_\_\_\_\_  
Building Official  
City of Euless"

- (C) *Remedial action by city.* Any repair, demolition work, or securing of the building shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided. Any surplus realized from the sale of such building, or from the demolition thereof, over and above the cost of demolition and cleaning of the lot, shall be paid to the person or persons lawfully entitled thereto.
- (D) *Failure to obey order.* Any person to whom an order pursuant to section 14-337 is directed who fails, neglects or refuses to comply with such order shall be guilty of a misdemeanor and may be prosecuted in municipal court in addition to any other remedies available to the city provided herein.
- (E) *Interference prohibited.* No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in the building which has been ordered repaired, vacated, demolished, removed or secured under the provisions of this article; or with any person to whom such building has been lawfully sold pursuant to the provisions of this article, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing, removing or securing any such building pursuant to the provisions of this article, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this article.
- (F) *Permit required.* Any work of securing, repair, removal or demolition by the property owner or any lienholder or mortgagee or their agents must be performed pursuant to valid unexpired permits issued by the city. All permits issued pursuant to an order of the board shall expire upon expiration of the time for compliance set forth in the order.

**Sec. 14-340- Performance of work by the city.**

- (A) *Procedure.* When any work of repair, removal, demolition or securing is to be performed by the city pursuant to the provisions of any order of the board, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.
- (B) *Repair to minimum standards only.* In the event repair by the city is permitted by this article, the city may repair the building at its own expense and assess the expenses on the land on which the building stands or is attached to only to the extent necessary to bring the building into compliance with minimum standards.

**Sec. 14-341- Recovery of cost of securing, repair, removal or demolition.**

- (A) *Costs.* The cost of any work to repair, remove, demolish, or secure a building shall be paid from city funds and shall constitute a special assessment and a lien against such property to secure payment thereof, together with ten percent interest on such amount from the date on which the work is performed; provided, however that no lien may be filed against a

homestead protected by the Texas Constitution.

- (B) *Itemized account and notice of lien.* The building official shall keep an itemized account of the expenses incurred by the city in the securing, repair, removal or demolition of any building pursuant to this article. Upon completion of the work, the building official shall prepare and file with the city secretary a sworn account and notice of lien containing the following information:
- (1) The name and address of the owner if that information can be determined with a reasonable effort;
  - (2) A legal description of the real property on which the building is or was located;
  - (3) The type of work performed; and
  - (4) The amount of expenses incurred by the city in performing the work and the balance due.
- (C) *Notice filed in county records.* The city secretary shall file the notice of lien along with a copy of the order of abatement issued by the board in the official public records of real property in the county.
- (D) *Personal obligation of property owner.* The expenses incurred by the city as set forth in the sworn account of the building official shall be a personal obligation of the property owner in addition to a priority lien upon the property. The city attorney may bring an action in any court of proper jurisdiction against the owner or property to recover the costs incurred by the city.
- (E) *Lien shall be valid and privileged.* Upon filing of the notice of lien in the official public records of real property in the county, the lien shall be valid against the property so assessed. The lien shall be privileged and subordinate only to tax liens and shall be paramount to all other liens. The lien shall continue until the assessment and all interest due and payable thereon has been paid.
- (F) *Assessment must be paid.* No utility service, building permit or certificate of occupancy shall be allowed on any such property until the assessment is paid and such lien is released by the city.
- (G) *Release of lien.* After the expenses incurred by the city, as set forth in the sworn account of the building official, have been fully paid with interest of ten percent per annum from the date the work was performed, the building official shall execute a release of lien which shall be filed in the official public records of real property in the county.

**Sec. 14-342- Additional authority to secure certain substandard buildings prior to public hearing and secure, demolish, repair or remove certain dangerous buildings.**

- (A) *Securing of unoccupied, substandard building.* Notwithstanding any other provisions of

this article, the city may secure a building if the building official determines:

- (1) That the building violates the minimum standards set forth in this article; and
  - (2) That the building is unoccupied or is occupied only by persons who do not have the right of possession of the building.
- (B) *If building creates immediate danger.* Notwithstanding any other provisions of this article, if the building official finds that a building is likely to immediately endanger persons or property the building official may:
- (1) Order the owner of the building, or the owner or occupant of the property on which the building is located, to repair, remove, or demolish the building, or the dangerous part of the building, within a specified time; or
  - (2) Repair, remove, or demolish the building, or the dangerous part of the building, at the expense of the city, on behalf of the owner of the building or the owner of the property on which the building is located, and assess the repair, removal, or demolition expenses on the property on which the building was located.
- (C) *Notice of action.* Before the 11th day after the date the building is secured pursuant to subsection 14-342(A) above, or action is ordered pursuant to subsection 14-342(B)(1) above, or the building is repaired, removed or demolished pursuant to subsection 14-342(B)(2) above, the building official shall give notice to the owner by:
- (1) Personally serving the owner with written notice; or
  - (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address; or if personal service cannot be obtained and the owner's post office address is unknown, by:
    - a. Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county; and
    - b. Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown; and

In addition to the above, the building official shall deposit notice in the United States mail to all lienholders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the county clerk.

- (D) *Notice.* The notice must contain:
- (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 of the violations of the minimum standards present in the building;
  - (3) A statement that the city will secure or has secured, as the case may be, the building, or that the city has taken or will take the action ordered pursuant to subsection 14-342(B) above;
  - (4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing, removing, demolishing or repairing of the building.
- (E) *Hearing.* The board shall conduct a hearing at which the owner, lienholder and mortgagee may testify or present witnesses or written information about any matter relating to the city's securing, repairing, removing or demolishing of the building, if, within 30 days after the date the city has taken action pursuant to subsections 14-342(A) or (B) above, the owner, lienholder or mortgagee files with the city a written request for the hearing. The hearing shall be conducted within 20 days after the date the request is filed.
- (F) *Lien.* If the city incurs expenses under this section, such expenses incurred shall be a personal obligation of the property owner in addition to a priority lien upon the property, and costs shall be recovered as provided by section 14-341 of this article.
- (G) *Violation.* It shall be unlawful to fail to comply with an order issued pursuant to this section.

**Sec. 14-343. - Additional authority to vacate and secure certain unsanitary substandard buildings prior to hearing.**

- (A) *If unsanitary conditions create danger.* Notwithstanding any other provisions of this article, if the building official determines that the interior of a building is in such an unsanitary condition as to be unfit for human occupancy because of trash, garbage, filth, vermin or rat infestation, an accumulation of animal or human urine or feces, mold, any condition that could likely harbor or spread disease, or any other condition that is to likely to endanger the health and safety of occupants or citizens of the City, then the building official shall order the building immediately vacated and secured from entry and occupation.
- (B) *Notice of Hearing.* At the time a building is vacated pursuant to this section, the building official shall personally serve all occupants with written notice of a right to request a hearing with the city manager. The city manager shall conduct a hearing at which the occupant or the occupant's representative may testify or present witnesses or written information about any matter relating to the city's vacating and securing of the building, if, within 30 days after the date the city has taken action pursuant to subsection 14-343(A) above, the occupant or the occupant's representative files with the city manager's office a written request for the hearing. Written requests for a hearing may only be filed Monday through Thursday during normal city business hours, and the hearing shall be conducted within 24 hours after the date the written request is filed. The city manager will preside over the hearing; however, in the event the city manager is unable to preside, the deputy

city manager shall preside, and in the event the deputy city manager is unable to preside, the assistant city manager shall preside.

- (C) *Hearing.* After considering all information and facts presented, the city manager or his replacement shall make a determination and issue an order instructing the building official to do any of the following:
- (1) Reverse the order to vacate and secure the building.
  - (2) Modify the duration of the order to vacate and secure if the occupant or the occupant's representative provides evidence that the interior of a building can be brought into compliance with the minimum standards of this article.
  - (3) Continue to enforce the order vacating and securing the building until a hearing is set with the board.
  - (4) Initiate proceedings pursuant to Section 14-336 of this article.
- (D) *Violation.* It shall be unlawful to fail to comply with an order issued pursuant to this section.

**Sec. 14-344. - Judicial review.**

- (A) Any owner, lienholder, or mortgagee jointly or severally aggrieved by a board order issued under this article may file in district court a verified petition setting forth that the order is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final order of the board is mailed to them by certified mail with return receipt requested, or such order shall become final as to each of them upon the expiration of each such 30 calendar day period.
- (B) On the filing of the petition, the court may issue a writ of certiorari directed to the city to review the order of the board and shall prescribe in the writ the time within which a return on the writ must be made, which must be longer than 10 days, and served on the relator or the relator's attorney.
- (C) The city may not be required to return the original papers acted on by it, but it is sufficient for the city to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ.
- (D) The return must concisely set forth other facts as may be pertinent and material to show the grounds of the order appealed from and shall be verified.
- (E) The issuance of the writ does not stay proceedings on the order appealed from.
- (F) Appeal in the district court shall be by trial de novo. The court may reverse or affirm, in whole or in part, or may modify the order brought up for review.

- (G) Costs may not be allowed against the city.
- (H) If the order of the board is affirmed or not substantially reversed but only modified, the district court shall allow to city all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners, lienholders, or mortgagees as well as all persons subject to the proceedings before the board.

**Sec. 14-345. - Civil penalty.**

- (A) *Civil penalty authorized.* In addition to any other enforcement authority provided for by law, the board may, by order, approved after a hearing, assess a civil penalty against a property owner as provided for herein for failure to comply with an order issued by the board pursuant to section 14-337 of this article.
- (B) *Showing required.* The civil penalty may be assessed if it shown at the hearing that:
  - (1) The property owner was notified of the contents of the order issued pursuant to section 14-337 of this article; and
  - (2) The property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order.
- (C) *Amount of penalty.* The civil penalty may be assessed in an amount not to exceed \$1,000.00 per day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed ten dollars per day for each violation.
- (D) *Notice of hearing.* Not less than ten days prior to the date on which the hearing is set, the property owner shall be sent a notice of the hearing by certified mail/return receipt requested. The notice shall contain:
  - (1) A copy of the order issued by the board pursuant to section 14-337 of this article;
  - (2) A statement that the building official has determined that the property owner committed an act in violation of that order, or failed to take an action necessary for compliance with that order, together with a description of the acts that violated the order, or a description of what actions the owner failed to take that were necessary for compliance with the order;
  - (3) A statement that at the hearing the board may assess a civil penalty not to exceed \$1,000.00 per day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10.00 per day for each violation; and
  - (4) Notice of the time and place of the hearing.

- (E) *Copy of order filed with district clerk.* If a civil penalty is assessed, the city secretary shall file with the district clerk of the county in which the property is located, a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty.
- (F) *Enforcement.* The civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this subsection is final and binding and constitutes prima facie evidence of the penalty in any suit.

**Sec. 14-346. – Immediate Demolition.**

Notwithstanding all other provisions of this article, nothing herein shall be deemed a limitation on the duty of the city to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of such building or structure is necessary to the protection of life, property or general welfare of the people in the city.

**Secs. 14-347- 14-348. - Reserved.**

**SECTION 2.**

That Division 5 “Repair, Vacation, Demolition of Dwelling or Apartments” of Article X “Eules Minimum Housing Code” of Chapter 14 “Buildings and Building Regulations” of the Code of Ordinances of the City of Eules, Texas is hereby amended to read as follows:

**DIVISION 5. – DANGEROUS DWELLINGS**

**Sec. 14-241. – Abatement of Dangerous Dwellings.**

Any dangerous condition in a dwelling, apartment, apartment building, multi-family dwelling complex, or manufactured home park regulated by this article shall be subject to abatement in accordance with Article XII of this Chapter.

**Secs. 14-242 – 14-250. - Reserved.**

**SECTION 3.**

That Division 6 “Dangerous Dwelling Unit – Procedure for Elimination” of Article X “Eules Minimum Housing Code” of Chapter 14 “Buildings and Building Regulations” of the Code of Ordinances of the City of Eules, Texas is hereby repealed.

**SECTION 4.**

That Article XIII “Secure Substandard or Dangerous Structures” of Chapter 14 “Buildings and Building Regulations” of the Code of Ordinances of the City of Eules, Texas is hereby repealed.

## **SECTION 5.**

**CUMULATIVE CLAUSE.** This ordinance shall be cumulative of all provisions of ordinances and the Code of the City of Euless, Texas, governing the abatement of substandard buildings except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, is hereby repealed.

## **SECTION 6.**

**SEVERABILITY CLAUSE.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

## **SECTION 7.**

**PENALTY FOR VIOLATION.** Any person, firm or corporation violating any of the terms and provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with Chapter 1, Section 1-12, Euless Code of Ordinances. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder.

## **SECTION 8.**

**SAVING CLAUSE.** All rights and remedies of the City of Euless are expressly saved as to any and all violations of the provisions of the City Code or any other ordinances regulating substandard buildings that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

## **SECTION 9.**

**PUBLICATION CLAUSE.** The City Secretary of the City of Euless is hereby directed to publish the caption, penalty clause, and effective date clause of this ordinance in the official newspaper of the City of Euless, in accordance with Section 12 of Article II of the Charter of the City of Euless.

**SECTION 10.**

**EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

**PRESENTED AND PASSED ON FIRST AND FINAL READING** at a regular meeting of the Eules City Council on the 14<sup>th</sup> day of February 2012, by a vote of \_\_\_\_\_ ayes, \_\_\_\_\_ nays, and \_\_\_\_\_ abstentions.

APPROVED:

\_\_\_\_\_  
Mary Lib Saleh, Mayor

ATTEST:

\_\_\_\_\_  
Kim Sutter, TRMC, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Wayne K. Olson, City Attorney