

TOWN OF FOYIL, ROGERS COUNTY, OKLAHOMA

ORDINANCE NO. 2025-__6__

AN ORDINANCE RELATING TO DILAPIDATED BUILDINGS WITHIN THE TOWN OF FOYIL, DEFINING SAME, AND PROVIDING FOR REMOVAL AND ABATEMENT, FIXING PROCEDURES THEREFOR; DELIGATING DUTIES FOR NOTICE AND ENFORCEMENT PURPOSES, AND FIXING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FOYIL, OKLAHOMA:

Section 1. The Town of Foyil Code (2021) is hereby amended by addition of the following to Chapter 13, unless there is thereby created duplication, in which case the clerk is authorized to adjust numbering:

**ARTICLE VII
DILAPIDATED BUILDINGS**

[Code] **Section 13—25: REMOVAL AND ABATEMENT; NOTICE; PROCEDURES; LIEN.**

The municipal governing body may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the provisions of this section.

(A) At least ten days' notice that a building is to be torn down or removed shall be given to the owner of the property before the governing body holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the 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 municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of 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 O.S. § 1-102. Such notice may be published once not less than ten days prior to any hearing or action by the municipality pursuant to the provisions of this section.

(B) A hearing shall be held by the governing body to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general

public and the community, or if the property creates a fire hazard which is dangerous to other property.

(C) Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefitted by the removal of such conditions, the governing body may cause the dilapidated building to be torn down and removed. The governing body shall fix reasonable dates for the commencement and completion of the work. The Municipal Clerk shall immediately file a notice of dilapidation and lien with the County Clerk's office describing the property, the findings of the municipality at the hearing, and stating the municipality claims a lien on the 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 the notice. The agents of the municipality are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the municipality if the work is not performed by the property owner within dates fixed by the governing body.

(D) The governing body shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The Municipal Clerk shall forward a statement of the 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. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in division (A) of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipality 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 mailer. If the municipality dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

(E) When payment is made to the municipality for costs incurred, the Municipal Clerk shall file a release of lien, but if payment attributable to actual cost of the dismantling and removal of the buildings is not made within six months from the date of the mailing of the statement to the owner of such property, the Municipal Clerk shall forward a certified statement of the amount of the cost to the County Treasurer in which the property is located. Once certified to the County Treasurer, payment may only be made to the County Treasurer except as otherwise provided in this section. The costs shall be levied on the property and collected by the County Treasurer as are other taxes authorized by law. Until finally paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the County Clerk. In addition, the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed

with the County Clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs are fully paid. At the time of collection, the County Treasurer shall collect a fee of \$5 for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the County Treasurer and the municipality agree that the County Treasurer is unable to collect the assessment, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action *in personam* against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the Municipal Clerk shall forward to the County Treasurer a notice of such payment and shall direct discharge of the lien.

(F) The municipality may designate, by ordinance, an administrative officer or administrative body to carry out the duties of the governing body specified in this section. The property owner shall have a right to appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the Municipal Clerk within ten days after the administrative order is rendered.

(G) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DILAPIDATED BUILDING.

(1) 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 the structure is a hazard to the health, safety, or welfare of the general public;

(2) 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;

(3) A structure which is determined by the municipal governing body or administrative officer of the municipal governing body to be an unsecured building, as defined by § 13--26, more than three times within any 12-month period;

(4) A structure which has been boarded and secured, as defined by § 13--26, for more than 36 consecutive months; or

(5) A structure declared by the municipal governing body to constitute a public nuisance.

GOVERNING BODY. The Board of Trustees. The Board of Trustees designates the Code Enforcement Officer/Contractee as the administrative officer to carry out the duties of the governing body.

OWNER. The owner of record as shown by the most current tax rolls of the County Treasurer.

MUNICIPALITY. Municipality has the meaning set out in Chapter 10 of this Code.

(H) Nothing in the provisions of this section shall prevent the municipality from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

(I) The officers, employees or agents of the municipality shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this section or as otherwise prescribed by law.

(J) The provisions of this section shall not apply to any property zoned and used for agricultural purposes.

[Code] **Section 13—26: SECURING AND BOARDING DILAPIDATED BUILDINGS.**

(A) After a building has been declared dilapidated, as provided in § 13--25, and before the commencement of the tearing and removal of a dilapidated building, the governing body of the municipality may authorize that such a building be boarded and secured. However, if the dilapidated building is vacant and unfit for human occupancy, the governing body may authorize the structure to be demolished pursuant to § 13--25.

(B) The governing body of the municipality may cause the premises on which an unsecured building is located to be cleared of trash and weeds in accordance with the provisions of Article II of this Chapter 13 of this code.

(C) The governing body of the municipality may cause an unsecured building to be boarded and secured in accordance with the following procedures:

(1) Before the governing body orders such action, at least ten days' notice that such unsecured building is to be boarded and secured shall be given by mail to any property owners and mortgage holders as provided in § 13--25. At the time of mailing of notice to any property owner or mortgage holder, the municipality 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 mailer. A copy of the notice shall also be posted on the property to be affected. 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 O.S. § 1-102. Such notice shall be published one time, not less than ten days prior to any hearing or action by the municipality pursuant to the provisions of this section. If the municipal governing body anticipates summary abatement of a nuisance in accordance with the provisions of subdivision (C)(9), the notice shall state that any subsequent need for boarding and securing the building within a six-month period after the initial boarding and securing of the building pursuant to such notice may be summarily boarded and secured by the municipal governing body, [that the cost of the boarding and securing shall be charged] against the owner,

and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner or mortgage holder;

(2) The owner of the property may give his written consent to the municipality authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving written consent, the owner waives his right to a hearing by the municipal governing body;

(3) If the property owner does not give his written consent to such actions, a hearing may be held by the municipal governing body to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of Article II of this Chapter 13 of this code. In making such determination, the governing body shall apply the following standard: the governing body may order the boarding and securing of the unsecured building when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard created by such building, or decrease the hazard that such building would constitute an attractive nuisance to children. Upon making the required determination, the municipal governing body may order the boarding and securing of the unsecured building;

(4) After the governing body order the boarding and securing of such unsecured building, the Municipal Clerk shall immediately file a notice of unsecured building and lien with the County Clerk describing the property, stating the findings of the municipality at the hearing at which such building was determined to be unsecured, and stating that the municipality claims a lien on the property for the costs of boarding and securing such building and that such costs are the personal obligation of the property owner from and after the date of filing the notice;

(5) Pursuant to the order of the governing body, the agents of the municipality are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the municipality;

(6) After an unsecured building has been boarded and secured, the governing body shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and mailing. The Municipal Clerk shall forward a statement of the actual costs attributed to the boarding and securing of the unsecured building and a demand for payment of such costs, by mail to any property owners and mortgage holders as provided in § 13--25. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipality 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 mailer. If the municipality boards and secures any unsecured building, the cost to the property owner shall not

exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder;

(7) When payment is made to the municipality for costs incurred, the Municipal Clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within 30 days from the date of the mailing of the statement to the owner of such property, the Municipal Clerk shall forward a certified statement of the amount of the costs to the County Treasurer in which the property is located. Once certified to the County Treasurer, payment may only be made to the County Treasurer except as otherwise provided in this section. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the County Clerk. In addition, the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the County Clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. If the County Treasurer and the municipality agree that the County Treasurer is unable to collect the assessment, the municipality may pursue a civil remedy for collection of the amount owing and interest thereon, by an action *in personam* against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the Municipal Clerk shall forward to the County Treasurer a notice of such payment and shall direct discharge of the lien;

(8) The municipality may designate by ordinance an administrative officer or administrative body to carry out the duties of the governing body specified in division (C) of this section. The property owner or mortgage holder shall have a right to appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the Municipal Clerk within ten days after the administrative order is rendered;

(9) If the municipal governing body causes a structure within the municipal limits to be boarded and secured, any subsequent need for boarding and securing within a six-month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or mortgage holder. At the time of each such summary boarding and securing, the municipality shall notify the property owner or mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may request an appeal with the Municipal Clerk within ten days after the mailing of the notice. The notice and hearing shall be as provided for in subdivision (1) of this division. Unless otherwise determined at the hearing, the costs of

such boarding and securing shall be determined and collected as provided for in subdivisions (6) and (7) of this division;

(10) The governing body of the municipality may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this section even though such building has not been declared, by the governing body, to be dilapidated; and

(11) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARDING AND SECURING or BOARDED AND SECURED. The closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure.

GOVERNING BODY. The Board of Trustees of the Town of Foyil.

UNFIT FOR HUMAN OCCUPANCY. A structure that due to lack of necessary repairs is considered uninhabitable and is a hazard to the health, safety, and welfare of the general public.

UNSECURED BUILDING. Any structure which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatch-ways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure.

(D) The provisions of this section shall not apply to any property zoned and used for agricultural purposes.

Section 2. This ordinance shall not become effective until sixty (60) days following the date of its publication.

PASSED AND APPROVED BY THE MAYOR AND BOARD OF TRUSTEES OF THE TOWN OF FOYIL, OKLAHOMA, THIS _____ DAY OF _____, 2025.

MAYOR

(SEAL)

ATTEST:

Clerk

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