

Ordinance No. 05-2018-05

Town of Simmesport

Condemnation of buildings

The governing authority of the Town of Simmesport(municipality) may condemn and cause to be demolished or removed any building or structure within the municipality when it is in a dilapidated and dangerous condition which endangers the public welfare.

Sec. 1 Notice to owner—Public emergency.

- (a) Before the governing authority may condemn any building or structure, there must be submitted to it a written report recommending the demolition or removal of the building signed by some city official or other person authorized to act in such matters for the municipality. The mayor or chief executive shall thereupon serve notice on the owner of the building or structure requiring him to show cause at a meeting of the governing authority, regular or special, why the building or structure should not be condemned. The date and hour of the meeting shall be stated in the notice which shall be served at least ten days prior to the date of the hearing, except in case of grave public emergency as hereinafter provided. The notice may be served by registered or certified mail, postage prepaid, addressed to the owner at his last known address. The notice may also be served by Town of Simmesport compliance officer, Town of Simmesport Police department, or constable having jurisdiction and power to serve legal process where the owner of the building or structure is found in the State of Louisiana, and the officer shall make return of the service as in ordinary cases.
- (b) If the owner is absent from the state or unrepresented therein, then the notice shall be served upon the occupant of the condemned building or structure, if any and also upon an attorney-at-law appointed by the mayor to represent the absentee. Domiciliary service may be made as in ordinary cases.
- (c) In case of grave public emergency where the condition of the building is such as to cause possible immediate loss or damage to person or property, the governing authority may condemn the building after 24 hours' notice served upon the owner or his agent or the occupant and attorney-at-law appointed to represent the absentee owner.
- (d) Any notice served pursuant to this section shall be filed with the recorder of mortgages where the property is located. Once filed, said notice shall be deemed notice to all subsequent transferees. Any transferees of such property takes the property subject to all recorded liens, mortgages, and notices thereunto pertaining.

Sec. 2. Decision of governing authority—Order to demolish or repair.

- (a) After the hearing, if, in the opinion of the governing authority, the facts justify it, an order shall be entered condemning the building and ordering that it be demolished or removed within a certain delay. If repairs will correct the dilapidated, dangerous or unsafe condition, the governing authority may grant the owner the option of making such repairs, but in such a case the general nature or extent of the repairs to be made, the time thereof, and the defects to be corrected, shall be specified in the decision of the governing body.
- (b) The decision and order of the governing authority shall be in writing and shall be final unless appealed from within five days as hereinafter provided.

Sec. 3 Appeal from decision

- (a) The owner, occupant, agent or other representative of the owner may appeal from the decision of the governing authority to the district court having jurisdiction over the property. The appeal shall be made by the filing of a suit against the municipality, setting forth the reasons why the decision or order of the governing body is illegal or improper and the issue shall be tried de novo and by preference in the district court. Where a grave public emergency has been declared by the governing authority, the owner of the building who desires to prevent the demolition or removal thereof must file his petition within 48 hours and must, at the time of the filing of the petition, furnish such bond as may be fixed by the district judge to cover any damage that might be caused by the condition of the building.
- (b) Either party may appeal from the judgment of the district court as in other cases.

Sec. 4 Compliance with decision

- (a) The owner or his designated agent may proceed to demolish and remove the building, or have it repaired, in accordance with the order of the governing authority of the municipality, provided the owner or his agent executes a contract in writing obligating himself to have the work done within the required time and files with the mayor or chief executive a copy of the contract, together with a bond to guarantee performance.
- (b) In the event the owner, designated agent of the owner, the last known owner, lessee or possessor of said property, or occupant of the building or structure, hereinafter referred to as "responsible party", fails or refuses to comply with the decision of the governing authority of the municipality and fails to appeal therefrom within the legal delays provided herein, then, in that event, the chief of police or his/her authorized representative or agent shall be authorized to enter upon said private property and issue a citation for the violation of this chapter of the Simmesport Municipal Code to the "responsible party" of said property subject to the non-compliance herein, wherein said "responsible party" of said property shall be ordered to appear before the town's magistrate court for disposition of this citation.

Upon a conviction of a violation of subsection Sec. 4(b) the responsible party shall be sentenced in accordance with Town of Simmesport **Ordinance 04-2018-01**.

Finally, and in addition to the above, the mayor at his/her sole option, may proceed with the demolition or removal of the condemned building or structure, in which case neither the mayor nor the municipality shall be liable for damages.

- (c) Prior to the demolition or removal of the building or structure by the municipality, the mayor, the Town of Simmesport's Compliance Officer or the Simmesport Police Department shall serve notice on the owner, or his agent, and on the occupant of the building, if any there be, or upon the attorney-at-law appointed to represent the minor, interdict or absentee owner, giving the time when work will begin upon the demolition or removal of the building.

Sec. 5. Lien and privilege for cost of demolition, removal and maintenance by municipality

- (a) The municipality has a privilege and lien upon an immovable and its improvements and the owner is personally liable for:
 - (1) The cost to the municipality of maintenance of the immovable or improvements; and
 - (2) The cost to the municipality of demolishing or removing, or both, a building or other structure situated upon the immovable or improvements, and all attorney fees incurred by the municipality in connection with such demolition or removal.
- (b) "Maintenance" shall include but not be limited to grass cutting, weed abatement, and trash and garbage removal.
- (c) The privilege and lien shall be preserved and enforced only after the owner has refused, after notification by the municipality and reasonable opportunity to be heard, to pay the costs incurred by the municipality.
- (d) The privilege and lien shall be preserved by the filing and recording of an affidavit signed by the mayor of municipality in the mortgage office of the parish in which the immovable is situated. The affidavit shall include a description of the property sufficient to reasonably identify the immovable and a statement of facts listing the approximate cost or costs incurred by the municipality.
- (e) The privilege and lien shall be enforced by ordinary process in the district court having jurisdiction of the immovable within three years after it is perfected. Alternatively, the privilege and lien may be enforced and collected as any ordinary property tax lien to be assessed against the property; said lien and privilege may be collected in the manner fixed for collection of taxes and shall be subject to the same civil penalties for delinquencies. After the town has incurred such costs as constitute the lien and privilege on the property, the mayor and/or director of any community development department of the town may send an attested bill of said costs and expenses which constitute the lien and privilege to the director of administration, who shall add the amount of said bill to the next tax bill of the owner. The lien obtained by the town pursuant to proper notification and filing shall include not only the costs provided for in subsection (a) of this section but shall include all attorney's fees and/or all costs of court incurred in the locating of the owner, the notification of the owner, and the enforcement and collection of the amount secured by the lien against the immovable and the improvements. The municipality may also recover interest on the amounts secured by the lien. The interest shall not exceed the rate of legal interest provided in Civil Code Article 2924 and

shall be computed from the date of recordation of the lien until paid. The town's privilege and lien shall prime all other liens or privileges against the property filed after the notice to the owner to show cause is filed with the recorder of mortgages pursuant to section 7-42(d), regardless of the date on which the town's lien and privilege is perfected, except that the town's lien and privilege will not prime other tax liens against the property.

- (f) The lien shall not be cancelled until after payment of all amounts, including costs, attorney fees, and interest.
- (g) In addition to the lien and enforcement procedures authorized under this section, the municipality has a cause of action against the owner personally for the costs incurred by the municipality if such owner is not indigent and has the ability to pay a judgment obtained by the municipality. Such action may be brought by ordinary proceeding in any court of competent jurisdiction.
- (h) Indivision ownership:
 - (1) If property, which may be subject to a lien and privilege granted in favor of a municipality under this section, is owned in indivision, and the owners in indivision, with their proportionate share in the property, are listed separately by the tax assessor on the ad valorem tax roll for the municipality, then the municipality shall notify each owner in indivision of his liability under this section.
 - (2) Upon failure of each owner in indivision to pay his proportionate share of the charges incurred under this section, that part of the property for which the charges are not paid shall be subject to a lien and privilege in favor of the municipality as provided in this section.
 - (3) Notwithstanding the provisions of subsection F of this section to the contrary, upon payment by an owner in indivision of his proportionate share listed on the ad valorem tax roll for the municipality of the charges, attorney fees, and interest incurred under this section, and after certification of such proportionate interest by the assessor, the lien and privilege granted under this section shall be removed from the proportionate interest of the paying owner in indivision. If outstanding charges levied under this section are added to the annual ad valorem tax bill, the proportionate payment by the paying owner in indivision shall be reflected on the bill and his interest in the property fee of such charge shall be distinguished on the tax bill.
 - (4) Notice of the lien and privilege required herein shall be made upon the owners in indivision at their actual address or the last known address listed to the tax rolls of the parish.

Sec. 6 Attorney to represent absentee, minor or interdict

In the event the building or structure is unoccupied and its owner is absent from the state and unrepresented therein, or in the event the building is owned by a minor who has no tutor or an interdict who has no curator, the mayor shall appoint an attorney-at-law to represent the absentee, minor or interdict upon whom the notices and other proceedings provided in this chapter may be served. The attorney shall be paid a reasonable fee to be taxes as cost.