

ORDINANCE NUMBER 100

**AN ORDINANCE TO SET PROCEDURES FOR  
REMOVAL OF UNSAFE STRUCTURES, TO DECLARE  
AN EMERGENCY, AND FOR OTHER PURPOSES.**

WHEREAS, the Town Council for the Town of Tontitown deems it necessary to determine procedures for the removal of unsafe buildings of any type which are hazardous to the health and safety of the citizens of Tontitown; and

WHEREAS, it is deemed to be in the best interest of the citizens of the Town of Tontitown to set forth the City's procedures for removing unsafe or substandard structures after notice to property owners; and

WHEREAS, this ordinance is to provide for the control of the use, maintenance, safety, repair, and aesthetic value, and occupancy of all dwellings, dwelling units and/or structures of every type within the area of jurisdiction of the Town of Tontitown so as to ensure the public safety, health, aesthetic and general welfare of the residents of the Town of Tontitown;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF TONTITOWN, ARKANSAS that:

**SECTION I: UNSAFE STRUCTURES**

All buildings or structures which are unsafe, unsanitary, or not provided with adequate egress, or which are substandard, constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, abandonment, or severely in contemplation of this section, are unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the following provisions:

(a) Whenever the building official shall find any building or structure or portion thereof to be unsafe, as defined in this section, he shall, in accordance with established procedure for legal notices, give the owner, agent, or person in control of such

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building or structure written notice stating the defects thereof. This notice shall require the owner within thirty (30) days to purchase a building permit and to commence specified repairs or improvements, or to demolish and remove the building or structure or portion thereof. The building official shall set the time allowed to complete such repairs or removal. If the person to whom such notice and order is addressed cannot be found after diligent search, then such notice shall be posted in a conspicuous place on the premises to which it relates. Such mailing and posting shall be deemed adequate service.

(b) Any owner, agent, or person in control of such building or structure who shall fail, neglect, or refuse within the stated time to comply with said notice from the building official to repair, rehabilitate, or to demolish said building or structure or portion thereof, shall be guilty of a misdemeanor and shall be ~~subject to~~ penalties set out in Section 3 of this Ordinance.

*SUBJECT*

(c) In case the owner, agent, or person in control cannot be found within the stated time, or, if such owner, agent, or person in control shall fail, neglect, or refuse to comply with notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the building official shall refer the matter of removing said building to the Town Council. If the Town Council deems the structure unsafe and that it is in the best interest of the Town to proceed with removal of the unsafe structure, it shall enact an Ordinance ordering the property owner to raze and remove the unsafe structure, with work thereon to commence within ten (10) days and be completed within thirty (30) days. If the property owner fails to do so, the Mayor or his authorized representative shall cause the unsafe structure to be razed and removed. The cost thereof shall be charged against said premises and shall constitute a lien thereon.

(d) The amount of the lien may be determined at a hearing before the Town Council held after thirty (30) days written notice by certified mail to the owner of the property if the name and whereabouts of the owner is known. If the name of the owner cannot be determined, then the amount will be determined only after publication of notice of the hearing once a week for four (4) consecutive weeks. The determination of the Town Council is subject to appeal by the property owner to the Chancery Court. The amount so determined at the hearing, plus ten percent (10%) penalty for collection, shall be certified by the Town Council by Ordinance to the tax collector of the county in which the property is located, to be placed on the tax books as delinquent taxes, and collected accordingly. The amount, less three percent (3%) thereof, when so collected shall be paid to the Town by the County Tax Collector. In the alternative, the lien provided for pursuant to this chapter and state law may be enforced in the Chancery Court at any time within eighteen (18) months after work has been done.

(e) In cases of emergency which, in the opinion of the building official, involve imminent danger to human life or health, he shall promptly cause such building, structure or portion thereof to be made safe or removed, whether the procedure prescribed in this section has been instituted or not. For this purpose he may at once enter such structure or land on which it stands, or abutting land or structures, with such assistance and at such cost as he may deem necessary. He may vacate adjacent structures and protect the public by

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appropriate fence or such other means as may be necessary, and for this purpose may close a public or private way.

## SECTION II: CONSTITUTIONALITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

## SECTION III: VIOLATIONS AND PENALTIES

Whenever it is found that any person is violating any of the provisions or requirements set out in this Ordinance, a written notice stating the offense and setting time limit for the correction thereof shall be served upon the offender in person or by certified mail by the chief city inspector. If the offending party is not the owner of record of the tract upon which said dwelling or dwellings are being constructed, a copy of such notice shall also be served on the owner of record. The offender shall within this time limit set in the notice served upon him forever cease all violations. Any person who shall continue to violate any of the provisions of this Ordinance shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than two hundred-fifty (\$250.00). Each day any such violation may continue shall be deemed a separate offense.

## SECTION IV: EMERGENCY CLAUSE

It is hereby declared that an emergency exists and that this Ordinance being necessary for the preservation of the health, safety and welfare of the citizens of Tontitown, Arkansas, become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 30<sup>th</sup> day of August, 1994.

Frankie B. Zallo  
MAYOR

ATTEST:

Francis Fresco  
TREASURER/RECORDER

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