DeSoto Parish Recording Page

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TOWN OF STONEWALL

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THE PUBLIC

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ORDINANCE NUMBER 97-2019

THIS ORDINANCE AMENDS ORDINANCE NO. 40-2011 AND EMBRACES THE FOLLOWING SECTIONS WHICH SHALL CONSTITUTE AND BE DESIGNED AS BLIGHT ELIMINATION FOR THE TOWN OF STONEWALL, DESOTO PARISH, LOUISIANA

SECTION 1-2019: ADMINISTRATIVE ADJUDICATION

The Code of Ordinances of the Town of Stonewall is hereby amended to establish administrative adjudication procedures for blighted property. As used herein, the term "blighted property" means "commercial or residential premises, including lots, which are vacant, uninhabitable, and hazardous and because of their physical condition, are considered hazardous to persons or property, or have been declared or certified blighted, and have been declared to be a public nuisance by a court of competent jurisdiction or by an administrative hearing officer acting pursuant to competent jurisdiction or by an administrative hearing officer acting pursuant to La. Rev. Stat. § 13:2575 *et seq.*, or any other applicable law." As used herein, the term "blight ordinances" include this Ordinance No. 97-2019 and Ordinance No. 40-2011.

SECTION 2-2019: CROSS REFERENCE

Specific reference is made to Ordinance No. 40-2011. Notwithstanding anything herein to the contrary, all provisions of Ordinance No. 40-2011 are maintained in full force and effect. This Ordinance No. 97-2019 should be read together with Ordinance No. 40-2011 in all material respects.

SECTION 3-2019A: HEARING OFFICERS

(a) One or more hearing officers shall be appointed by the mayor, and shall serve at the pleasure of the mayor.

(b) The mayor may appoint as hearing officer an attorney licensed to practice law in the state of Louisiana, and who has practiced law for at least two years.

(c) All hearing officers so appointed shall take an oath before the Town of Stonewall's attorney to uphold the laws and the constitution of the state, and the Charter and ordinances of the Town of Stonewall, and to abide by the provisions of the Louisiana Code of Governmental Ethics prior to assuming office.

SECTION 3-2019B: AUTHORITY OF HEARING OFFICERS

Hearing officers who have been appointed and sworn in accordance with the provisions herein shall have authority to hear and decide alleged violations of the blight ordinances as defined herein, and violations of any other ordinances which the council may, from time to time, declare to be subject to administrative adjudication, including but not limited to alleged violations of public health, housing, fire code, zoning code, building code, environmental and historic district ordinances.

SECTION 3-2019C: POWERS OF HEARING OFFICERS

In furtherance exclusively of the authority granted by Section 3-2019B above, each hearing officer appointed by the mayor shall have the power to:

(1) Administer oaths and affirmations.

(2) Issue orders compelling the attendance of witnesses and defendants and the production of documents.

(3) For each separate violation, levy fines, fees, penalties, and hearing costs, the maximum of which shall not exceed those established for the 42nd Judicial District Court.

(4) Order violators to correct violations within a stipulated time.

(5) Take necessary and lawful measures to effect correction of the violation if the violator fails to do so within the time allocated by the hearing officer.

(6) Record orders, judgments, notices of judgments, or liens in the mortgage office of the parish.

(7) Place liens and privileges upon property as authorized by R.S. 13:2575, as well as any applicable provision of the Code of Ordinances of the Town of Stonewall.

(8) It is intended to grant herein to the hearing officer all of the powers permitted by R.S. 13:2575.

SECTION 4-2019: HEARING PROCEDURE

(a) Prior to holding an administrative hearing for violation of the blight ordinances, the Town of Stonewall department or agency having enforcement responsibility shall notify the person alleged to be responsible for the violation, and, where applicable, the property owner, of the violation alleged, a minimum of 30 days prior to a hearing date.

The notification shall state the time, date and location of the hearing, and shall provide an explanation that the hearing is for the purpose of making a determination whether the subject property is blighted. The notice shall state that the violator is entitled to legal representation, shall state the amount or nature of possible penalties, and provide information to permit the violator to communicate with the enforcement department prior to the hearing. The notice shall also state that failure to appear at the hearing shall constitute an admission of liability for the charged violation. However, the hearing officer may vacate any order issued on the basis of a failure to appear if in the officer's sound discretion the interest of justice requires a hearing, and shall do so upon the request of the director of the department of public works.

(b) The notice shall be served upon the alleged violator, and where applicable, upon the owner of the property, by certified United States mail, addressed to the alleged violator, and where relevant, to the owner of the subject property's address as listed in the assessor's office of DeSoto Parish, or may be personally served upon the alleged violator, or the owner of the property. The notice shall also be served upon each mortgagee of record at the address provided in the recorded mortgage by certified United States mail. The date of the postmark shall be deemed to be the date of delivery. Any notification so sent and returned by the United States Post Office shall be considered as having fulfilled the notification requirement. Any notice of violation subject to this administrative adjudication process may, in addition to the personal or mail service required above, and if said violation is related to an immovable property, a notice of violation may be affixed in a prominent location and shall be in large print on the property on which a violation is alleged.

(c) Administrative adjudication hearings shall be conducted in accordance with the rules of evidence of the Louisiana Administrative Procedure Act. Testimony shall be under oath; the person charged with the violation may present any relevant evidence, but need not be present at the hearing, but may present duly verified documentary evidence. The violator may be represented by an attorney. Evidence on behalf of the Town of Stonewall shall be presented by the Town of Stonewall's attorney or his/her designee. Any order compelling the attendance of witnesses or the production of documents may be enforced by the district court having jurisdiction over the witness.

The burden of proof shall be upon the Town of Stonewall, and a finding that the violator did violate the ordinance as charged must be based upon a preponderance of the evidence. Where finding of a violation is based upon the violator's failure to appear at the hearing, the decision must nevertheless be based upon a prima facie showing of violation.

(d) The hearing officer shall issue a written post hearing notice to the property owner within thirty days, excluding legal holidays, of the hearing, stating whether the hearing officer determined the subject property to be blighted, and the amount of any fine, penalty, costs, or fee assessed against him, and a date by which the violation shall be corrected if such is ordered. The post-hearing notice may be served upon the property owner and mortgagees of record in the manner provided in subsection (a) of this Section, or if the property owner has counsel of record, by mailing or delivering the order to counsel. If the order requires that the violation be corrected, this order shall be an interlocutory order. If the order does not require abatement of the violation, this shall be the final order. If final, the order shall specify the penalties, costs, fees, and fines assessed, and shall notify the violator of his right to appeal.

(e) In addition to the remedy set out in R.S. 13:2575(B)(2), the Town of Stonewall's attorney or his/her designee is authorized to file a civil action in the 42nd Judicial District Court to enforce the orders of the hearing officer if the violator fails to pay the fines, costs or penalties fixed by the hearing officer, or fails to correct the violation as ordered by the hearing officer within the time set by the hearing officer.

(f) Where the violator fails to abate the violation after being ordered to do so by the hearing officer, the department of public works may undertake to correct the violation, and the cost of such shall be made available to the hearing officer who may impose that amount upon the violator as a cost, and who shall issue a final order which shall set out all penalties, fees and costs imposed. The costs shall be determined as follows:

(1) Direct labor costs shall be calculated using the highest step of the rate schedule for the classifications of the employees performing the work in order to correct the violation as included in the pay plan for classified employees as adopted by the Town of Stonewall council. Overtime labor costs will be calculated using time and one-half. In addition, an administrative overhead rate of 120 per cent shall be used to recover fringe benefits and other overhead costs.

(2) Equipment costs shall be calculated using the hourly rates in the schedule of equipment rates published by the Federal Emergency Management Administration.

(3) Any other costs for supplies or payments to contractors for correcting the violation shall be calculated at the actual cost of the supplies or at the actual cost of the contracts paid by the Town of Stonewall.

(4) The final order shall be served upon the violator in the same manner in which the notice was served.

(g) Penalties, fees and costs shall be collected by the town clerk.

(h) The hearing officer, for good cause, may suspend all or a portion of his final order and may make any suspension contingent on the fulfillment of some reasonable condition.

SECTION 5-2019: APPEAL

Any person determined by the hearing officer to be in violation of the any ordinance subject to administrative adjudication as defined herein, may appeal this determination to the 42nd Judicial District Court, within 30 days of the date of the hearing officer's final order, by filing a petition with the clerk of the 42nd Judicial District Court and paying the costs required by that court. The filing of such appeal shall not stay the enforcement and collection of the judgment unless the person who files the appeal furnishes security prior to filing notice of appeal with the finance department of the Town of Stonewall in the amount to be fixed by the hearing officer sufficient to assure satisfaction of the finding of the hearing officer relative to the fine, fee, penalty, costs of the hearing, and costs, if any, of correcting the violation.

SECTION 6-2019: POWER TO FILE LIEN AND JUDICIAL MORTGAGE

The hearing officer may record a certified copy of a final order imposing a fine or other charge in the mortgage records of DeSoto Parish. Once recorded, the certified copy of this order shall constitute a lien against the land on which the violation exists, and any lien placed against such immovable property under this chapter shall be included in the next annual ad valorem tax bill and must be paid along with such taxes, subject, however, to any valid homestead exemption.

Additionally, the recordation of a certified copy of a final order imposing a fine or other charge in the mortgage records of DeSoto Parish shall have the effect of a judicial mortgage against the immovable property described therein and may be enforced against the immovable property upon application of the Town of Stonewall to the clerk of the 42nd Judicial District Court for issuance of a writ in accordance with Code of Civil Procedure article 2253.

SECTION 7-2019: RECORDS

A copy of the notice of violation, the order or orders issued by the hearing officer, and all documentary evidence introduced at the hearing shall be maintained by the office of the Mayor.

SECTION 8-2019: DISPOSITION OF PENALTIES AND COSTS

All fines, costs, penalties, interest, and reimbursement of abatement costs, after payment of all fees, shall be placed into the general fund of the Town of Stonewall.

First Reading having been read by title and introduced by Mayor Randal S. Rodgers at a regular convened Board of Council Meeting on June 11th, 2019.

Second Reading having been read by Mayor Randal S. Rodgers at a Public Hearing held on July 09th, 2019 at the Stonewall Municipal Complex.

UPON MOTION OF Council Member Crystal Norton and seconded by Council Member Robert Baker was passed and adopted at the Stonewall Municipal Complex, Stonewall, DeSoto Parish, Louisiana, during a Public Hearing on this the 09th day of July 2019.

The Ordinance was adopted on July 09th, 2019 at the Stonewall Municipal Complex and will go into effect on the 10th day of July 2019 with a vote as follows:

4 YEAS Council Members: Nicholas Gasper, Robert Baker, Michael Norton & Crystal Walsh

0 NAYS Council Members:

1 ABSENT Council Members: Margaret Dickerson

THUS DONE AND ORDAINED AND ESTABLISHED by the Board of Council Members of the Town of Stonewall, DeSoto Parish, Louisiana at a meeting of said public body, duly held and conducted on Tuesday, July 09th, 2019 in the Municipal Complex for the Town of Stonewall.

Sherri Young
Town Clerk

Date Delivered to Mayor: 07/10/2019

Date Approved by Mayor: 07/10/2019

Randal S. Rodgers
Randal S. Rodgers, Mayor - Town of Stonewall