

1 BY COUNCIL MEMBER MESSINA

2
3 PROPOSED ORDINANCE NO. 2016-____

4
5 AN ORDINANCE TO AMEND AND REENACT TITLE 12, CHAPTER 8,
6 SECTION 12:521; TITLE 12, CHAPTER 8, SECTION 12:523,
7 SUBSECTION (A); TITLE 12, CHAPTER 8, SECTION 12:524,
8 SUBSECTION (C); AND TITLE 12, CHAPTER 8, SECTION 12:525; and TO
9 ENACT TITLE 12, CHAPTER 8, SECTION 12:527 OF THE CODE OF
10 ORDINANCES OF THE CITY OF CENTRAL RELATIVE TO
11 DANGEROUS BUILDINGS AND TO PROVIDE FOR ALL RELATED
12 MATTERS

13
14 WHEREAS, the Council of the City of Central desires to revise and re-enact certain
15 provisions in the City’s ordinances related to dangerous buildings.

16
17 BE IT ORDAINED by the Council of the City of Central, State of Louisiana as follows:

18
19 **Section 1:** Title 12, Chapter 8, Section 12:521 of the Code of Ordinances of the City of Central
20 as enacted by Ordinance No. 2006-11 is hereby amended and re-enacted, so as to read as follows:

21
22 TITLE 12. NUISANCES

23
24 Chapter 8. DANGEROUS BUILDINGS

25
26 Section 12:521. Recommendation of removal; notice; service; condemnation in
27 emergency.

28
29 (a) Before the Council may condemn any building or structure there must be submitted to
30 it a written report recommending the demolition or removal of the building signed by the
31 building official or other person authorized to act in such matters for the city. The Mayor
32 shall thereupon serve notice on the owner of the building or structure requiring him to show
33 cause at a meeting of the Council, regular or special, why the building or structure should
34 not be condemned. The date and hour of the meeting shall be stated in the notice which
35 shall be served at least ten days prior to the date of the hearing, except in case of grave
36 public emergency as hereinafter provided. ~~The notice may be served by the Sheriff or~~
37 ~~Deputy Sheriff or Constable having jurisdiction and power to serve legal process where~~
38 ~~the owner of the building or structure is found in the state, and the officer shall make return~~
39 ~~of the service as in ordinary cases.~~

40
41 (b) The notice required by Subsection (a) may be served by any of the following methods:

42
43 (1) by the Sheriff or Deputy Sheriff or Constable having jurisdiction and power to serve
44 legal process where the owner of the building or structure is found in the state, and the
45 officer shall make return of the service as in ordinary cases.

1 (2)(a) by mailing it via the United States Postal Service, by either registered mail or
2 certified mail, return receipt requested, to the owner at the owner's last known address.

3
4 (b) Service by registered or certified mail shall be considered personal service if the
5 certified return receipt or the return form is signed by the addressee. Service by registered
6 or certified mail shall be considered domiciliary service if the certified return receipt or the
7 return form is signed by anyone other than the addressee.

8
9 (c) If the registered or certified mail is returned for failure to obtain a signature on the return
10 receipt form or returned due to refusal of delivery, service may be accomplished by first
11 class mail, with a certificate of mailing. Service by first class mail in accordance with this
12 subparagraph shall be considered personal service and is effective when mailed.

13
14 ~~(b)~~ (c) If the owner is absent from the state or unrepresented therein, then the notice shall
15 be served upon the occupant of the condemned building or structure, if any, and also an
16 attorney-at-law appointed by the Mayor to represent the absentee. Domiciliary service may
17 be made as in ordinary cases.

18
19 ~~(c)~~ (d) In case of grave public emergency where the condition of the building is such as to
20 cause possible immediate loss or damage to person or property, the Council may condemn
21 the building after 24 hours' notice served upon the owner or his agent or the occupant and
22 attorney-at-law appointed to represent the absent owner. Any such notice may be attached
23 to a door or main entrance of the premises or in a conspicuous place on the exterior of the
24 premises and shall have the same effect as delivery to or personal service on the owner,
25 occupant, or attorney at law appointed to represent the absentee owner.

26
27 (e)(1) Any notice served pursuant to this Section shall be filed by the city with the recorder
28 of mortgages where the property is located. Once filed, said notice shall be deemed notice
29 to all subsequent transferees. Any transferee of such property takes the property subject to
30 all recorded liens, mortgages, and notices thereunto pertaining.

31
32 (2) For purposes of any type of funding assistance being sought by the building or structure
33 owner, any notice served pursuant to this Section shall be de facto proof that the building
34 or structure is more than fifty percent damaged.

35
36
37 **Section 2:** Title 12, Chapter 8, Section 12:523, Subsection (a) of the Code of Ordinances of
38 the City of Central as enacted by Ordinance No. 2006-11 is hereby amended and re-enacted, so as
39 to read as follows:

40
41 TITLE 12. NUISANCES

42
43 Chapter 8. DANGEROUS BUILDINGS

44
45 Section 12:523. Appeal from Council order.
46

1 (a) The owner, occupant, agent or other representative of the owner may appeal from the
2 decision of the Council to the district court having jurisdiction over the property. The
3 appeal shall be made by the filing of a suit against the city, setting forth the reasons why
4 the decision or order of the Council is illegal or improper and the issue shall be tried de
5 novo and by preference in the district court. Where a grave public emergency has been
6 declared by the governing authority, the owner of the building who desires to prevent the
7 demolition or removal thereof must file his petition within 48 hours of the posting of the
8 notice of the demolition or removal order on the property and must, at the time of the filing
9 of the petition, furnish such bond as may be fixed by the district judge to cover any damage
10 that may be caused by the condition of the building.
11
12

13 **Section 3:** Title 12, Chapter 8, Section 12:524, Subsection (c) of the Code of Ordinances of
14 the City of Central as enacted by Ordinance No. 2006-11 is hereby amended and re-enacted, so as
15 to read as follows:
16

17 TITLE 12. NUISANCES

18
19 Chapter 8. DANGEROUS BUILDINGS

20
21 Section 12:524. Repair or demolition of building

22
23 (c)(1) Prior to the demolition or removal of the building or structure by the city, the Mayor
24 or some official designated by him shall serve notice on the owner, or his agent, and on the
25 occupant of the building, if any there be, or upon the attorney-at-law appointed to represent
26 the minor, interdict or absentee owner, giving the time when work will begin upon the
27 demolition or removal of the building, structure, or public nuisance.
28

29 (2) Notwithstanding Subsection (c)(1), in cases of grave public emergency, the posting of
30 the notice attached to the door or main entrance of the premises or in a conspicuous place
31 on the exterior of the premises giving the time when work will begin upon the demolition
32 or removal of the building, structure, or public nuisance shall be considered sufficient
33 notice to the owner, occupant, or attorney at law appointed to represent the absentee owner.
34
35

36 **Section 4:** Title 12, Chapter 8, Section 12:525 of the Code of Ordinances of the City of Central
37 as enacted by Ordinance No. 2006-11 is hereby amended and re-enacted, so as to read as follows:
38

39 TITLE 12. NUISANCES

40
41 Chapter 8. DANGEROUS BUILDINGS

42
43 Section 12:525. Costs of demolition to be a lien on property.

44
45 (a) The city shall have a lien and privilege upon an immovable and its improvements, and
46 the owner is personally liable for:

1
2 (1) the cost to the city of maintenance of the immovable or improvements; and

3
4 (2) for the cost to the city of demolishing or removing, or both, the building or structure
5 situated upon the immovable or improvements, and all attorney fees incurred by the city in
6 connection with such demolition or removal.

7
8 (b) "Maintenance" shall include but not be limited to grass cutting, weed abatement, and
9 trash and garbage removal.

10
11 (c) The privilege and lien shall be preserved and enforced only after the owner has refused,
12 after notification by the city and reasonable opportunity to be heard, to pay the costs
13 incurred by the city.
14 against the lot and improvements upon which the building or structure is situated.

15
16 (d) In order to preserve the lien and privilege it shall be the duty of the Mayor to prepare
17 and sign a sworn statement of facts, giving the description of the property and the
18 approximate cost incurred by the city in of demolishing or removing the building or
19 structure, which statements of facts he shall cause to be filed and recorded in the mortgage
20 office of the parish in which the property is located, and the

21
22 (e)(1) The city shall be entitled to recover the amount of this expense together with all
23 costs of court, lien and privilege shall be enforced by ordinary process in the district court
24 having jurisdiction of the property within three years after it is perfected. Alternatively,
25 the privilege and lien may be enforced by assessing the amount of the privilege and lien
26 against the immovable as a tax against the immovable, to be enforced and collected as any
27 ordinary property tax lien to be assessed against the property; the lien and privilege may
28 be collected in the manner fixed for collection of taxes and shall be subject to the same
29 civil penalties for delinquencies. After the city has incurred such costs as constitute the lien
30 and privilege on the property, the Mayor may send an attested bill of said costs and
31 expenses which constitute the lien and privilege to the tax assessor of the parish in which
32 the property is located, who shall add the amount of the bill to the next tax bill of the owner.
33 The lien obtained by the city pursuant to proper notification and filing shall include not
34 only the costs provided for in Subsection (a) of this Section but shall include all attorney
35 fees and all costs of court incurred in the locating of the owner, the notification of the
36 owner, and the enforcement and collection of the amount secured by the lien against the
37 immovable and the improvements.

38
39 (2) The city may also recover interest on the amounts secured by the lien. The interest shall
40 not exceed the rate of legal interest provided in La. R.S. 9:3500 and shall be computed
41 from the date of recordation of the lien until paid. The privilege and lien of the city shall
42 prime all other liens or privileges against the property filed after the notice to the owner to
43 show cause is filed with the recorder of mortgages pursuant to La. R.S. 33:4762(D),
44 regardless of the date on which the lien and privilege of the city is perfected, except that
45 the lien and privilege of the city will not prime other tax liens against the property.
46

1 (f) The lien of the parish or municipality shall not be cancelled until after payment of all
2 amounts, including costs, attorney fees, and interest.

3
4 (g) In addition to the lien and enforcement procedures authorized under this Section, the
5 city has a cause of action against the owner personally for the costs incurred by the city, if
6 such owner is not indigent and has the ability to pay a judgment obtained by the city. Such
7 action may be brought by ordinary proceeding in any court of competent jurisdiction.

8
9 (h)(1) If property, which may be subject to a lien and privilege granted in favor of a city
10 under this Section, is owned in indivision and the owners in indivision, with their
11 proportionate share in the property, are listed separately by the tax assessor on the ad
12 valorem tax roll for the parish or municipality, then the city shall notify each owner in
13 indivision of his liability under this Section.

14
15 (2) Upon failure of each owner in indivision to pay his proportionate share of the charges
16 incurred under this Section, that part of the property for which the charges are not paid
17 shall be subject to a lien and privilege in favor of the city as provided in this Section.

18
19 (3) Notwithstanding the provisions of Subsection (f) of this Section to the contrary, upon
20 payment by an owner in indivision of his proportionate share listed on the ad valorem tax
21 roll for the parish or municipality of the charges, attorney fees, and interest incurred under
22 this Section, and after certification of such proportionate interest by the assessor, the lien
23 and privilege granted under this Section shall be removed from the proportionate interest
24 of the paying owner in indivision. If outstanding charges levied under this Section are
25 added to the annual ad valorem tax bill, the proportionate payment by the paying owner in
26 indivision shall be reflected on the bill, and his interest in the property free of such charge
27 shall be distinguished on the tax bill.

28
29 (4) Notice of the lien and privilege required herein shall be made upon the owners in
30 indivision at their actual address or the last known address listed on the tax rolls of the
31 parish or municipality.

32
33 **Section 5:** Title 12, Chapter 8, Section 12:527 of the Code of Ordinances of the City of Central
34 is hereby enacted, so as to read as follows:

35
36 TITLE 12. NUISANCES

37
38 Chapter 8. DANGEROUS BUILDINGS

39
40 Section 12:527. Alternative to demolition; repair by city.

41
42 (a)(1) Notwithstanding any other provision of law to the contrary, the city, as an alternative
43 to demolition or removal, may make the repairs necessary to correct the defects in a
44 condemned structure within its jurisdiction.

1 (2) The city may take such action only after a demolition or removal order has been issued
2 and the delay for a legal appeal has run, or an appeal has been denied, and when in the
3 discretion of the city such action will restore the structure to a state of usefulness to the
4 community.

5
6 (3) The decision of the city to repair the structure may be appealed in the same manner as
7 provided in Section 12:523.

8
9 (b) The costs of repairs made pursuant to Subsection (a) and a ten percent penalty thereon
10 shall be reimbursed by the owner of the condemned property, and such costs and penalty
11 shall operate as a lien and privilege on the property in favor of the city. Until such time as
12 the costs and penalty have been paid, the city may lease such property and apply all revenue
13 received to the amount owed by the owner and to the necessary maintenance of the
14 structure.

15
16 **Section 6: Conflicts**

17
18 The specific terms and conditions of this Ordinance shall prevail against prior ordinances of the City to the
19 extent that there may be any conflict.

20
21 **Section 7: Severability**

22
23 If any section, subsection, sentence, clause or provision of this Ordinance is declared by a court of
24 competent jurisdiction to be invalid, such declaration of invalidity shall not affect the validity of
25 the Ordinance as a whole, or parts thereof, other than the part declared invalid. The remainder of
26 the Ordinance shall not be affected by the declaration of invalidity and shall remain in force and
27 effect.

28
29 **Section 8: Effective Date**

30
31 This Ordinance shall be effective upon publication.

32
33 Introduced before the Council on this ____ day of July, 2016.

34
35 Notice of the public hearing was published in The Advocate on the ____ day of _____, 2016.

36
37 This Ordinance having been submitted to a vote, the vote thereon is as follows:

38
39 For:

40 Against:

41 Absent:

42
43 Adopted this _____ day of _____, 2016.

44
45 Signed this _____ day of _____, 2016.

46

1 Delivered to Mayor on the _____ day of _____, 2016:

2

3

4 _____
Mark Miley, City Clerk

5

6 Approved:

7

8

9 _____
I.M. Shelton, Jr., Mayor

10

11 Received from Mayor on the _____ day of _____, 2016:

12

13

14 _____
Mark Miley, City Clerk

15

16 Adopted Ordinance published in The Advocate on the _____ day of _____, 2016.