

Ordinance # 20170911

COFFEE CITY ORDINANCE

SUBSTANDARD PROPERTY ABATEMENT

9-11-2017

Municipal Authority

Municipal authority to abate substandard property comes from several statutory provisions. Essentially, the authority to define and abate a substandard property stems from Chapter 214 of the Local Government Code, and the process by which it is carried out comes from the combined application of Chapters 214 and 54 of the Local Government Code.

In addition to the Local Government Code, authority to make regulations for the promotion of health or the suppression of disease are delineated in Sections 121.003 and 122.006 of the Texas Health and Safety Code.

In addition, minimum standards of sanitation and health protection are delineated in Section 341.001 of the Texas Health and Safety Code.

In addition, substandard property nuisances are delineated under section 343.011 of the Texas Health and Safety Code.

Statement of Intent

There is hereby created a Substandard Property Abatement Ordinance for the purpose of promoting and maintaining the health and safety of the Coffee City community.

Definitions

Abate: Means to eliminate by removal, repair, rehabilitation, or demolitions.

Abandon: The throwing away of an ice box, refrigerator or freezer on vacant property, junk heaps, trash piles or debris accumulations or any other act which at common law would constitute an abandonment of personal property.

Building: Means a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other moveable property.

Garbage: Means decay able waste from a public or private establishment. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or and industrial by-product.

Neighborhood: Means a platted subdivision; or property contiguous to and within 300 feet of a platted subdivision.

Nuisance: Means **(A)**. A condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located.

(B). This includes, but is not limited to, the following:

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(1). Second-hand, used or discarded furniture, other than furniture designed for outside use and for commercial trade or sale;

(2). Abandoned, discarded, or unused objects or equipment such as automobiles and equipment parts, lawnmowers, fixtures, and appliances;

(3). Items of salvage such as scrap metals, rags, papers, bottles, cans and similar items;

(4). Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects; that does not meet the requirements of beneficial re-use and or recycling of nonhazardous organic wastes.

(5). Any deleterious or septic material or liquid upon any premises, unless such material is retained in containers or vessels which deny access to humans, flies, insects, rodents and animals.

Premises: Means all privately owned property, including vacant land or a building designated or used for residential, commercial, business, industrial,, or religious purposes. The term includes a yard, ground, walk, driveway, fence, posts, steps, or other structure appurtenant to the property.

Refuse: Means non-decay able waste from a public or private establishment or residence.

Weeds: Means all rank and uncultivated vegetable growth or matter that has grown to more than 3(three) feet in height; or may create an unsanitary condition or become a harborage for rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

Substandard Property: Means dilapidated, or unfit for human habitation.

Unsanitary or Unsightly Conditions

Maintenance of Property in Dangerous or Unsightly Condition (As Seen By Any Public Street)

It shall be unlawful for any person, firm, corporation who shall own or occupy any house, building or other structure or who owns or occupies any lot or lots or yard or other property in the city to permit, allow, create or continue any act, condition or thing, existing, done or being within the city, which endangers the public peace, property, health and safety of citizens of the city or which is detrimental to the appearance of the city and each such act, condition, or thing is hereby declared to be a public nuisance.

Stagnant Water Prohibited, Outdoor Privies, Cesspools and Open Drainage Restricted

It shall be unlawful for any person, firm or corporation who shall own or occupy any house, building or other structure or who owns or occupies any lot or lots or yard or other property in the city to permit, allow, create or continue any holes, depressions or place on such property where water may accumulate and become stagnant or to permit same to remain.

It shall be unlawful for any person, firm or corporation to own or maintain any outdoor privies, open or objectionable cesspools, or any other open and unsanitary drainage anywhere within the city.

Accumulation of Carrion, Filth or Unwholesome Matter Prohibited

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It shall be unlawful for any person, firm or corporation who shall own or occupy any house, building or other structure or who owns or occupies any lot or lots or yard or other property in the city to permit, allow, create or continue any carrion, filth, or other impure or unwholesome matters to accumulate or remain.

Dumping of Refuse, Garbage, and the Like on Any Property Prohibited

It shall be unlawful for any person, firm or corporation to dump, throw, deposit or leave any refuse, garbage, rubbish, trash, on any street, right-of-way or easement, public property or private property within the city, whether or not the same or the property upon which it is dumped, deposited or left belongs to the person, firm or corporation dumping, depositing or leaving it within the city.

Leaving or Depositing Building Materials Prohibited (As Seen By Any Public Street)

It shall be unlawful for any person, firm or corporation to leave, store or deposit any building material (new or used), such as, but not limited: lumber, sheetrock, insulation, shingles, brick, gravel, sand or dirt on any lot or lots or yard or other property in the city, except during such reasonable time as a house or structure is under actual construction and property permitted by the city, except for dirt and sand being used by the occupant or a home on such property for leveling, grading, or landscaping purposes.

Keeping, Storing or Accumulating Refuse Prohibited

It shall be unlawful for any person, firm or corporation to keep, store, or accumulate rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans on premises in a neighborhood for 10 (ten) days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street.

Unsanitary Conditions Prohibited

It shall be unlawful for any person, firm or corporation to maintain premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests.

Allowing Weeds to Grow Prohibited

It shall be unlawful for any person, firm or corporation to allow weeds to grow on premises in a neighborhood if the weeds are higher than 3 (three) feet, and located within 300 feet of another residence or commercial residence.

Unsafe Structures Prohibited

It shall be unlawful for any person, firm or corporation to maintain a building or structure in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public-welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage or abandonment or because it constitutes a fire hazard.

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Notice to Remove or Abate Nuisance

Upon becoming aware of nuisance conditions set forth herein, a Code Enforcement Officer or Law Enforcement (Certified Peace Officer) or his or her designated representative shall make a determination whether or not the conditions and circumstances constitute a nuisance herein defined. If it is determined that the conditions constitute a nuisance, the Code Enforcement Officer or Law Enforcement (Certified Peace Officer) or his or her designated representative shall cause a written notice to be given to the owner, tenant or person in control of the premises, or an agent thereof, to remove or abate the nuisance. Such notice shall state the nature of the nuisance and that it must be removed or abated within 30 (thirty) days of signature date of written notice, or return call. Failure to do so may cause a second 10 (ten) business days notice to be given, where failure to comply will result in fines and possible further legal action taken by the city. Fines may range from \$50 - \$200 per day whereby each and every day that such condition shall exist after the time specified shall constitute a separate offense and shall be punishable as such. In the case of repeat offenders, the (10) business days notice will take effect immediately upon signature of the written notice, or return call.

The initial thirty day notice shall be given by delivering the written notice personally or by leaving it at his or her dwelling or usual place of abode with some person of suitable age and discretion residing therein or by mailing the written notice to his or her last post office address. If the whereabouts of the owner of the property is unknown, the notice shall be mailed to the last known address listed on the tax roll and by publication in the official newspaper and a regional newspaper of general circulation in the area for at least two times within ten consecutive days. Where the notice is mailed is shall be prima facie evidence of service if an executed return receipt is received.

City May Remove or Abate Nuisance

If the owner, tenant, or person in control of the premises, or agent thereof fails to comply with the order to remove or abate any nuisance then in addition to any fine which may be levied against such person, the court may allow the city to remove or abate such nuisance, the city may then cause the nuisance to be removed or abated, and the expenses of such procedure shall be charged against the owner and shall thereupon become a valid and enforceable personal obligation of the owner of such premises which may be recovered by the city in a suit brought for the purpose; and the city may assess the expenses on the property on which the nuisance is located or situated, and make the same a lien thereon. The owner of said property has the right to appeal to the City Council.

Filing Statement of Expenses; Lien

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Whenever the city shall have performed any work or paid necessary expenses in connection with any work done in the removal or abatement or any nuisance, the city shall file a statement of expenses incurred thereby with the County Clerk of Henderson County, Texas. The lien statement must state the name of the owner, if known, and the legal description of the property. Such statement shall give the amount of such expenses, the date or dates on which the work was done or the improvements were made, and a description of the lot, lots, yard, or other property upon which the work was done or the improvements made. After this statement is so filed, the city shall have a privileged lien on the lot, lots, yard or other property upon which the work was done or improvements made to secure the expenses thereof. The lien attaches upon the filing of the lien statement with the County Clerk. Such liens shall be second only to tax liens and liens for street improvements, and the amount thereof shall bear interest at the rate of 10% per annum from the date such statement was filed with the County Clerk. For any such expenditure and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city and the statement of expenses and the statement of expenses made and filed in accordance with the previous section or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements. The City Council may foreclose a lien on property under these provisions in a proceeding relating to the property brought under Texas Tax Code 33.91 et seq.