

**ORDINANCE NO. 2012-10**

**AN ORDINANCE AMENDING THE ENID MUNICIPAL CODE, 2003, AMENDING TITLE 4, ENTITLED "HEALTH AND SANITATION," CHAPTER 4, ENTITLED "NUISANCES," TO ADD ACTS, OMISSIONS OR CONDITIONS WHICH SHALL CONSTITUTE A NUISANCE; AMENDING TITLE 4, ENTITLED "HEALTH AND SANITATION," CHAPTER 4, ENTITLED "NUISANCES," TO CREATE SECTION 4-4-4, ENTITLED "PAYMENT FOR WORK DONE BY CITY"; AMENDING TITLE 4, ENTITLED "HEALTH AND SANITATION," CHAPTER 4, ENTITLED "NUISANCES," TO CREATE SECTION 4-4-5, ENTITLED "COLLECTION OF COSTS; LIEN"; AMENDING TITLE 9, ENTITLED "BUILDING REGULATIONS," CHAPTER 11, ENTITLED "DILAPIDATED BUILDINGS," SECTION 9-11-1, ENTITLED "DEFINITIONS," TO AMEND THE DEFINITION OF DILAPIDATED BUILDING TO MIRROR STATE LAW; AMENDING TITLE 9, ENTITLED "BUILDING REGULATIONS," CHAPTER 11, ENTITLED "DILAPIDATED BUILDINGS," SECTION 9-11-2, ENTITLED "CONDEMNATION NOTICE; REMOVAL; LIEN; EXCEPTION," TO CAPITALIZE PROPER NOUNS AND CHANGE THE TITLE OF THE OFFICER RESPONSIBLE FOR DILAPIDATED BUILDINGS; PROVIDING FOR REPEALER, SAVINGS CLAUSE, SEVERABILITY AND CODIFICATION.**

BE IT ORDAINED BY THE MAYOR AND THE BOARD OF COMMISSIONERS OF THE CITY OF ENID, OKLAHOMA:

Section I: That Title 4, Chapter 4, Section 4-4-1 is hereby amended to read as follows:

**4-4-1: DEFINITION**

A "nuisance" shall mean the doing of an act unlawfully or omitting to perform a duty, which act or omission:

- A. Annoys, injures or endangers the comfort, repose, health and safety of others; or
- B. Offends decency; or
- C. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any lake or navigable river, stream, canal or basin, or any square, street, highway or public parking; or
- D. In any way renders other persons insecure in life, or in the use of property; or
- E. Involves the maintenance of any building or structure within the city limits which by reason of age, dilapidation or decay is unsafe for occupancy; or constitutes a haven or

refuge for vermin and rodents; or presents a fire hazard and endangers the security of other property; or

F. Permits the accumulation of rank vegetation, weeds, grass or other noxious matter or putrid substances; or in maintaining any trash, piles of rubbish, manure or other refuse which is dangerous to health or which in any manner constitutes a fire hazard. (1994 Code § 23-1)

G. Involves the blowing of construction or building materials or other debris which in any manner constitutes a hazard or annoyance to persons or property.

H. Involves an open sewer.

Section II: That Title 4, Chapter 4, Section 4-4-4 is hereby created to read as follows:

**4-4-4: PAYMENT FOR WORK DONE BY CITY**

The Code Administrator shall determine the actual cost of abating such nuisance any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The City Clerk shall forward by certified mail, with return receipt requested, to the property owner, at the address shown by the current year's tax rolls in the County Treasurer's Office, a statement of such actual cost and demanding payment.

Section III: That Title 4, Chapter 4, Section 4-4-5 is hereby created to read as follows:

**4-4-5: COLLECTION OF COSTS; LIEN**

If payment is not made within thirty (30) days from the date of the mailing of the statement, the City Clerk shall forward a certified statement of the amount of the cost to the County Treasurer of the county in which the property is located and the same shall be levied on the property and collected by the County Treasurer as other taxes authorized by law. The cost and the interest thereon shall be a lien against the property from the date the cost is certified to the County Treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At any time prior to the collection as provided in this section, the City may pursue any civil remedy for collection of the amount owing and interest thereon. Upon receiving payment, if any, the City Clerk shall forward to the County Treasurer a notice of such payment and directing discharge of the lien.

Section IV: That Title 9, Chapter 11, Section 9-11-1 is hereby amended to read as follows:

**9-11-1: DEFINITIONS<sup>1</sup>:**

As used in this chapter:

**DILAPIDATED BUILDING:**

- A. A structure which, through neglect or injury, lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that said structure is a hazard to the health, safety, or welfare of the general public.
- B. A structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable or is a hazard to the health, safety, and welfare of the general public.
- C. A structure which is determined by the ~~m~~Mayor and ~~b~~Board of ~~e~~Commissioners or by the ~~e~~Code ~~a~~Administrator to be an "unsecured building", as defined by 11 ~~Oklahoma O.Statutes S. §section~~ 22-112.1, more than three (3) times within any twelve (12) month period.
- D. A structure which has been "boarded and secured" as defined in 11 ~~Oklahoma O.Statutes S. §section~~ 22-112.1 for more than ~~thirty-six~~~~eighteen~~ (~~36~~~~18~~) consecutive months.
- E. A structure declared by the mayor and board of commissioners to constitute a public nuisance.

**OWNER:** The owner of record as shown by the most current tax rolls of the county treasurer. (1994 Code § 7-230)

Section V: That Title 9, Chapter 11, Section 9-11-2 is hereby amended to read as follows:

**9-11-2: CONDEMNATION NOTICE; REMOVAL; LIEN; EXCEPTION<sup>1,2</sup>:**

- A. Removal Procedure: The ~~building official~~Code Administrator of the ~~e~~City may cause dilapidated buildings within the city limits to be torn down and removed in accordance with the following procedure:
  - 1. Notice: At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the hearing provided for herein may be held. A copy of the notice shall be posted on the property to be affected. In addition, a copy of said notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the

records in the office of the county clerk to the last known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by "publication", as defined in 11 ~~Oklahoma O.Statutes S. §section~~ 1-102. Such notice may be published once not less than ten (10) days prior to any hearing or action to be taken pursuant to the provisions of this section.

2. Hearing: A hearing shall be held by the ~~building official~~Code Administrator to determine whether the property is dilapidated and has thereby become detrimental to the health, safety, and welfare of the general public and the community, or if said property creates a fire hazard which is dangerous to other property.
3. Declaration Of Dilapidation; Destruction; Lien: Upon a finding that the condition of the property constitutes a detriment or a hazard, and that the property would be benefited by the removal of such conditions, the ~~building official~~Code Administrator may cause the dilapidated building to be torn down and removed, and shall fix reasonable dates for the commencement and completion of the work. The city clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the ~~building official~~Code Administrator at the hearing, and stating that the ~~e~~City claims a lien in said property for the destruction and removal costs, and that such costs are the personal obligation of the property owner from and after the date of filing of said notice. The agents of the ~~e~~City are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the ~~e~~City; if the work is not performed by the property owner within dates fixed by the ~~building official~~Code Administrator.
4. Right Of Appeal: The property owner shall have the right of appeal to the ~~m~~Mayor and ~~b~~Board of ~~e~~Commissioners from any order of the ~~building official~~Code Administrator. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten (10) days after the administrative order is rendered. The decision of the ~~m~~Mayor and ~~b~~Board of ~~e~~Commissioners is final unless an action to challenge the order is filed within thirty (30) business days from the date of the order.
5. Mailing Statement Of Costs To Owner: The ~~building official~~Code Administrator shall determine the actual cost of the dismantling and removal of dilapidated buildings, and any other expenses as may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The ~~e~~City ~~e~~Clerk shall forward a statement of such actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs by mail to the property owner, and by mailing a copy of said statement to any mortgage holder, at the addresses named in subsection A1 of

this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the eCity shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If dismantling and removal of dilapidated buildings is done by the eCity, the cost to the property owner shall not exceed the actual cost of the labor, maintenance and equipment required for dismantling and removal of dilapidated buildings. If dismantling and removal of dilapidated buildings is done on a private contract basis, it shall be awarded to the lowest and best bidder.

6. Payment; Release Of Lien: When payment is made to the eCity for costs incurred, the eCity eClerk shall file a release of lien, but if payments attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the eCity eClerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located.

- B. Exception: The provisions of this chapter shall not apply to any property zoned and used for agricultural purposes. (Ord. 2004-36, 10-5-2004)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1: State law reference – 11 O.S. § 22-112\(C\)](#)

[Footnote 42: State law reference - similar provisions, 11 O.S. § 22-112\(A\) and 11 O.S. § 22-112\(B\).](#)

Section VI: REPEALER. All ordinances or parts thereof, which are inconsistent with this ordinance, are hereby repealed.

Section VII: SAVINGS CLAUSE. Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceedings now pending in any court, or any rights acquired or liability incurred nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section VIII: SEVERABILITY. If any one or more of the sections, sentences, clauses or parts of this ordinance, chapter or section shall for any reason be held invalid, the invalidity of such section, clause or part shall not affect or prejudice in any way the applicability and validity of any other provision of this ordinance. It is hereby declared to be the intention of the City Commission of the City of Enid that this section of the Enid Municipal Code would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part not been included.

Section IX: CODIFICATION. This ordinance shall be codified as Title 4, Chapter 4, Sections 4-4-4 and 4-4-5 and Title 9, Chapter 11, Sections 9-11-1 and 9-11-2 of the Enid Municipal Code, 2003.

PASSED AND APPROVED by the Mayor and Board of Commissioners on this 5th day of June, 2012.

CITY OF ENID, OKLAHOMA

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Mike Stuber, Mayor Pro-Tem

(SEAL)

ATTEST:

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Linda Parks, City Clerk

Approved as to form:

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Andrea Springer, City Attorney