

**City Council
Agenda Memo**



**City Council
Meeting Date: 10/24/13**

TO: Larry D. Gilley, City Manager

FROM: Kelley K. Messer, Asst. City Attorney

SUBJECT: Minimum Standards for Buildings and Structures

GENERAL INFORMATION

Currently Division 6 of the City of Abilene's construction codes and ordinance adopts the 1991 Housing Code, and, Division 7 adopts the 1991 Uniform Code for the Abatement of Dangerous Buildings, each with local amendments that have not been updated. There is a need to update these codes in order to meet the statutory requirements of Texas Local Government Code Chapters 214 and 54 and to include them electronically within city codes found in Franklin Legal online. None of our comparative cities follow the Housing Code or Uniform Code for the Abatement of Dangerous Buildings, and these codes are no longer published or updated.

This proposed ordinance combines the purpose of both of the above codes because there is no need to differentiate between residential and commercial buildings for the purpose of condemnation of structures unfit for human occupancy. Moreover, in practice the city has not differentiated between commercial and residential structures that are condemned because the other building codes, such as the plumbing code or electrical code, sufficiently set forth requirements for both residential and commercial construction. The proposed ordinance reflects the current practice of the Board of Building Standards in accordance with state law, and incorporates additional remedies available under state law, such as civil penalties.

In addition to replacing the former codes with the Minimum Standards for Buildings and Structures, this enacting ordinance will replace and update references to the Housing Code that currently exist within our code of ordinances.

FUNDING/FISCAL IMPACT

N/A

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

On September 3, 2013 the Board of Building Standards approved by a 5-0 vote, a recommendation of the Minimum Standards for Buildings and Structures Ordinance to City Council.

ATTACHMENTS

Ordinance

Prepared by:

Name: Kelley K. Messer

Title: Asst. City Attorney

Item No. _____

Disposition by City Council

Approved Ord/Res# _____

Denied _____

Other

City Secretary

ORDINANCE NO. _____

AN ORDINANCE DELETING CHAPTER 8, ARTICLE VI, DIVISION 6, “HOUSING CODE”, AND INSERTING DIVISION 6, “MINIMUM STANDARDS FOR BUILDINGS AND STRUCTURES”; DELETING AND RESERVING DIVISION 7, “ABATEMENT OF DANGEROUS BUILDINGS”; AMENDING ARTICLE V, DIVISION 2, SECTION 8-372, “TO HEAR APPEALS”, AND ARTICLE I, DIVISION 1, SECTION 8-6 “EMERGENCIES” AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, there is a need to update the 1991 Housing Code as amended, adopted in City Ordinance Section 8-551 and the 1991 Uniform Code for the Abatement of Dangerous Buildings as amended, adopted in City Ordinance Section 8-561; and

WHEREAS, the adoption of the Abatement of Dangerous Buildings Ordinance will serve to replace both the Housing Code and the Uniform Code for the Abatement of Dangerous Buildings; and

WHEREAS, the language of Ordinance Sections 8-372 and 8-6 should be amended to delete reference to the Housing Code and insert reference to Minimum Standards for Buildings and Structures;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS

- PART 1:** That Chapter 8, Article VI, Division 6, “Housing Code” is hereby deleted and replaced with “Minimum Standards for Buildings and Structures” as set forth in Exhibit “A”, attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** That Chapter 8, Article VI, Division 7, “Abatement of Dangerous Buildings” is deleted in its entirety and reserved for future use.
- PART 3:** That Chapter 8, Article V, Division 2, Section 8-372, “To Hear Appeals” is amended as set forth in Exhibit “B”, attached hereto and made part of this Ordinance for all purposes.
- PART 4:** That Chapter 8, Article I, Division 1, Section 8-6, “Emergencies” is amended as set forth in Exhibit “C”, attached hereto and made part of this Ordinance for all purposes.

PART 5: That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

PART 6: That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.

PART 7: Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 7th day of October, 2013.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 13th day of October, 2013, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 24th day of October, 2013, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 24th day of October, 2013.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Replace Chapter 8 Construction Regulations, Article VI Codes and Other Regulations, Division 6 Housing Code in its entirety with the following:

**DIVISION 6
Minimum Standards for Buildings and Structures**

8-551. Purpose and Scope

(a) This division is adopted pursuant to Texas Local Government Code, Chapter 54 and Chapter 214. The purpose of this division is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with the provisions of this division shall be altered, repaired or demolished to provide a minimum level of health and safety as required herein.

(b) This division shall apply to all existing residential and nonresidential structures and to all existing premises. This division shall be the minimum standard for the continued use and occupancy of all buildings, property or structures, regardless of when they were constructed. This division establishes the minimum requirements and standards for light, ventilation, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance. This division prescribes the responsibility of owners, the authority to direct the securement, occupancy, repair, and demolition of structures and premises, and establishes civil and criminal penalties for violations of this division.

8-552. Definitions

Building Official—includes the building official or any employee assigned by the director of planning and development services to work under the authority of the building official for the purpose of enforcing this division.

Condemn—to adjudge unfit for human occupancy.

Dilapidated—the state of a building or structure that has deteriorated or is in disrepair.

Owner—includes record property owner, mortgagee, lienholder, any individual, agent, firm, corporation, partnership or other legal entity having legal or equitable interest in the property.

Vermin—small common objectionable animals such as insects or rodents, that are difficult to control, may spread disease, or may compete with domestic animals for food or other resources.

8-553. Authority of Building Official

(a) The building official is authorized and directed to enforce all of the provisions of this division and shall have the power to render interpretations of this division, including but not limited to the decision to condemn property.

(b) The building official is authorized to make inspections pursuant to complaints or visual observations of deficiencies, to determine the condition of all existing residential and nonresidential structures, and all premises located within the City of Abilene without prior notice to the owner, manager, or occupant of the property. If the property is occupied, the building official shall present credentials to the occupant and request entry. If unoccupied, the building official must first make reasonable effort to locate the owner or other persons having control. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

(c) Requirements necessary for the strength, stability or proper operation of an existing structure or for the public safety, health and welfare, not specifically covered by this code, shall be determined by the building official.

(d) In the event the building official deems a building or structure with historic overlay zoning to be safe and not a hazard to the public health, safety and welfare, the provisions of this code shall not be mandatory for the building or structure.

(e) The building official is authorized to require a condemned structure to be secured from outside entry and shall bill the owner for the costs associated with securing the structure if the costs are borne by the City.

(f) The building official may order a structure to be demolished immediately if the structure has sustained damage by fire, explosion, wind, vandalism, or elements of nature or by other means to the extent that it is likely to fall in the immediate future and is unable to be secured from entry or is likely to fall in the immediate future on another inhabited area or structure.

8-554. Substandard Structures

Any building or portion thereof, including any dwelling unit, guest room, or suite of rooms on the premises on which the same is located, in which there exists any of the following conditions, may be deemed to be substandard and condemned if the condition(s) exists to an extent that it endangers the health safety or welfare of the public or the occupants thereof:

(a) Inadequate Sanitation. Buildings or portions thereof shall be deemed substandard when they are unsanitary. Inadequate sanitation shall include but not be limited to the following:

- (1) Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodging house.
- (2) Lack of, or improper water closets, lavatories and bathtubs or showers per number of hotel guests in a hotel.
- (3) Lack of, or improper kitchen sink in a dwelling unit.
- (4) Lack of hot or cold running water to plumbing fixtures in a dwelling unit, lodging house or hotel.
- (5) Lack of adequate heating facilities.
- (6) Lack of, or improper operation of, required ventilating equipment.
- (7) Lack of minimum amounts of natural light or ventilation required by this code.
- (8) Room and space dimensions less than required by this code, including Chapter 8, Construction Regulations.
- (9) Lack of required electrical lighting.
- (10) Dampness of habitable rooms.
- (11) Infestations of insects, vermin or rodents as determined by the public health authority or designee, or environmental enforcement officer.
- (12) General dilapidation or improper maintenance.
- (13) Lack of connection to required sewage disposal system.
- (14) Sewage flowing across the ground, into the right-of way, or open sewage.
- (15) Lack of adequate garbage and rubbish storage and removal facilities as determined by the public health authority or designee, or environmental enforcement officer.
- (16) Absence of electric, gas, or water utility for forty-eight (48) hours or more.

(b) **Structural Hazards.** Buildings or portions thereof shall be deemed substandard when they are or contain structural hazards. Structural hazards shall include but not be limited to the following:

- (1) Deteriorated or inadequate foundations.
- (2) Defective or deteriorated flooring or floor supports.
- (3) Flooring or floor supports of insufficient size or construction to carry imposed loads with safety.
- (4) Members of walls, partitions or other vertical supports that split, lean, list or buckle.
- (5) Members of walls, partitions or other vertical supports that are loose, crumbling, rotten or warped or that contain parts that may fall.
- (6) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
- (7) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle.
- (8) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are loose, crumbling, rotten or warped or that contain parts that may fall.
- (9) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
- (10) Fireplaces or chimneys which list, bulge or settle.

(11) Fireplaces or chimneys that are loose, crumbling, rotten or warped or that contain parts that may fall.

(12) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(13) Antennas, towers, flagpoles or similar components attached to a structure, which are warped, listing, corroded or otherwise deteriorated.

(c) Nuisance. Buildings or portions thereof in which there exists any nuisance as defined in this code, including Chapter 19 Nuisances and Illegal Dumping.

(d) Hazardous Electrical Wiring. Electrical wiring which was installed in violation of code requirements in effect at the time of installation, or electrical wiring not installed in accordance with generally accepted construction practices in areas where no codes were in effect, or which has not been maintained in good condition or which is not being used in a safe manner shall be considered substandard.

(e) Hazardous Plumbing. Plumbing which was installed in violation of code requirements in effect at the time of installation, or plumbing not installed in accordance with generally accepted construction practices in areas where no codes were in effect, or which has not been maintained in good condition or which is not free of cross-connections or siphonage between fixtures shall be considered substandard.

(f) Hazardous Mechanical Equipment. Mechanical equipment which was installed in violation of code requirements in effect at the time of installation, or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no codes were in effect, or which has not been maintained in good and safe condition shall be considered substandard.

(g) Faulty Weather Protection. Buildings or portions thereof shall be considered substandard when they have faulty weather protection which shall include but not be limited to the following:

(1) Deteriorated, crumbling or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including the absence of paint where paint is needed to prevent weathering, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split, buckled, or missing exterior wall coverings or roof coverings.

(h) Fire Hazard. Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the fire marshal, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause shall be considered a substandard building.

(i) Faulty Materials of Construction. The use of materials of construction, except those which are specifically allowed or approved by this code, and which have been adequately maintained in good and safe condition, shall cause a building to be substandard.

(j) Inadequate Exits. Buildings or portions thereof whose exit facilities were installed in violation of code requirements in effect at the time of their construction, or whose exit facilities have not been increased in number or width in relation to any increase in occupant load due to alterations, additions or change in use or occupancy subsequent to the time of construction, or whose required exit facilities have been rendered inoperable or unsafe for any reason shall be considered substandard.

Notwithstanding compliance with code requirements in effect at the time of their construction, buildings and portions thereof shall be considered substandard when the building official finds that an unsafe condition exists through an improper location of exits, a lack of an adequate number or width of exits, or when other conditions exist which are dangerous to human life.

(k) Inadequate Fire-Protection or Firefighting Equipment. Buildings or portions thereof shall be considered substandard when they are not provided with the fire-resistive construction or the fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration, or addition, or any change in occupancy.

(l) Improper Occupancy. All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which are not designated or intended to be used for such occupancies shall be considered substandard.

(m) Improper Demolition. Whenever any portion of a building or structure remains on a site after the partial demolition or destruction of the building or structure.

8-555. Imminent Hazards

The fire chief or police chief, with the concurrence of the building official, shall be authorized to order the immediate evacuation of any structure which in his or her opinion is unsafe due to hazardous conditions that present imminent danger to the structure's occupants.

8-556. Owner Responsibility

(a) The owner of any premises within the City of Abilene shall be responsible for maintaining the premises in compliance with the minimum standards of this division. The standards of this division are intended to complement the requirements of any other applicable code or ordinance of the City of Abilene, and shall not be deemed to lower any more restrictive standard required by the codes at the time of original construction or

subsequent remodeling. The duty of an owner to maintain premises in compliance with this division is not affected by any duty this division creates upon the tenants thereof, even if the owner has, by agreement, imposed upon the tenants the duty of maintaining the premises and complying with this division.

(b) If a notice of violation or notice of condemnation has been posted in a conspicuous place on or about the structure affected by the notice, it shall be the responsibility of the owner to maintain such notice. In the event the notice fails to remain in a conspicuous place on or about the affected structure, the City may replace the notice and bill the owner for the cost of posting notice. Failure to maintain posted notice shall constitute a class C criminal offense.

(c) The owner shall not transfer condemned property without first providing the transferee a copy of the notice of violation and any compliance order, and the transferee accepts in writing a receipt of the above documents and accepts the responsibility for the property. Failure to do so shall constitute a class C criminal offense. It is a defense to prosecution if the transferee refuses to provide written acknowledgment of the above documents.

8-557. Remedies

(a) The City may condemn and require the vacating, relocating of occupants, securing, nuisance abatement or repair of a building that is:

- (1) dilapidated or substandard;
- (2) unoccupied by its owners, lessees, or other invitees and unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;
- (3) boarded up, fenced, or secured, but
 - A. constitutes a danger to the public even though secured from entry; or
 - B. the means used to secure the building are inadequate to prevent unauthorized entry or use of the building by vagrants, children, or other uninvited persons;
- (4) in a condition caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for vermin; or
- (5) in violation of the City of Abilene Code of Ordinances, including the Land Development Code due to the condition, use, or appearance of property.

(b) The City may condemn and require the vacating, relocating of occupants, securing, nuisance abatement, repair, or removal of a building that is dangerous and a nuisance.

(c) Costs borne by the City pursuant to this division shall be assessed against the property and shall constitute a lien against the property in accordance with state law. The building official shall file a written notice of such imposition of a lien in the office of the county clerk in the county in which the property is located. The amount of such debt shall accumulate interest at the rate of ten (10) per cent per annum from the date on which payment was due.

8-558. Notice of Violation Regarding Condemned Property

(a) When the building official finds that any building, structure, or portion thereof is substandard or dilapidated, in violation of this division, and should be condemned the building official shall issue to the owner a written notice of violation. Such notice shall include a statement regarding presumption of ownership, and the City hereby adopts the process as stated in Texas Local Government Code Section 54.005, and as amended.

(b) Such notice shall specify the conditions causing the violation, each ordinance provision that is violated, the corrective measures required, and shall provide a reasonable time for such corrective measures to be commenced and completed.

(c) Upon the issuance of a notice of violation of this division, occupancy of any building or portion thereof in violation shall be prohibited until corrective measures have been completed.

(d) No later than the thirtieth (30th) calendar day after receipt of the notice, the owner may submit to the building official, a written response which describes a plan of action to correct or abate violations identified in the notice of violation. The plan shall include specific actions to be taken by the owner, cost estimates for required repair work, and a specific completion date in which violations will be corrected or abated.

(e) Issuance of a notice of violation shall not be a bar against taking any other action against the person, nor shall issuance of a notice of violation be a prerequisite for taking any other action against the person.

(f) A notice of violation may be served either by personally serving the owner with written notice, or by mailing such notice by certified mail, return receipt requested to the person's last known address as shown on the tax rolls of either the Taylor County Central Appraisal District or the Jones County Appraisal District, and a copy of the notice of violation may be posted in a conspicuous place on or about the structure affected by the notice. Notice of violation shall be deemed to have been served (3) calendar days after mailing.

8-559. Appeal to the Board of Building Standards

(a) Any owner aggrieved by a decision of the building official may appeal the decision to the Board of Building Standards. An appeal shall be filed in the office of Planning and Development Services, in writing, within ten (10) calendar days from the date service of the notice of violation of a standard of this division. No appeal shall be considered that is filed after the ten (10) calendar-day period expires.

(b) Failure to appeal within such ten (10) day period shall make the determination and requirements of the building official final.

8-560. Submission of Cases to the Board of Building Standards by the City

The building official may place a condemned property on the agenda of a meeting of the Board of Building Standards for consideration in the event the building official has determined that the Board should consider demolition or the imposition of civil penalties.

8-561. Compliance Agreement

(a) Where the owner demonstrates the ability, resources and a reasonable plan of action commensurate with the action necessary to comply with this division, the building official may enter into a compliance agreement with any owner that is not in compliance with this division.

(b) The compliance agreement shall include a specific corrective plan of action to be taken by the property owner to correct all violations of this division within a time period specified in the compliance agreement.

(c) A compliance agreement shall not be a bar against taking any other action against the owner, nor shall a compliance agreement be a prerequisite for taking any other action against the owner.

8-562. Notice of Hearing Before the Board of Building Standards

(a) Notice of hearing before the Board of Building Standards shall be given:

- (1) by personal delivery or by certified mail, return receipt requested, to each record owner of affected property; and
- (2) to all other persons by posting a copy of the notice on a conspicuous place on or about the main structure on the property affected by the hearing.

(b) Notice must be mailed and posted on or before the tenth (10th) calendar day before the date of the hearing. In addition, notice must be published in a newspaper of general circulation in the municipality on one occasion on or before the tenth (10th) day before the date fixed for the hearing.

(c) Notice shall state the date, time, and place of hearing and shall include a statement that the owner shall be required to submit at the hearing proof of the scope of work, including cost estimates, that may be required to comply with this article and the time in calendar days in which it will take to reasonably perform the work. The notice shall also inform the owner of his or her right to hire an attorney to represent him or her at the hearing, his or her right to inspect the file on the property at the office of Planning and Development Services prior to the hearing, and his or her right to request the presence of city staff for the purpose of questioning at the hearing.

(d) Notice of hearing may additionally be filed in the official public records of real property in the county in which the affected property is located. The notice shall contain the name and address of the owner, if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, a legal description of the property and a description of the proceedings. Such filing of notice is binding on subsequent grantees, lienholders or other transferees of an interest in the property who acquire such interest after the filing of the notice and constitutes notice of the proceedings.

(e) The City must exercise due diligence to determine the identity and address of a property owner or lienholder to whom the City is required to give notice. The City exercises such due diligence when it searches the following records:

- (1) county real property records of the county in which the property is located;
- (2) appraisal district records of the appraisal district in which the property is located;
- (3) records of the secretary of state and assumed name records of the county in which the property is located, if the property owner, lienholder, or registered agent is a corporation, partnership, or other business association;
- (4) tax records of the municipality; and
- (5) utility records of the municipality.

(f) When a municipality mails a notice in accordance with this section to a property owner, lienholder, or registered agent and the notice is returned, marked as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered delivered.

8-563. Action of the Board of Building Standards

(a) Pursuant to Texas Local Government Chapter 54, Subchapter C and Chapter 214, and as amended, the Board of Building Standards is hereby authorized, after proper notice and hearing to:

- (1) enforce this division, Minimum Standards for Buildings and Structures;
- (2) enforce ordinances relating to conditions caused by accumulations of refuse, vegetation or other matter that creates breeding and living places for vermin; and
- (3) enforce ordinances relating to a building code condition, use or appearance of property.

(b) After notice and hearing the Board of Building Standards may enter into the minutes any of the following findings:

- (1) The property is substandard or dilapidated due to any condition listed in section 8-554. If the Board makes a finding that a property is substandard, the Board shall reference in its finding each condition that exists to cause the property to be substandard.
- (2) The property should be demolished. If the Board makes a finding that a property should be demolished, the Board shall reference in its finding each

condition that exists to cause the property to be substandard and dangerous, as the standard is described in section 8-564.

(c) After making findings the Board of Building Standards may make any of the following orders:

(1) Order the vacating, relocating of occupants, securing, nuisance abatement or repair of a building that is:

(A) dilapidated or substandard;

(B) unoccupied by its owners, lessees, or other invitees and unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;

(C) boarded up, fenced, or secured but, either constitutes a danger to the public even though it is secured from entry, or the means used to secure the building are inadequate to prevent unauthorized entry or use as described in (c)(1)(B);

(D) in a condition caused by accumulations of refuse, vegetation, or other matter that create breeding and living places for vermin; or

(E) in violation of the City of Abilene Code of Ordinances, including the Land Development Code, due to the condition, use, or appearance of property is.

(2) Order demolition pursuant to section 8-564;

(3) Order the repair or removal, within a fixed period, of violations of an ordinance and further order that the City may repair or remove the violation if the Board's order is not followed within the allotted time;

(4) Order the repair or removal of a nuisance, within a fixed period, of property found to be in violation of an ordinance related to a building code or condition or use, or appearance of property;

(5) Determine the amount and duration of the civil penalty the City may recover pursuant to section 8-568;

(5) Order, in an appropriate case, the immediate removal of persons or property found on private property;

(7) Order the entrance on private property to secure the removal of a condition if it is determined that a condition exists on the property that constitutes a violation of this code; and

(8) Issue orders or directives to the City to enforce and carry out the lawful orders of the Board of Building Standards.

8-564. Demolition

After notice, hearing, and appropriate findings, the Board of Building Standards may order an owner to demolish a condemned structure that is substandard and dangerous. Demolition shall be a remedy only in cases in which the Board of Building Standards has found that a condemned structure is so deteriorated or dilapidated or is in such ill-repair as to be a public nuisance in that it is a hazard to the public health safety and welfare and repair of the structure would be unreasonable. In the event the owner fails to demolish

pursuant to an order of the Board, the City may demolish or seek a court order to demolish.

8-565. Time Limits for Repair, Removal or Demolition

(a) An order may require that a building must be repaired, removed or demolished within thirty (30) days unless the owner establishes at the hearing that the work cannot reasonably be performed within thirty (30) days.

(b) If the Board of Building Standards allows the owner more than thirty (30) days to repair, remove or demolish the building, the Board shall establish specific time schedules for the commencement and performance of the work and shall require the owner to secure the property in a reasonable manner from unauthorized entry while the work is being performed.

(c) The Board of Building Standards shall not allow the owner more than ninety (90) days to repair, remove or demolish the building or fully perform all work required to comply with the order of the Board unless the owner executes a compliance agreement which requires progress reports to the city and includes the specific corrective plan of action to be taken by the owner the within the time period as specified by the Board and written into the compliance agreement.

8-566. Notice of Findings and Orders of the Board of Building Standards.

(a) Findings and orders shall be recorded in the minutes of each meeting of the Board of Building Standards. Within ten (10) days after the meeting, findings and orders shall be filed in the Office of the City Secretary.

(b) Within ten (10) days after the date of the meeting, orders of the Board of Building Standards shall be published in a newspaper of general circulation. The notice shall state the street address or legal description of each property, the date of the order(s), a statement indicating the results of the order(s), and instructions stating where a complete copy of the order(s) may be obtained.

(c) Findings and orders of the Board shall be delivered by personal delivery or by certified mail, return receipt requested, to each record owner of affected property to whom notice of the meeting was sent.

(d) Findings and orders of the Board of Building Standards may additionally be filed in the official public records of real property in the county in which the affected property is located.

8-567. Criminal Penalties

Any person failing to comply with a notice of violation or order of the Board of Building Standards shall be deemed guilty of a class C misdemeanor punishable by a fine not to exceed \$500.00 for each day the violation continues.

The imposition of criminal or civil penalties shall not stay any action to restrain, correct or abate a violation, or to prevent illegal occupancy or use of a structure or premises.

8-568. Civil Penalties

(a) Civil penalties may be assessed by the Board of Building Standards in amounts not to exceed one thousand dollars (\$1,000.00) per day for each day a property is in noncompliance with an order of the board or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed ten dollars (\$10.00) per day for each day the property owner is in violation, if the City proves:

- (1) the property owner was notified of the requirements of this division and the owner's need to comply with the requirements; and
- (2) after notification, the property owner committed an act in violation of the chapter or failed to take an action necessary for compliance with this division.

(b) A determination of civil penalties made by the Board of Building Standards is final and binding and constitutes prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the City for final judgment in accordance with the established penalty.

(c) Civil Penalties and expenses assessed herein shall constitute a personal liability of the property owner and a lien against the property.

(d) All civil penalties shall accrue interest at the rate of ten (10) percent per annum.

(e) A property owner against whom a civil penalty is assessed shall be given notice of such order pursuant to section 8-566, herein.

(f) Promptly after the imposition of a lien for the assessment of a civil penalty, the building official shall cause a written notice of such imposition of a lien in the office of the county clerk in the county in which the property is located.

8-569. Judicial Review

(a) Any owner jointly or severally aggrieved of an order of the Board of Building Standards may file a verified petition in a Taylor or Jones County District Court, as applicable:

- (1) setting forth that the decision of the board is illegal, either in whole or in part; and
- (2) specifying the grounds of the illegality.

(b) The petition must be filed by an owner within thirty (30) calendar days after a copy of the order is delivered to the owner personally, by certified mail return receipt requested or by signature confirmation service.

(c) The order of the Board of Building Standards becomes final thirty (30) days after a copy of the order is delivered to the owner.

(d) Costs may not be allowed against the municipality.

(e) The City may seek attorney's fees, costs and other expenses as allowed by state law.

8-570. Civil Action Without Board Hearing

(a) The City may bring suit for injunctive relief and civil penalties against the owner of property in violation of this division, or to compel the demolition or repair of buildings or structures, as provided for by Texas Local Government Code Chapter 54, Subchapter B., and as amended.

(b) Filing a suit for civil penalties, injunctive relief, or other remedies shall not be a bar against or a prerequisite for taking other action against a violator.

8-571—8-580. Reserved.

EXHIBIT B

Chapter 8, Article V, Division 2, Section 8-372 To Hear Appeals

DELETE

The board of building standards shall hear appeals from any person aggrieved by any decision of the building official concerning the building code and/or the minimum housing code and shall also hear all cases wherein the building official has determined that the repair or rehabilitation of a building, residential or nonresidential, is impractical and that such substandard building should be demolished.

ADD

The board of building standards shall hear appeals from any person aggrieved by any decision of the building official concerning the building code and/or the minimum standards for buildings and structures division and shall also hear all cases wherein the building official has determined that the repair or rehabilitation of a building, residential or nonresidential, is impractical and that such substandard building should be demolished.

EXHIBIT C

Chapter 8, Article I, Division 1, Section 8-6 Emergencies

DELETE

Whenever the building official finds that an emergency exists, which requires immediate action to protect the public welfare, health and safety, he may, without notice or hearing, issue an order reciting the existence of such an emergency, and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the provisions of the minimum housing code and/or the building code, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but, upon petition to the building official, shall be afforded a hearing as soon as possible. After such hearing, depending upon his finding as to whether the provision of the minimum housing code and/or the building code have been complied with, the building official shall continue such order in effect, modify it or revoke it.

ADD

Whenever the building official finds that an emergency exists, which requires immediate action to protect the public welfare, health and safety, he may, without notice or hearing, issue an order reciting the existence of such an emergency, and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the provisions of the minimum standards for buildings and structures division and/or the building code, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but, upon petition to the building official, shall be afforded a hearing as soon as possible. After such hearing, depending upon his finding as to whether the provision of the minimum standards for buildings and structures division and/or the building code have been complied with, the building official shall continue such order in effect, modify it or revoke it.