

ORDINANCE NO. 327

AN ORDINANCE OF THE CITY OF MADISONVILLE REGULATING
SUBSTANDARD AND UNINHABITABLE BUILDINGS AND PREMISES;
CONTAINING A SEVERABILITY CLAUSE: AND CONTAINING AN
EFFECTIVE DATE.

THE COUNCIL OF THE CITY OF MADISONVILLE HEREBY ORDAINS:

ARTICLE I.

SUBSTANDARD BUILDINGS AND PREMISES

SECTION 1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. Substandard buildings or premises shall mean building, structures or premises Which are a hazard to the health, safety and welfare of the citizens and shall include all buildings, structures or premises conducive to the harboring of rats or mice or other disease-carrying animals or insects reasonable calculated to spread disease and shall include:
- (1.) All buildings or structure which do not have the number of commodes, Water closets, urinals and lavatories as required by City Ordinance, or which have pit privies where the same are not permitted by law, or which are not connected to the city sewer when required by law, or where inadequate and insanitary pit privies or septic tanks are maintained.
 - (2.) All buildings or structures that have become deteriorated through Natural causes or by damage through exposure to the elements, especially wind, hail or rain or damage through fire to the extent that the roof, windows and doors, or portions of the house, building or structure which protect it from the weather, will no longer reasonable protect it from the weather.
 - (3.) All buildings or structures which constitute, or in which are maintained Fire hazards.
 - (4.) All buildings or structures which are so structurally deteriorated that They are in danger of collapse, or which cannot be expected to withstand reasonably anticipated storms or tornadoes.
 - (5.) All buildings or structures not wired in conformity with State or Local Electrical authority requirement.

- (6.) All buildings or structures not constructed in conformity with the State or Local building authorities.
 - (7.) All premises surrounding buildings and structures and including vacant lots covered with weeds, growth and underbrush, trash, debris, deteriorated equipment and personal property of no reasonable value.
- B. Premises shall mean all areas surrounding buildings and structures as well as Vacant lots.

SECTION 2. Building Standards Commission.

- A. Created; composition; residency. There is hereby created a Building Standards Commission. The Building Standards Commission shall be Composed of seven members, all of whom must be residents of the City.
- B. Appointment; term; composition. Members of the Building Standards Commission shall be nominated by the Mayor and confirmed by the City Council. Each appointed member of the Building Standards Commission shall hold office for a period of three years or until his or her successor takes office; however during 1994, three members shall be appointed for three years; two members shall be appointed for one year. The members of the Building Standards Commission, as nearly as practical, shall be qualified in one or more fields of fire prevention, building construction, sanitation, health and public safety. They shall be nominated and appointed solely with reference to their fitness and without reference to party affiliation, and must serve without compensation.
- C. Removals; vacancies. Members of the Building Standards Commission may be removed by the City Council only for inefficiency, neglect of duty or malfeasance in office. A member who shall be absent from attendance at a regularly called meeting sixty six (66%) percent of the time within a period of six months shall be deemed to have vacated his membership. Vacancies occurring other than through the expiration of terms will be filled only for the unexpired term by the Mayor with confirmation by the City Council.
- D. Meetings. The Building Standards Commission shall hold meetings at such time as directed by the Chairman.
- E. Quorum. Four (4) members of the Building Standards Commission shall constitute a quorum for the transaction of business.
- F. Appointment of ex officio members. The Commission may appoint ex officio, non-voting members to the Commission to advise it as it deems necessary. It shall be the duty of the ex officio members of the Commission to inspect all buildings or structures reported to be or believed to be substandard and to present a report of their inspection to the Building Standards Commission,

which shall, except in cases of emergency, notify the proper party of the intention of the Commission to hold a public hearing and follow the procedure provided for in this Article.

SECTION 3. Standards for repair, vacation or demolition.

The following standards may be followed in substance by the Building Standards Commission in ordering repair, vacation, or demolition:

- A. If the building, structure or premise can reasonable be repaired so that it will No longer be in a condition which is in violation of the terms of this article it shall be ordered repaired.
- B. If the building, structure or premise is in such condition that it cannot be reasonably repaired or conformed to the codes referred to in Section 1, then it shall be demolished, in any case, where a substandard building, structure or premise is fifty (50%) percent damaged or decayed, it shall be demolished, and in all cases where a building cannot be repaired so that its existence will no longer be in violation of the terms of this Article, it shall be demolished.

SECTION 4. Substandard Buildings.

- A. Order to show cause. Whre an emergency does not exist and shall come to the Notice of the Building Standards Commission that a building, structure or premise is substandard, the commission may order the owner of the building, structure or premise, or the owner's authorized agent or representative, t appear and show cause why the building should not be declared to be substandard building or premise and why the owner should lnot be ordered to vacate, repair, clean up, or destroy the building, structure or premise. The measures necessary to eliminate the building, structure or premises substandard qualities shall be stated in the order. The date of the public hearing on the order shall not be less than ten (10) days after the order shall have been served.
- B. Service. The order to show cause required by subsection may be served by either of the following methods:
 - (1.) By delivery of a copy of the order to the owner of record or person in Possession of the property with the date of delivery endorsed thereon.
 - (2.) By depositing a copy of the order in the United States Post Office directed to the address of the owner of the property, as shown by the tax rolls for the current year, with delivery by certified by certified mail to the addressee only. Service of a notice by certified mail is complete when the notice is deposited in the United States mail, addressed to the owner of the property. The affidavit of a person

knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

- (3.) In additionally the posting of the order to show cause in a place of prominence on the property that is the subject of the order or by publication in a newspaper having general circulation in the city once each week for two consecutive weeks. The notice shall be directed “To the owner of the property at (insert the address or legal description)”.

C. Hearing; order. On the day set in the order to show cause for a hearing, a hearing shall commence. On the basis of the hearing the Building Standards Commission shall determine whether or not the building, structure or premise is a substandard building, structure or premise. If it is determined that a substandard building, structure or premise exists, the Building Substandard Commission shall issue an order to the owner to take measure which are reasonable necessary to eliminate the building, structure or premises substandard qualities. The order shall specify a reasonable time to comply with the orders of the Building Standards Commission. A copy of the order shall be delivered to the owner in person or by certified mail with delivery to the addressee only. Service of notice by certified mail is complete when the notice is deposited in the United States mail, postage prepaid, and addressed to the owner of the property, as shown by the tax rolls of the current year. The affidavit of a person knowledgeable of the facts to the effect that service was completed in prima facie evidence of the service.

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Of prominence on the property that is the subject of the order or by publication in a newspaper having general circulation in the city once each week for two consecutive weeks. The notice shall be directed “To the owner of the property at (insert the address or legal description)”.

D. Execution of order. If the notification set forth in subsection (c) is given and the owner or his representative refuses or fails to carry out the orders of the Building Standards Commission or fails to carry out the order Satisfactorily, the Building Standards Commission may proceed to carry out the order either by private contract or through an agency of the city. The cost incurred shall constitute if the property owner reimburses the city for the costs incurred. The lien may not be enforced by forced sale.

E. Appeal. The owner of any substandard building, structure or premise, or his Authorized representative, may appeal from the decision of the Building Standards Commission by giving notice thereof within ten (10) days from the dated of the hearing and by filing with the city clerk a fee of ten dollars

(\$10.00). The appeal shall be to the City Council. Upon the perfection of appeal, the City Council shall set a date for a hearing before it. The appeal shall be by trial de novo. Pending appeal, the orders of the Building Standards Commission which require vacation of the alleged substandard building, structure or premises or such emergency measures as may be ordered shall remain in effect, but the operation of all other orders of the commission shall be suspended. The order of the Building Standards Commission may be modified or amended by the City Council in the administration of its power and duties.

SECTION 5. Emergency procedure.

- A. Substandard buildings or structures may be ordered to be, and shall be vacated, repaired or demolished when it shall appear that the building, structure or premise or the manner of its use constitutes an immediate and serious danger to life or property. The condition described in this section shall be deemed a condition justifying the use of emergency measures, and the Building Standards Commission may order any of the following emergency measures to be taken:
- (1.) The immediate vacation of the buildings, structure or adjoining Structures.
 - (2.) The vacation of the danger area around the building or structures.
 - (3.) Such emergency shoring up and bracing of walls, roofs and supports as are required to render the buildings or structures safe.
 - (4.) The destruction of such walls, roofs and supports or the entire structure or so much thereof as cannot be braced or made safely secure.
 - (5.) The cleaning up of the premises and the removal of weeds, growth, trash, deteriorated equipment and personal property of no reasonable value.
- B. Posting. When any of the orders described in subsection (a) are given, notices shall be posted on or near the building or structure, notifying the public of the order and ordering all persons to keep out of the building or structure and the areas of danger surrounding it.
- C. Notice to property owner. When any of the orders described in subsection (a) are given, notice of the order shall be given as follow:
- (1.) The order shall be directed to the owner of the substandard building Structure or premises, or the owner's authorized representative, if known.
 - (2.) Where notification can be accomplished without increasing the danger to life or property , notice shall be given by personal service on the owner of the building, structure or premise, or the owner's representative. In the event that such notification would create a

delay which would materially increase danger to life or property, a reasonable effort to notify the owner shall be deemed sufficient.

- D. Execution of Order. If the notification set forth in subsection (c) notice is given and the owner or the owner's representative refuses or fails to carry out the orders of the Building Standards Commission or fails to carry out the order satisfactorily, the Building Standards Commission may proceed to carry out the order either by private contract or through an agency of the city. The cost incurred shall constitute a valid lien against the property. The lien shall be extinguished if the property owner reimburses the city for the costs incurred. The lien may not be enforced by forced sale.

SECTION 6. Owner's voluntary consent to demolition or cleanup.

- A. The owner of a substandard building, structure or premise may enter into and execute an agreement to demolish, remedy or abate the same. In the event of a voluntary agreement, the necessity for notice and hearing shall not be required. The agreement may provide for the demolition, cleanup or other action to be at the owner's expense or the Building Standards Commission may, with the approval of the City Council, authorize the expenditure of public funds to pay for all or an agreed portion of the costs of the demolition, cleanup or other work, subject to the availability and appropriation of funds for such purpose by the city.

SECTION 7. Disclaimer of liability.

- A. Neither the city nor any authorized agent acting under the terms of this Article shall be liable or may have liability by reason of orders issued or work done in compliance with the terms of this article.

SECTION 8. Lien.

- A. Upon the completion of demolition, repair or removal or other action ordered by the Building Standard Commission or the City Council, the City Council shall prepare a statement of expenses for the work performed by the city acting by and through its employees, agents or contractors, stating the direct cost of the work performed and the date the work was performed. The statement shall be filed with the clerk and shall constitute a lien against the property upon which the work was performed to secure the expenditures made by the city. The lien shall be secondary only to tax liens and liens for street improvements.
- B. The amount of the expenditures state on the lien claim shall bear interest at the rate of nine percent (9%) from and after the date of filing the instrument. In accordance with Vernon's Ann.Civ.St. Art. 1015n, the lien shall not be

enforced by forced sale. The lien shall be valid and binding until the amount owed together with interest has been fully paid.

SECTION 9. Waiver of Demolition permit fee.

- A. The normal fee for a permit for demolition of a building or structure shall be Waived when the demolition is performed under orders of the Building Standards Commission or City Council or under an agreement between the property owner and the city as provided in this article.

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining section, sentences, clauses or phrases of the Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

All Ordinances in force when this Ordinance becomes effective inconsistent herewith or in conflict with this Ordinance are hereby repealed, insofar as said Ordinances are inconsistent or in conflict with this Ordinance.

A descriptive caption of this Ordinance shall be published two times in the Madisonville Meteor the official newspaper in the City of Madisonville, within fourteen (14) days after the date of passage hereof, and said Ordinance shall become effective December 12, 1994.

PASSED AND ADOPTED this December 12, 1994, at a regular meeting of the City Council of the City of Madisonville.

Leroy Stanton
Mayor

ATTEST:

Joyce Shiflet
City Secretary

This Ordinance replaces Ordinance #270, dated October 14, 1987.