

ORDINANCE NO 2025-04-001

AN ORDINANCE OF THE TOWN OF PINE ISLAND, TEXAS, ADOPTING MINIMUM BUILDING STANDARDS AND MINIMUM BUILDING CODES; ADOPTING REGULATIONS CONCERNING SUBSTANDARD BUILDINGS, ADOPTING REGULATIONS AND PROCEDURES REGARDING THE SECURING OF VACANT STRUCTURES AND THE REPAIR, REMOVAL, OR DEMOLITION OF SUBSTANDARD OR UNINHABITABLE BUILDINGS OR STRUCTURES; DEFINITIONS PROVIDING FOR FINDINGS INCORPORATED; PROVIDING FOR A CUMULATIVE REPEALER CLAUSE; PROVIDING SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY FOR A VIOLATION NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH VIOLATION AND PROVIDING A SEPARATE PENALTY FOR EACH DAY A VIOLATION CONTINUES IN ADDITION TO OTHER PENALTIES PROVIDED; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Pine Island (“Town Council”) seeks to promote the health, safety and general welfare of the community by preventing death, injuries and property damage within the Town limits of the Town of Pine Island (“Town”); and

WHEREAS, the Town Council seeks to protect property values within the Town limits; and

WHEREAS, the Town Council finds that substandard buildings or structures pose aesthetic harm to the Town; and

WHEREAS, the Town Council finds that substandard buildings or structures are fire hazards and often attract vermin, insects, and other nuisances; and

WHEREAS, pursuant to Texas Local Government Code section 54.012, a municipality may bring a civil action for the enforcement of an ordinance relating to dangerous or deteriorated structures or improvements; and

WHEREAS, pursuant to Texas Local Government Code section 214.001, *et seq.*, the Town Council has authority to adopt minimum building standards and regulate substandard buildings or structures; and

WHEREAS, pursuant to Texas Local Government Code section 214.002, the Town Council has authority to order the repair, removal or demolition of a substandard building or structure and to repair, remove, or demolish a substandard structure and assess such costs against the property owner or owner of the structure; and

WHEREAS, the Town Council seeks to protect and defend property rights to the utmost extent possible and prevent any unconstitutional or otherwise unlawful taking of private property;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PINE ISLAND, TEXAS THAT:

SECTION 1. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the Town Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. MINIMUM BUILDING STANDARDS ADOPTED

Pursuant to Texas Local Government Code Chapter 54 and Chapter 214, the Town Council hereby adopts the Minimum Building Standards and Regulations, attached hereto as Exhibit "A" which is fully incorporated as if written verbatim herein.

SECTION 3. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

SECTION 4. SEVERABILITY

If any provision, section, sentence, clauses or phrase of this Ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the Town Council of the Town of Pine Island in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

SECTION 5. PENALTY

Any person, firm, or corporation who violates any provision of this ordinance shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense; provided, however, that in all cases involving violation of this ordinance governing public health shall be subject to a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense as allowed by law, and each and every day any such offense shall continue shall be deemed to constitute a separate offense.

SECTION 6. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law requires.

SECTION 7. NOTICE AND MEETING CLAUSE

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED THIS THE 1st day of April 2025.


Steve Nagy, Mayor

ATTEST:

Sheri Ordner, Town Secretary

APPROVED AS TO LEGAL FORM:

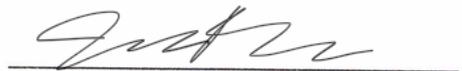

Josh Brockman-Weber, City Attorney

EXHIBIT “A”
MINIMUM BUILDING STANDARDS AND REGULATIONS

DIVISION 1. GENERALLY

Sec. 1-1. Title.

This ordinance may be referred to as the “Minimum Building Standards Code.”

Sec. 1-2. Definitions.

The following words and phrases shall have the meanings respectively ascribed to them by this section:

Alley: A public place, lane or thoroughfare between buildings or through a city block, giving access primarily to the rear of buildings.

Alter or alteration: Any change, addition or modification in construction or occupancy.

Apartment: A room or suite of rooms which is occupied or which is used, designed or intended to be occupied by one (1) family for living and sleeping purposes.

Apartment house: Any building or portion thereof which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three (3) or more families living independently of each other and doing their own cooking in the building, including flats and apartments.

Approved: Having the approval of the building official as the result of investigation and tests conducted by him or by reason of accepted principles or tests by national authorities, technical or scientific organizations; or having the approval of the appropriate enforcement official of the city as being in compliance with the standards and requirements of any code or ordinances of the city which applies specifically to the item in question.

Building: A roof supported by walls or columns.

Building code: The minimum building codes and minimum building standards adopted by the Town Council in this ordinance as outlined in Section 1-9 or other Town ordinances.

Building official: The officer and his deputies charged with the administration and enforcement of this section or the official charged with the administration and enforcement of an ordinance that required the abatement procedure to follow, in whole or in part, the provisions of this section as applicable to all residential, commercial and industrial buildings.

Commercial building: Any building or structure used or designed to be used in whole or part for retail or wholesale business, industrial, manufacturing, religious, educational, amusement or entertainment purposes.

Court: Except where used with judicial connotation, the term “court” shall mean an open, unoccupied space bounded on two (2) or more sides by the walls of the building. An inner court is a court entirely within the exterior walls of a building; all other courts are outer courts.

Dwelling: Any building or any portion thereof which is not an “apartment house,” a “lodging house,” or a “hotel” as defined in this section and which contains one (1) or two (2) “dwelling units” or “guest rooms” used, designed or intended to be built, used, rented, leased, let or hired out to be occupied or which are occupied for living purposes.

Dwelling unit: A suite of two (2) or more habitable rooms which are occupied or which are used, designed, or intended to be occupied by one (1) family, with facilities for living, sleeping, cooking and eating.

Efficiency living unit: Any room having cooking facilities used for combined living, dining and sleeping purposes and meeting the requirements of section 5-2.

Existing building: A building erected or one (1) for which a legal building permit has been issued prior to the effective date of this section.

Exit: A continuous and unobstructed means of egress to a public way, including intervening doorways, corridors, ramps, stairways, fire escapes, horizontal exits, exterior courts and yards.

Extermination: The control and elimination of insects, rodents, and vermin by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by other approved means.

Family: One (1) person living alone or a group of two (2) or more persons living together, whether related to each other by birth or not.

Floor area: The area included within surrounding walls of a building (or portion thereof), exclusive of vent shafts and courts.

Garbage: The animal, vegetable and mineral waste resulting from the handling, preparation, cooking and consumption of food.

Grade (ground level): The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five (5) feet of a sidewalk, the ground level shall be measured at the sidewalk.

Habitable building: A building or a portion of a building used, designed or intended to be used for human habitation which meets the requirements of this section as applicable to all residential, commercial and industrial structures.

Habitable room: Any room meeting the requirements of this section for sleeping, living, cooking or eating purposes, excluding such enclosed places as closets, pantries, bath or

toilet rooms, service rooms, connection corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms, and similar spaces.

Hot water: Water at a temperature of not less than one hundred ten (110) degrees Fahrenheit.

Infestation: The presence of insects, rodents, vermin or other pests within or contiguous to a dwelling, dwelling unit, rooming house, rooming unit or premises.

Kitchen: A room used, designed or intended to be used for the preparation of food.

Maintain: Keep, preserve, erect, construct, enlarge, alter, repair, move, improve, convert, equip, use, maintain status quo, permit to deteriorate, or permit to exist.

Nuisance: The following shall be defined as nuisances:

- (a) Any public nuisance known at common law or in equity jurisprudence.
- (b) Any attractive nuisance that may prove detrimental to children, whether in a building, on the premises of a building or upon an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators or junked motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.
- (c) Whatever is dangerous to human life or is detrimental to health.
- (d) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

Occupied space: The total area of all buildings or structures on any lot or parcel of ground projected on a horizontal plane, excluding permitted projections as allowed by this section.

Owner: Any person using or having control of the premises concerned, including, but not limited to: a feeholder, lessor, lessee, occupant, vendor under contract of sale, vendee under contract of sale, person in possession, person with right to immediate possession, assignee of rents, receiver, trustee, executor, or person having express, implied, or apparent authority to exercise control of such property as an agent or its owner, as the term owner is defined hereby. Any person listed as owner of any such premises upon the last approved Town tax roll previous to the offense date shall be presumed to be the owner for purposes of this section.

Person: Any individual, corporation, firm, association, trust, partnership or group of two (2) or more persons having a joint or common economic interest, including nonprofit, religious, charitable, and professional entities.

Repair: The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The term "repair" shall not apply to any change of construction or additions to a building.

Rooming unit: Any room or group of rooms forming a single habitable unit used or intended to be used for living or sleeping but not for cooking or eating purposes.

Rubbish: All combustible and noncombustible waste, except garbage.

Substandard or substandard condition: Either not meeting or conforming with one (1) or more of the standards or specifications set forth in division 5 of this section or possessing one (1) or more of the conditions or defects set forth in division 6 of this section.

Window: A glazed opening, including glazed doors, which open upon a yard, court or recess from a court, or a vent shaft open and unobstructed to the sky.

Yard: An open unoccupied space other than a court, unobstructed from the ground to the sky, except where specifically provided by this section, on the lot of which a building is situated.

Zoning Ordinance: Town of Pine Island Zoning Ordinance, as amended.

Sec. 1-3. Purpose.

The purpose of this section is to provide just, equitable and practicable civil and criminal methods to be cumulative with and in addition to any other remedy provided by the Town building code, or otherwise available at law, whereby buildings or structures which from any cause might endanger the life, limb, health, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

This article is adopted pursuant to Texas Local Government Code, Chapter 54 and Chapter 214 to establish minimum standards:

- (1) For the continued use and occupancy of all types of buildings and structures within the city, regardless of the date of their construction;
- (2) To safeguard the public health, safety and welfare;
- (3) To protect property; and
- (4) To provide the authority to address, and direct the method of addressing unsafe buildings and structures within the city.

Sec. 1-4. Applicability, scope and effect.

The provisions of this section shall apply to all buildings and structures or portions thereof as herein defined which are now in existence or which may hereafter be constructed in the Town. Existing buildings or structures that are altered or enlarged shall be made to conform to the building code of the Town. Existing buildings or structures that are moved or relocated shall be considered new construction and shall comply with all requirements of the building code of the Town.

Sec. 1-5. Exemption of Town officials from liability.

All of the regulations provided in this section and the functions and duties of all officers, agents, servants or employees of the Town in the enforcement to this section are declared to be governmental and for the benefit of the general public. Any member of the Town council and Town official or employee charged with the enforcement of this section acting

for the Town in the discharge of his duties shall not thereby render himself personally liable by the performance of any act required or permitted in the discharge of his duties.

Sec. 1-6. Incorporation of references.

Any reference made in this section to any other law, statute, code, ordinance, rule, regulation, or similar statutory or quasi-statutory material is intended to incorporate such material both as it presently exists and also any future amendments, changes, revisions, repeals, or recodifications of such material, unless otherwise expressly provided.

Sec. 1-7. Responsibility for condition of premises; notice; service.

- (a) Each owner remains liable for violation of duties imposed upon him by this section, even though an obligation is also imposed on the occupants of his building and even though the owner has, by agreement, imposed on the occupants the duty of furnishing required equipment or complying with this section.
- (b) Each owner or his agent, in addition to being responsible for maintaining his building in a sound structural condition, shall be responsible for keeping that part of the building or premises which he occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in such building or structure.
- (c) Each owner or occupant shall, where required by this section or other applicable ordinances, furnish and maintain such approved sanitary facilities as are required, shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation and, where infestation exists, shall be responsible for the extermination of any insects, rodents, or other pests.
- (d) Each occupant of a building or structure, in addition to being responsible for keeping that part of the building, structure or premises which he occupies and controls in a clean, sanitary and safe condition, shall dispose of all rubbish, garbage and other organic waste in such manners as is required by applicable ordinances of the Town.
- (e) Each occupant shall, where required by this section or other applicable ordinances, furnish and maintain approved devices, equipment or facilities necessary to keep his premises safe and sanitary.
- (f) The failure of any such person to receive any notice or order deposited in the United States mail shall not affect the validity of any proceedings taken under this section. Service by mail in the manner herein provided shall be effective on the date of mailing.
- (g) The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed upon him by the provisions of this section

Section 1-8. Unsafe buildings.

All unsafe buildings or structures are hereby declared to be illegal and shall be abated by securing, repair, removal, or demolition in accordance with the procedures set forth in this ordinance. As an alternative, the building official, or other employee or official of this jurisdiction as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

(1) All buildings or structures which are unsafe, unsanitary, unfit for human habitation, not provided with adequate egress, or which constitute a fire hazard, otherwise dangerous to human life or which constitute a hazard to the safety, health or welfare of the public, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are considered unsafe buildings.

(2) All buildings regardless of its structural condition, which are unoccupied by its owners, lessees, or other invitees and are unsecured or inadequately secured from unauthorized entry to the extent that it could be entered or used by uninvited persons as a place of harborage or could be entered or used by children or otherwise constitute a danger to the public are considered unsafe buildings.

Section 1.9. Minimum Building Standards and Minimum Building Codes Adopted.

Pursuant to Chapter 214 of the Texas Local Government Code, the City hereby adopts the International Building Code (“IBC”) as it existed on May 1, 2012, the International Residential Code (“IRC”) as it existed on May 1, 2012, and National Electrical Code (“NEC”) as it existed on May 1, 2001, for the purpose of establishing minimum building standards within the City. Each of these codes is amended to delete any obligation of the City to conduct inspections, issue permits, or otherwise enforce compliance with these standards. Compliance with the adopted codes remains the responsibility of property owners, developers, and contractors.

Any building or structure whose condition has deteriorated or is operated or maintained in violation of the minimum standards for the continued use and occupancy of all types of buildings and structures within the city, as adopted and established in this chapter, is hereby subject to investigation by the building official, code enforcement official or designated employee in accordance with Article 18.05 of the Texas Code of Criminal Procedure and may be deemed to be substandard and a hazard to the public health, safety and/or welfare by the building official or employee thereof, Town Council, municipal court or District Court of Waller County, Texas.

DIVISION 2. BUILDING OFFICIAL

Sec. 2-1. Duties.

- (a) The building official is hereby authorized and directed to enforce all the provisions of this section.
- (b) The building official and the building official’s authorized representatives shall be authorized to make inspections of all buildings, houses, and premises within the Town for the purposes of determining that the provisions of this ordinance

are fully complied with. If there is probable cause to suspect that any building or premises is in violation of this ordinance, and:

- (1) if such building or premises is open and clearly unoccupied, the building official may enter such building or premises for the purpose of inspecting same without prior notice to any person; or
 - (2) if such building or premises is closed or if a reasonably prudent person with a reason to believe that such premises is occupied, the building official shall have recourse to every procedure, right, or remedy provided by law to secure entry for the purpose of inspecting same.
- (c) For purposes of this section, a building or premises shall be “closed” if entry cannot be gained without the use of force, however slight, including, for example, the force necessary to open an unlocked door or climb into an open window; a building or premises shall be “occupied” if occupied for either residential or business purposes.

Sec. 2-2. Appointment of deputies and inspectors.

The building official may appoint such number of inspectors and other employees as shall be authorized by the appropriations ordinance and budget. The building official may deputize such employees as may be necessary to carry out the functions required for the enforcement of this section.

Sec. 2-3. Identification.

The building official and the building official’s deputies and inspectors shall be supplied with official identification, and upon request, they shall exhibit such identification when performing any duties imposed and authorized by this section.

DIVISION 3. PROCEDURE FOR DESIGNATION OF A SUBSTANDARD BUILDING

Sec. 3-1. Commencement of public hearing.

- (a) Whenever the building official has inspected any premises and has found the existence of a substandard condition, he shall schedule a public hearing before the Town council to determine whether the building or structure complies with the standards set out in this section.
- (b) Prior to the public hearing, the building official shall prepare and submit a report for the Town council’s review, therein describing:
 - (1) The facts and circumstances that lead the building official to investigate the subject premises and building or structure;
 - (2) The specific defective condition(s), as provided under section 6-1, of the building or structure;

- (3) The building official's recommendation as to whether the building or structure should be vacated, secured, repaired, removed, and/or demolished; and
- (4) Any other information the Town council directs the building official to include in the report.

Sec. 3-2. Notice.

(a) *Issuance of notice.*

- (1) The building official shall issue a notice of hearing to each owner of the building and to each mortgagee and lienholder of the building and of the property on which it is located, as known and shown by the Town and as shown by search of the following records:
 - a. Official public records of real property in the county, specifically in the county clerk's office;
 - b. Appraisal district records for the appraisal district in which the building is located;
 - c. Records of the Texas Secretary of State;
 - d. Assumed name records for the county;
 - e. Tax records of the Town; and
 - f. Utility records for the Town.
- (2) The building official shall issue notice of hearing to all unknown owners, if any, by posting the notice as described in subsection (c).

(b) *Contents of notice.* Notice of the hearing described under section 3-1 shall contain the following:

- (1) The street address, if any, or other description sufficient for identification of the premises upon which the building is located.
- (2) A statement that the building official has found the building to be substandard, with a general description of the conditions found to render the building substandard and a copy of the report to be provided to the Town council under subsection 3-1(b).
- (3) A statement that the Town will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.
- (4) A statement specifying the date, time and place of the hearing; and
- (5) A statement that the owner will be afforded an opportunity to comment at the hearing and will be required to submit at the hearing proof of the scope of any work that may be required to comply with the minimum standards

set out in this section and the time it will take to reasonably perform the work.

(c) *Service of notice.*

- (1) Notice of the hearing shall be given by certified mail with return receipt requested, delivered by the United States Postal Service using signature confirmation service, or by personal service. If the address of any person entitled to notice cannot be ascertained, or if service cannot be made by mail or in person after a reasonable attempt, and for all unknown owners, service shall be made by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.
- (2) The notice shall be mailed and/or posted before the tenth day before the date of the hearing. Service by certified mail shall be effective on the date of mailing.
- (3) Proof of personal service shall be certified at the time of service by a written declaration executed by the person effecting service, declaring the date, time and manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail, shall be affixed to the copy of the notice retained by the building official.
- (4) Notice of the hearing may be filed in the official public records of real property in the county, specifically in the county clerk's office. The notice shall contain:
 - a. The name and address of the owner of the affected property if that information can be determined.
 - b. A legal description of the affected property; and
 - c. A description of the hearing.

The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

Sec. 3-3. Hearing.

- (a) *Conduct of hearing.* This section applies to all public hearings before the council to determine whether a building or structure complies with the requirements of this section.
 - (1) *Failure to appear.* If the owner of the building fails to appear at the hearing after being duly served, the council shall conduct the hearing as if the owner personally appeared.

- (2) *Quorum.* A majority of the members of the council shall constitute a quorum for the purposes of holding a hearing, and an affirmative vote by three (3) members of the council shall be required for the rendering of decisions or the issuance of orders authorized under this section.
- (3) *Procedure.* The council may establish rules and regulations for the conduct of hearings, if such are consistent with this section and state law.
- (4) *Decisions and orders.*
- a. After all evidence has been presented at the hearing, the council shall determine whether the building or structure complies with the requirements of this section. If more than one (1) building is located on a property and is the subject of the hearing, the council shall make a separate determination for each building.
 - b. If the building or structure is in substandard condition because it does not comply with the provisions of this section, the council may order that the building be vacated, secured, repaired, removed, or demolished, and shall specify a reasonable time for the owner to do so.
 - c. If necessary to protect the health, safety and welfare of the building's occupants, the council shall order the building vacated. If the condition of the building is due to neglect or to intentional or negligent acts by the owner, the council shall order the owner to relocate the occupants at reasonable expense and in a reasonable manner. The council shall specify a reasonable period of time for the completion of the relocation.
 - d. The council shall also order an additional reasonable period of time for all mortgagees or lienholders to comply with the order should the owner fail to comply with the order within the time provided for action by the owner.
 - e. The council shall also order a civil penalty that the Town may assess if the owner fails to repair, remove or demolish the building in accordance with the council's order. Such penalty shall not exceed the amount of one thousand dollars (\$1,000.00) per day that the building is out of compliance with the order.
 - f. A reasonable period of time to comply with an order of the council is within thirty (30) days from the date of an order:
 1. To secure the building from unauthorized entry, or
 2. To repair, remove or demolish the building, unless the owner or lienholder or mortgagee establishes at the hearing that the work cannot reasonably be performed within thirty (30) days.

- g. If the council finds that the work cannot reasonably be performed within thirty (30) days to repair, remove or demolish the building, the council shall order specific time schedules for the commencement and performance of the work and shall order the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.
- h. The council shall not order the owner, lienholder, or mortgagee more than ninety (90) days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:
 - 1. Submits a detailed plan and time schedule for the work at the hearing; and
 - 2. The council finds that the work cannot reasonably be completed within ninety (90) days because of the scope and complexity of the work.
- i. If the council orders that the owner, lienholder or mortgagee complete any part of the work required to repair, remove or demolish the building within a time period that is more than ninety (90) days, the council shall order that the owner, lienholder or mortgagee regularly submit progress reports to the building official and appear before the council or the council's designee to prove compliance with the time schedule.
- j. If the council orders that the owner, lienholder or mortgagee complete any part of the work required to repair, remove or demolish the building within a time period that is more than ninety (90) days and the landowner, lienholder or mortgagee owns property, including structures or improvements on property, within the Town that exceeds one hundred thousand dollars (\$100,000.00) in total value, the council may order that the owner, lienholder or mortgagee post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under section 4-5.

(b) Contents of order.

- (1) An order issued by the council shall be in writing, set forth the decisions of the council made pursuant to subsection (a)(4), and inform the property owner or lienholder of the right to appeal the council's decision.
- (2) An order to repair shall set forth those items that need to be repaired.

(3) An order to vacate shall require the building official to post notice to vacate at or upon each entrance and exit of the building or structure in substantially the form described by section (a)(4).

(4) An order shall also contain the following statement:

“It is further ORDERED that if the owner fails to comply with any part of this order by the specified dates, and if any of the mortgagees or lienholders fail to comply with the order in the owner’s stead and by the specified dates, the Town is hereby authorized at its discretion to vacate, secure, repair, remove and/or demolish the building(s) at its own expense. Alternatively, the Town is authorized to assess a civil penalty on the owner in the amount of \$1,000 per day for each day that the building continues to be in violation of this order. Such costs or penalty shall accrue interest at a rate of ten percent (10%) per annum. The Town shall have all remedies provided by law to recover such costs, penalties and interest, and shall be entitled to place a lien on the property unless it is a homestead protected by the Texas Constitution.

THE OWNER OR LIENHOLDER HAS THE RIGHT TO APPEAL THE TOWN COUNCIL’S DECISION TO THE DISTRICT COURT WITHIN 30 DAYS OF THE MAILING OF THIS ORDER.”

(5) A copy of the order shall be sent promptly after the hearing by certified mail with return receipt requested or by the United States Postal Service using signature confirmation service to the owner of the building and to any lienholder or mortgagee of the building. If a notice is mailed according to this subsection and the United States Postal Service returns the notice as “refused” or “unclaimed”, the validity of the notice is not affected, and the notice shall be deemed as delivered.

(6) Within ten (10) days after the date the order is issued:

- a. A copy of the order shall be filed in the office of the Town secretary; and
- b. A notice shall be published in a newspaper of general circulation in the Town, said notice containing:
 - 1. The street address or legal description of the property;
 - 2. The date of the hearing;
 - 3. A brief statement indicating the results of the order; and
 - 4. Instructions stating where a complete copy of the order may be obtained.

(c) Failure to comply with order.

(1) If the owner of a building declared substandard fails to comply with an order of the council within the allotted time, the building official shall cause a copy of the council’s order to be sent by certified mail return receipt requested to each lienholder and mortgagee as was determined pursuant to

subsection 3-2(a). This shall constitute notice to the lienholders and mortgagees that the owner has failed to comply with the order.

- (2) If the lienholders and mortgagees fail to comply with the order within the time allotted to them by the council, the building official may:
 - a. Vacate, secure, repair, remove and/or demolish the building at the Town's expense; or
 - b. Assess a civil penalty against the owner of the building, as provided by the council, for failure to comply with the order.
- (3) The building official is authorized to repair a building only to the extent necessary to bring the building into compliance with minimum standards, and only if the building is a residential building with ten (10) or fewer units.
- (4) The building official is authorized, if the order requires demolition, to cause the building to be sold and demolished, or to be demolished and the materials, rubble and debris removed and the lot cleaned. Any such demolition work shall be accomplished, and the cost thereof paid and recovered in the manner provided in section 4-5. Any surplus realized from the sale of any such building or from the demolition thereof over and above the cost of demolition and of cleaning the lot shall be paid to the person or persons lawfully entitled thereto.
- (5) The building official is further authorized to ask the Town attorney to bring suit against the owner in a Waller County district court to request that a receiver be appointed to rehabilitate the property.

Sec. 3-4. Additional authority to secure substandard buildings.

- (a) *Authority to secure building.* The building official may secure or cause to be secured a building at the Town's expense if the building official determines:
 - (1) That the building or structure violates the minimum standards for the use and occupancy of buildings in the Town regardless of the date of their construction, and
 - (2) That the building or structure is unoccupied or is occupied only by persons who do not have a right of possession to the building.
- (b) *Issuance of notice.* Before the eleventh day after the date the building is secured pursuant to subsection 3-4(a), the building official will give notice to the owner that the building has been secured. The building official may also give notice to each mortgagee and lienholder, and to any unknown owners, in the same manner as described by subsection 3-2(a).
- (c) *Contents of notice.* The notice under this section shall contain:
 - (1) An identification of the building and the property on which it is located; and

- (2) A description of the violation of the ordinance that is present at the building; and
 - (3) A statement that the Town has secured the building; and
 - (4) A statement explaining the owner's right to request a hearing about any matter relating to the Town's securing of the building.
- (d) *Service of notice.* Notice regarding the securing of the building shall be given by either:
- (1) Personally serving the owner with written notice; or
 - (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address; or
 - (3) If personal service cannot be obtained and the owner's post office address is unknown:
 - a. Publishing the notice at least twice within a ten-day period in the official newspaper of the Town; or
 - b. Posting the notice on or near the front door of the building.
- (e) *Hearing.* If, within thirty (30) days after the date a building is secured pursuant to subsection 3-4(a), the owner files with the building official a written request for a hearing, the building official will schedule a hearing before the council to determine whether the actions of the building official to secure the building are upheld, modified or reversed in the same manner as provided by section 3-3. At the hearing the owner may testify or present witnesses or written information about any matter relating to the Town's securing of the building.
- (f) *Scheduling of hearing.* The council will conduct the hearing within twenty (20) days after the date the request is filed.
- (g) *Notice of hearing.* Notice of the hearing shall be provided to the requestor by personal service or certified mail, return receipt requested, before the tenth day before the hearing, in the same manner as provided in subsection 3-2(b).
- (h) *Procedure after hearing.* After the hearing before the council, or after the expiration of the time allowed for the owner to request a hearing and no hearing has been requested, the building official will mail by certified mail with return receipt requested or through the United States Postal Service using signature confirmation service a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. Within ten (10) days after the date the order from the council is issued, the building official will:
- (1) File a copy of the order in the office of the Town secretary; and
 - (2) Publish in the Town's official newspaper a notice containing:
 - a. The street address or legal description of the property;

- b. The date of the hearing;
 - c. A brief statement indicating the results of the hearing or order; and
 - d. Instructions stating where a complete copy of the order may be obtained.
- (i) *Liens and collection of expenses.* If the Town incurs expenses under section 3-4, the Town may assess the expenses on and place a lien against the land on which the building is located, in the same manner as provided by sections 4-1, 4-2 and 4-5.

Sec. 3-5. Appeal.

- (a) The owner, lienholder, or mortgagee of a building or structure the council orders vacated, secured, repaired, removed, and/or demolished is entitled to the right to appeal the council's decision to a district court, provided that the notice of appeal must be filed with the district court within thirty (30) calendar days from the date the order is mailed to the owner, lienholder or mortgagee.
- (b) Under no circumstances may the building official or any other Town official take action to remove or demolish a structure or building prior to the expiration of the thirty-day appellate period provided above, nor while any legal proceedings relating to the building or structure of any nature are pending in district or appellate court.

DIVISION 4. ENFORCEMENT

Sec. 4-1. Liens.

- (a) If the Town assesses a civil penalty pursuant to subsection 3-3(c)(2)(b), or if the Town incurs expenses under subsections 3-3(c)(2)(a) or (c)(3), or under section 3-4, the Town may assess the expenses or penalty on and place a lien against the land on which the building was located, unless the land is a homestead protected by the Texas Constitution.
- (b) A lien imposed pursuant to this section is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens.
- (c) The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the official public records of real property in Waller County, specifically in the office of the county clerk for Waller County. The notice shall contain the name and address of the owner if that information can be determined; a legal description of the land on which the building was located; the amount of expenses incurred by the Town or the civil penalty and the balance due.
- (d) A lien is extinguished when the property owner or other person with an interest in the legal title to the land pays the Town the balance due in full.

Sec. 4-2. Notice and collection of penalty and expenses.

- (a) If the Town incurs expenses under subsections 3-3(c)(2)(a) or (c)(3), or under section 3-4, the building official shall cause a statement to be sent to the owner, setting forth the amount of the expenses and the interest accrued to date. The building official shall thereafter cause an annual statement to be sent to the owner until the expenses and interest are paid in full.
- (b) If the Town assesses a civil penalty pursuant to subsection 3-3(c)(2)(b), the building official shall cause a notice to be sent to the owner that the Town has begun assessing the penalty provided by the order. Thereafter, the building official shall cause a monthly statement to be sent to the owner, setting forth the amount of the accrued penalty and interest, until the penalty and interest is paid in full.
- (c) A civil penalty or assessment for expenses shall accrue interest at the rate of ten (10) percent per annum from the date of assessment until paid in full.
- (d) The Town shall be entitled to all remedies provided by law for the collection of debt in order to recover penalty, expenses and interest. However, the Town shall not foreclose a lien for repair expenses if the property on which the repairs were made is occupied as a residential homestead by a person sixty-five (65) years of age or older.

Sec. 4-3. Notice to vacate; violations.

- (a) [*Notice.*] Every notice to vacate shall be posted at or upon each entrance and exit of the building and shall be in substantially the following form:

SUBSTANDARD BUILDING
DO NOT OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
Town of Pine Island

The notice to vacate shall specify the conditions which necessitate the posting and recite the emergency or shall identify the order to vacate and state where a complete copy of the order may be obtained.

- (b) *Compliance; violations.* No person shall remain in or enter any building which has been posted, except that entry may be made to repair, remove, demolish or secure such building under permit. No person shall remove or deface any such notice after it is posted until the required work has been completed and a certificate of occupancy is issued pursuant to the provisions of the building code. Any person violating this subsection shall be guilty of a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000.00).

Sec. 4-4. Criminal enforcement.

- (a) An owner who fails to comply with an order of the board shall be guilty of a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000.00).
- (b) Each day that a violation continues shall constitute a separate offense.
- (c) A criminal prosecution shall be in addition to any civil remedies to which the Town is entitled. The remedies provided by this section shall be in addition to the remedies provided by this chapter or any other applicable ordinance or statute.
- (d) No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the Town or with any person who owns or holds an estate or interest in any building or structure which has been ordered repaired, removed, secured, vacated or demolished under the provisions of this Ordinance, or with any person to whom such building has been lawfully sold, whenever such officer, employee, contractor or authorized representative of the Town, person having an interest or estate in such building or structure, or purchaser is engaged in the work as ordered or in performing any necessary act preliminary to or incidental to such work. A person who obstructs, impedes or interferes with an order of the board shall be guilty of a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000.00).

Sec. 4-5. Performance of work and recovery of cost.

(a) *General.*

- (1) *Procedure.* When any work to repair, remove, secure, vacate, or demolish is to be done pursuant to this ordinance, the building official shall cause the work to be accomplished by Town personnel or by private contract under the direction of the building official, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary.
- (2) *Costs.* The cost of such work shall be paid from the remediation fund, and may be made a special assessment against the property involved.

(b) *Remediation fund.*

- (1) The Town council shall establish a special revolving fund to be designated as the remediation fund. Payments shall be made out of said fund upon the order of the building official, with the concurrence of the Town manager, to defray the costs and expenses incurred by the Town in doing or causing to be done the necessary remediation of substandard buildings and structures. The Town council may appropriate such sums as it may deem necessary in order to expedite the remediation, and any sum so appropriated shall be deemed a loan to the remediation fund and shall be repaid out of the proceeds of the collections hereinafter provided for.

- (2) The building official shall keep an itemized account of the expenses incurred by the Town in the remediation of any building pursuant to the provisions hereof, and upon the completion of the work, the building official shall cause to be prepared and filed with the Town secretary a report specifying the work done, the itemized and total cost thereof, a description of the real property upon which the building or structure is or was located and the names and addresses of the persons entitled to notice pursuant to section 4-2 hereof.
- (3) The Town council may thereupon order that said costs, including administrative costs, be made a personal obligation of the feeholder and/or assess said charge against the property involved under the applicable provisions of the Constitution and laws of the United States, the State of Texas.
- (4) If the Town council orders that the charge shall be a personal obligation of the fee holder, it shall request the Town attorney to collect the same on behalf of the Town by use of all appropriate legal remedies; if the Town council orders that the charge shall be assessed against the property under the applicable provisions of the Constitution and laws of the United States, the State of Texas, it shall confirm the assessment and cause the same to be recorded in the real property records of Waller County, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

Sec. 4-6. Discontinuation.

After any premises have been ordered repaired or demolished under section 3-3 hereof, the building official shall regularly reinspect same. If at any time the building on such premises is no longer substandard to the extent that the life, land, health, property, safety, or welfare of the public or the occupants thereof is endangered, the building official shall immediately withdraw his prior order and issue a certificate reflecting such action to the feeholder of such property.

Sec. 4-7. Change in fee holder.

- (a) A change in fee holders of any property upon which proceedings are pending under the article shall not affect the validity of such proceedings if either:
 - (1) The new fee holder has been a party served with notice at each stage of the proceedings; or
 - (2) The new fee holder has been given notice as required by section 3-2 hereof.
- (b) It shall be presumed that the new fee holder has been given notice under section 3-2 hereof, as required by law. If, however, the new fee holder shows that he has not been so served, all pending proceedings under this section are invalid and must be recommenced. A change in fee holders made for the purpose of delaying or avoiding proceedings under this section shall not affect the validity of such proceedings.”

DIVISION 5. STANDARDS

Sec. 5-1. Rooms.

- (a) *Ceiling heights.* Habitable rooms, storage rooms, and laundry rooms shall have a ceiling height of not less than seven feet six inches (7'6"). Kitchens, hallways, corridors, bathrooms and toilet rooms shall have a ceiling height of not less than seven (7) feet measured to the lowest projection from the ceiling. If any room in a building has a sloped ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring less than five (5) feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof. If any room has a furred ceiling, the prescribed ceiling height is required in two-thirds the area thereof, but in no case shall the height of the furred ceiling be less than seven (7) feet.
- (b) *Floor area.* Every dwelling unit shall have at least one (1) room which shall have not less than one hundred twenty (120) square feet of floor area. Every room which is used for both cooking and living or both living and sleeping purposes shall have not less than one hundred fifty (150) square feet of floor area. Every room used for sleeping purposes shall have not less than seventy (70) square feet of floor area. When more than two (2) persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2).

Exception: Nothing in this subsection shall prohibit the use of an efficiency living unit meeting the following requirements:

- (1) The unit shall have a living room of not less than two hundred twenty (220) square feet of floor area. An additional one hundred (100) square feet of floor area shall be provided for each occupant of such unit in excess of two (2).
 - (2) The unit shall be provided with a separate closet.
 - (3) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than thirty (30) inches in front. Light and ventilation conforming to this section shall be provided.
 - (4) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
- (c) *Width.* No habitable room shall be less than seven (7) feet in any dimension and no water closet space less than thirty (30) inches in width, and a clear space shall be provided in front of the water closet of not less than twenty-four (24) inches. No heating appliance shall be installed, reinstalled, or permitted to exist nearer than twenty-four (24) inches from any water closet, bathtub, or shower located in the same space.

Sec. 5-2. Light and ventilation.

- (a) *Windows.* All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural light by means of windows and sky lights with an area of not less than one-tenth of the floor area of such rooms with a minimum of twelve (12) square feet.

All bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of windows or sky lights with an area of not less than one-tenth of the floor area of such rooms with a minimum of three (3) square feet.

Not less than one-half of the required window or sky light area shall be capable of being opened to provide ventilation.

Required windows shall open directly onto a street or public alley or a yard or court located in the same lot as the building.

Exceptions:

- (1) Required windows may open onto a roofed porch where the porch:
 - a. Abuts a street, yard or court;
 - b. Has a ceiling height of not less than seven (7) feet; and
 - c. Has the longer side at least sixty-five (65) percent open and unobstructed.
- (2) A required window in a service room may open onto a vent shaft which is open and unobstructed to the sky and not less than four (4) feet in smallest dimension. No vent shaft shall extend through more than two (2) stories.

For the purpose of determining light and ventilation requirements, any room may be considered as a portion of an adjoining room when one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or twenty-five (25) square feet, whichever is greater.

- (b) *Mechanical ventilation.* An approved system of mechanical ventilation or air conditioning may be used in lieu of windows capable of being opened. Such system shall be capable of providing two (2) air changes per hour in all guest rooms, dormitories, habitable rooms and public corridors. One-fifth of the air supply shall be taken from the outside. In bathrooms, water closet compartments, laundry rooms and similar rooms, a mechanical ventilation system connected directly to the outside, capable of providing five (5) air changes per hour, shall be provided.

- (c) *Vent shaft.* A required window in a service room may open into a vent shaft which is open and unobstructed to the sky and not less than four (4) feet in least dimension. No vent shaft shall extend through more than two (2) stories.
- (d) *Hallways.* All public hallways, stairs, and other exit ways shall be adequately lighted at all times in accordance with the building code.
- (e) *Screens.* In any dwelling unit all openings capable of being used for ventilation shall be fitted with screening and frames which are tight fitting and free from breaches. It shall be a defense to any criminal prosecution that such dwelling unit was equipped with mechanical ventilation satisfying this section, as amended.

Sec. 5-3. Sanitation.

- (a) *Dwelling units.* Every dwelling unit shall be provided with a water closet, a lavatory and a bathtub or shower.
- (b) *Hotels and roominghouses.* Where private water closets, lavatories and baths are not provided, there shall be provided on each floor for each sex at least one (1) water closet and lavatory and one (1) bath accessible from a public hallway at the rate of one (1) for every ten (10) guests, or fractional equivalent thereof in excess of ten (10). Such facilities shall be clearly marked for “Men” and “Women.”
- (c) *Kitchen.* Every dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. No wooden sink or sink of similarly absorbent material shall be permitted.
- (d) *Fixtures.* All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water, except water closets shall be provided with cold water only. All plumbing fixtures shall be of an approved type.
- (e) *Bathrooms.* Walls and floors of water closet compartments and bathrooms except in dwellings shall be finished in accordance with the building code.
- (f) *Room separations.* Every water closet, bathtub or shower required by this section shall be installed in a room which will afford privacy to the occupant. A room in which a water closet is located shall be separated from food preparation or storage rooms by a well-fitted door.
- (g) *Installation and maintenance.* All sanitary facilities shall be installed and maintained in a safe and sanitary condition and in accordance with all applicable laws.

Sec. 5-4. Structural requirements.

- (a) *General structural elements.* Buildings or structures may be of any type or construction permitted by the building code, as amended. Roofs, floors, walls, foundations and all other structural components of buildings shall be capable of resisting any and all forces and loads for which they are designed. All structural elements shall be proportioned and joined in accordance with the stress limitations and design criteria as specified in the appropriate sections of the building code, as amended. Buildings of every permitted type of construction shall comply with the applicable requirements of the building code, as amended.
- (b) *Shelter.* Every building shall be weather-protected so as to provide shelter for the occupants against the elements and to exclude excessive dampness.
- (c) *Protection of materials.* All wood shall be protected against termite damage and decay as provided in the building code.

Sec. 5-5. Heating, electricity, etc.

- (a) *Heating.* Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining room temperature of seventy (70) degrees Fahrenheit at a point three (3) feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition and in accordance with the building code, as amended, the mechanical code, as amended, and all other applicable laws. No unapproved fuel-burning heater shall be permitted. All heating devices or appliances shall be of an approved type.
- (b) *Electrical equipment.* All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type.

Where there is electrical power available within three hundred (300) feet of the premises of any building, such building shall be connected to such electrical power. In every existing residence, each room shall have a minimum of one (1) duplex receptacle for each twenty (20) linear feet measured around the wall space of the room. The linear measurement shall not include doors and windows that reach to the floor. Every habitable room, water closet compartment, bathroom, laundry room, furnace room and hallway, except living room, shall contain at least one (1) supplied electric light fixture. In additions or extensions to existing buildings, the number and location of receptacle shall comply with the National Electrical Code.

- (c) *Ventilation.* Ventilation for rooms and areas and for fuel-burning appliances shall be provided as required in the building code, as amended, the mechanical code, and in this section. Where mechanical ventilation is provided in lieu of the natural ventilation system, it shall be maintained in an operable condition during the occupancy of any building or portion thereof.

Sec. 5-6. Exits.

- (a) Every dwelling unit or guest room shall have access directly to the outside or to a public corridor. All buildings or portions thereof shall be provided with exits, exitways and appurtenances as required by the building code, as amended.
- (b) Every sleeping room below the fourth floor shall have at least one (1) window or exterior door approved for emergency exit or rescue. Where windows are provided, they shall have a sill height not more than forty-eight (48) inches above the floor.
- (c) Windows with an area of not less than five (5) square feet with no dimension less than twenty-two (22) inches shall be deemed to meet the requirements of this section.

Sec. 5-7. Fire protection.

All buildings or portions thereof shall be provided with the degree of fire-resistive construction as required by the building code for the appropriate occupancy, type of construction and location on property or in fire zone and shall be provided with the appropriate fire-extinguishing systems or equipment required by the building code and the fire code.

DIVISION 6. DEFECTIVE CONDITIONS

Sec. 6-1. Generally.

The following are defective conditions in buildings or structures:

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;
- (2) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1½) times the working stress or stresses allowed in the building code, as amended, for new buildings of similar structure, purpose of location;
- (3) Whenever any portion of any building or structure has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such occurrence and is less than the minimum requirements of the building code, as amended, for new buildings of similar structure, purpose or location;
- (4) Whenever any portion or member or appurtenance thereof is likely to fail, to become detached or dislodged or to collapse, thereby injuring persons or damaging property;
- (5) Whenever any portion of a building or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of the specified in the building code for new buildings of similar structure,

purpose or location without exceeding the working stresses permitted in the building code for such buildings;

- (6) Whenever any portion thereof has wracked, warped, buckled, twisted or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;
- (7) Whenever the building or structure or any portion thereof, because of:
 - a. Dilapidation, deterioration or decay;
 - b. Faulty construction;
 - c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - d. The deterioration, decay or inadequacy of its foundation; or
 - e. Any other cause, is likely to collapse partially or completely.
- (8) Whenever for any reason the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used;
- (9) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;
- (10) Whenever a supporting member, other than columns, of a building or structure is thirty-three (33) percent or more damaged or deteriorated or there is fifty (50) percent damage to or deterioration of its nonsupporting member, or a column is ten (10) percent or more damaged or deteriorated;
- (11) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance;
- (12) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure as provided by the building regulations of this Town as specified in the building code, as amended, or in violation of any law of this state or ordinance of this Town relating to the condition, location or structure of buildings;
- (13) Whenever any building, structure or any member or portion thereof does not have the fire-resistant qualities and characteristics required by law in the case of a newly constructed building of like size, height and occupancy in the same location;
- (14) Whenever a building or structure, because of inadequate light, air, sanitation facilities or otherwise, is determined by the code enforcement official to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease;

- (15) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistant construction, faulty electric wiring, gas connections or heating apparatus or other cause, is determined by the fire chief, fire marshal, or designee to be a fire hazard;
- (16) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence;
- (17) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure, or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public; and
- (18) Whenever any portion of a building or structure has been so damaged by flood that the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Sec. 6-2. Structural hazards.

The following are structural hazards in buildings and structures:

- (1) Deteriorated or inadequate foundations;
- (2) Defective or deteriorated flooring or floor supports;
- (3) Flooring or floor supports of insufficient size to carry imposed loads with safety;
- (4) Members of walls, partitions or other vertical supports that are split or that lean, list or buckle due to defective material or deterioration;
- (5) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety;
- (6) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
- (7) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety;
- (8) Fireplaces or chimneys which list, bulge, lean or settle due to defective material or deterioration; and
- (9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

Sec. 6-3. Inadequate sanitation.

The following are conditions of inadequate sanitation in buildings and structures:

- (1) Lack of improper water closet, lavatory, bathtub or shower in a dwelling unit;
- (2) Lack of or improper water closets, lavatories, bathtubs or showers per number of guests in a hotel;
- (3) Lack of or improper kitchen sink;
- (4) Lack of hot and cold running water to plumbing fixtures in hotel;
- (5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit;
- (6) Lack of adequate heating facilities;
- (7) Lack of or improper operation of required ventilation equipment;
- (8) Lack of minimum amounts of natural light or ventilation required by this section;
- (9) Room and space dimensions less than required by this section;
- (10) Lack of required electrical lighting;
- (11) Excessive dampness of habitable rooms;
- (12) Infestation by insects, vermin or rodents;
- (13) General dilapidation or improper maintenance;
- (14) Lack of connection to required sewage disposal system; and
- (15) Lack of adequate solid waste, garbage and rubbish storage.

Sec. 6-4. Hazardous wiring.

All wiring except that which conformed to applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

Sec. 6-5. Hazardous plumbing.

All plumbing except that which has been maintained in good condition and which is free of cross connections and siphoning between fixtures, and S-traps or other improperly vented traps.

Sec. 6-6. Hazardous mechanical equipment.

All mechanical equipment, including vents, except that which has been maintained in a good and safe condition.

Sec. 6-7. Faulty weather protection.

Faulty weather protection is:

- (1) Deteriorated, crumbling or loose plaster;
- (2) Deteriorated, missing, or ineffective waterproofing of exterior walls, roof, foundation or floors, including broken windows or doors;
- (3) Defective or lack of weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other necessary protective covering; and
- (4) Broken, rotted, missing, split or buckled exterior wall covering or roof covering.

Sec. 6-8. Hazardous or unsanitary premises.

Premises (including any portion of the lot on which a structure is located) on which any accumulation of weeds, vegetation, junk, organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, or similar materials or conditions exist are deemed to be hazardous or unsanitary.

Sec. 6-9. Inadequate maintenance.

Any building or portion thereof which is an unsafe building under the building code, as amended, is deemed to be evidence of inadequate maintenance.

Sec. 7-176. Inadequate exits.

All buildings or portions thereof not provided with adequate exit facilities as required by this section except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy. When an unsafe condition exists through lack of or improper location of exits, additional exits may be required to be installed.

Sec. 6-10. Inadequate firefighting equipment.

All buildings or portions thereof which are not provided with fire extinguishing systems or equipment required by this section, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire extinguishing systems or equipment has been adequately maintained and improved in relation to any increased in occupancy load, alteration or addition, or any change in occupancy.

Sec. 6-11. Improper occupancy.

All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies.

Sec. 6-12. Commencement of public hearing.

- (a) Whenever the building official has inspected any premises and has found the existence of a substandard condition, he shall schedule a public hearing before the Town council to determine whether the building or structure complies with the standards set out in this section.

- (b) Prior to the public hearing, the building official shall prepare and submit a report for the Town council's review, therein describing:
 - (1) the facts and circumstances that lead the building official to investigate the subject premises and building or structure;
 - (2) the specific defective condition(s), as provided under section 6-1, of the building or structure;
 - (3) the building official's recommendation as to whether the building or structure should be vacated, secured, repaired, removed, and/or demolished; and
 - (4) any other information the Town council directs the building official to include in the report.

Sec. 6-13. Notice.

- (a) Issuance of notice.
 - (1) The building official shall issue a notice of hearing to each owner of the building and to each mortgagee and lienholder of the building and of the property on which it is located, as known and shown by the Town and as shown by search of the following records:
 - a. Official public records of real property in Waller County, specifically in the Waller County clerk's office;
 - b. Appraisal district records for the appraisal district in which the building is located;
 - c. Records of the Texas Secretary of State;
 - d. Assumed name records for Waller County;
 - e. Tax records of the Town; and
 - f. Utility records for the Town.
 - (2) The building official shall issue notice of hearing to all unknown owners, if any, by posting the notice as described in subsection 3-2(c).
- (b) Contents of notice. Notice of the hearing described under section 3-1 of this section shall contain the following:
 - (1) The street address, if any, or other description sufficient for identification of the premises upon which the building is located.
 - (2) A statement that the building official has found the building to be substandard, with a general description of the conditions found to render the building substandard and a copy of the report to be provided to the Town council under subsection 3-1(b).
 - (3) A statement that the Town will vacate, secure, remove or demolish the

building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

- (4) A statement specifying the date, time and place of the hearing; and
 - (5) A statement that the owner will be afforded an opportunity to comment at the hearing and will be required to submit at the hearing proof of the scope of any work that may be required to comply with the minimum standards set out in this section and the time it will take to reasonably perform the work.
- (c) Service of notice.
- (1) Notice of the hearing shall be given by certified mail with return receipt requested, delivered by the United States Postal Service using signature confirmation service, or by personal service. If the address of any person entitled to notice cannot be ascertained, or if service cannot be made by mail or in person after a reasonable attempt, and for all unknown owners, service shall be made by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.
 - (2) The notice shall be mailed and/or posted before the tenth day before the date of the hearing. Service by certified mail shall be effective on the date of mailing.
 - (3) Proof of personal service shall be certified at the time of service by a written declaration executed by the person effecting service, declaring the date, time and manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail, shall be affixed to the copy of the notice retained by the building official.
 - (4) Notice of the hearing may be filed in the official public records of real property in Waller County, specifically in the Waller County clerk's office. The notice shall contain:
 - a. The name and address of the owner of the affected property if that information can be determined.
 - b. A legal description of the affected property; and
 - c. A description of the hearing.

The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

Sec. 6-14. Hearing.

- (a) Conduct of hearing. This section applies to all public hearings before the council to determine whether a building or structure complies with the requirements of this section.
- (1) Failure to appear. If the owner of the building fails to appear at the hearing after being duly served, the council shall conduct the hearing as if the owner personally appeared.
 - (2) Quorum. A majority of the members of the council shall constitute a quorum for the purposes of holding a hearing, and an affirmative vote by three (3) members of the council shall be required for the rendering of decisions or the issuance of orders authorized under this section.
 - (3) Procedure. The council may establish rules and regulations for the conduct of hearings, if such are consistent with this section and state law.
 - (4) Decisions and orders.
 - a. After all evidence has been presented at the hearing, the council shall determine whether the building or structure complies with the requirements of this section. If more than one (1) building is located on a property and is the subject of the hearing, the council shall make a separate determination for each building.
 - b. If the building or structure is in substandard condition because it does not comply with the provisions of this section, the council may order that the building be vacated, secured, repaired, removed, or demolished, and shall specify a reasonable time for the owner to do so.
 - c. If necessary to protect the health, safety and welfare of the building's occupants, the council shall order the building vacated. If the condition of the building is due to neglect or to intentional or negligent acts by the owner, the council shall order the owner to relocate the occupants at reasonable expense and in a reasonable manner. The council shall specify a reasonable period of time for the completion of the relocation.
 - d. The council shall also order an additional reasonable period of time for all mortgagees or lienholders to comply with the order should the owner fail to comply with the order within the time provided for action by the owner.
 - e. The council shall also order a civil penalty that the Town may assess if the owner fails to repair, remove or demolish the building in accordance with the council's order. Such penalty shall not exceed the amount of one thousand dollars (\$1,000.00) per day that the building is out of compliance with the order.

- f. A reasonable period of time to comply with an order of the council is within thirty (30) days from the date of an order:
 - 1. To secure the building from unauthorized entry, or
 - 2. To repair, remove or demolish the building, unless the owner or lienholder or mortgagee establishes at the hearing that the work cannot reasonably be performed within thirty (30) days.
- g. If the council finds that the work cannot reasonably be performed within thirty (30) days to repair, remove or demolish the building, the council shall order specific time schedules for the commencement and performance of the work and shall order the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.
- h. The council shall not order the owner, lienholder, or mortgagee more than ninety (90) days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:
 - 1. Submits a detailed plan and time schedule for the work at the hearing; and
 - 2. The council finds that the work cannot reasonably be completed within ninety (90) days because of the scope and complexity of the work.
- i. If the council orders that the owner, lienholder or mortgagee complete any part of the work required to repair, remove or demolish the building within a time period that is more than ninety (90) days, the council shall order that the owner, lienholder or mortgagee regularly submit progress reports to the building official and appear before the council or the council's designee to prove compliance with the time schedule.
- j. If the council orders that the owner, lienholder or mortgagee complete any part of the work required to repair, remove or demolish the building within a time period that is more than ninety (90) days and the landowner, lienholder or mortgagee owns property, including structures or improvements on property, within the Town that exceeds one hundred thousand dollars (\$100,000.00) in total value, the council may order that the owner, lienholder or mortgagee post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under section 4-5.

(b) Contents of order.

- (1) An order issued by the council shall be in writing, set forth the decisions of the council made pursuant to subsection 3-3(a)(4), and inform the property owner or lienholder of the right to appeal the council's decision.
- (2) An order to repair shall set forth those items that need to be repaired.
- (3) An order to vacate shall require the building official to post notice to vacate at or upon each entrance and exit of the building or structure in substantially the form described by section 3-3(a)(4).
- (4) An order shall also contain the following statement:

“It is further ORDERED that if the owner fails to comply with any part of this order by the specified dates, and if any of the mortgagees or lienholders fail to comply with the order in the owner's stead and by the specified dates, the Town is hereby authorized at its discretion to vacate, secure, repair, remove and/or demolish the building(s) at its own expense. Alternatively, the Town is authorized to assess a civil penalty on the owner in the amount of \$1,000 per day for each day that the building continues to be in violation of this order. Such costs or penalty shall accrue interest at a rate of ten percent (10%) per annum. The Town shall have all remedies provided by law to recover such costs, penalties and interest, and shall be entitled to place a lien on the property unless it is a homestead protected by the Texas Constitution.

THE OWNER OR LIENHOLDER HAS THE RIGHT TO APPEAL THE TOWN COUNCIL'S DECISION TO THE DISTRICT COURT WITHIN 30 DAYS OF THE MAILING OF THIS ORDER.

- (5) A copy of the order shall be sent promptly after the hearing by certified mail with return receipt requested or by the United States Postal Service using signature confirmation service to the owner of the building and to any lienholder or mortgagee of the building. If a notice is mailed according to this subsection and the United States Postal Service returns the notice as “refused” or “unclaimed”, the validity of the notice is not affected, and the notice shall be deemed as delivered.
- (6) Within ten (10) days after the date the order is issued:
 - a. A copy of the order shall be filed in the office of the Town secretary; and,
 - b. A notice shall be published in a newspaper of general circulation in the Town, said notice containing:
 1. The street address or legal description of the property;
 2. The date of the hearing;
 3. A brief statement indicating the results of the order; and

4. Instructions stating where a complete copy of the order may be obtained.

(c) Failure to comply with order.

- (1) If the owner of a building declared substandard fails to comply with an order of the council within the allotted time, the building official shall cause a copy of the council's order to be sent by certified mail return receipt requested to each lienholder and mortgagee as was determined pursuant to subsection 3-2(a). This shall constitute notice to the lienholders and mortgagees that the owner has failed to comply with the order.
- (2) If the lienholders and mortgagees fail to comply with the order within the time allotted to them by the council, the building official may:
 - a. Vacate, secure, repair, remove and/or demolish the building at the Town's expense; or
 - b. Assess a civil penalty against the owner of the building, as provided by the council, for failure to comply with the order.
- (3) The building official is authorized to repair a building only to the extent necessary to bring the building into compliance with minimum standards, and only if the building is a residential building with ten (10) or fewer units.
- (4) The building official is authorized, if the order requires demolition, to cause the building to be sold and demolished, or to be demolished and the materials, rubble and debris removed and the lot cleaned. Any such demolition work shall be accomplished, and the cost thereof paid and recovered in the manner provided in section 4-5 of this section. Any surplus realized from the sale of any such building or from the demolition thereof over and above the cost of demolition and of cleaning the lot shall be paid to the person or persons lawfully entitled thereto.
- (5) The building official is further authorized to ask the Town attorney to bring suit against the owner in a Waller County district court to request that a receiver be appointed to rehabilitate the property.

Sec. 6-15. Appeal.

- (a) The owner, lienholder, or mortgagee of a building or structure the council orders vacated, secured, repaired, removed, and/or demolished is entitled to the right to appeal the council's decision to a district court, provided that the notice of appeal must be filed with the district court within thirty (30) calendar days from the date the order is mailed to the owner, lienholder or mortgagee.
- (b) Under no circumstances may the building official or any other Town official take action to remove or demolish a structure or building prior to the expiration of the

30-day appellate period provided above, nor while any legal proceedings relating to the building or structure of any nature are pending in district or appellate court.