

CITY ADOPTS SUB-STANDARD BUILDING ORDINANCE**ORDINANCE NO. 06-09**

AN ORDINANCE EMPOWERING THE GOVERNING BODY OF THE CITY OF BRIDGE CITY, STATE OF TEXAS, TO CAUSE THE REPAIR OR REMOVAL OF SUBSTANDARD BUILDINGS OR HAZARDOUS STRUCTURES WITHIN SAID CITY; PRESCRIBING A PROCEDURE FOR THE COMPLETION OF SUCH REPAIR OR REMOVAL; PROVIDING FOR A HEARING THEREON AND FOR A NOTICE THEREOF; AUTHORIZING THE CITY TO COMPLETE SUCH REMOVAL IN CERTAIN INSTANCES AND RECOVERY OF THE COST THEREOF; PROVIDING FOR THE IMMEDIATE REMOVAL WITHOUT PRIOR NOTICE OR HEARING OF STRUCTURES WHICH CONSTITUTES AN IMMEDIATE HAZARD; PROVIDING PENALTIES FOR VIOLATION OF THE ORDINANCE NOT TO EXCEED \$500.00; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR ENFORCEMENT; AND REPEALING ORDINANCE NO. 93-13 OF THE CITY OF BRIDGE CITY, STATE OF TEXAS, THAT WAS ADOPTED OCTOBER 19, 1993.

It is ordained by the governing body of the City of Bridge City, State of Texas that Ordinance No. 93-13 adopted on October 19, 1993 is hereby repealed, and the following new Ordinance is substituted in its place.

ARTICLE 3.1200 SUBSTANDARD BUILDINGS**Sec. 3.1201 Purpose**

This Article is enacted to promote the health, safety and welfare of the citizens of this City by requiring the vacation, relocation of occupants, securing, repair, removal or demolition of a building that is (a) dilapidated, substandard or unfit for human habitation and a hazard to the public health, safety and welfare, (b) unoccupied by its owners, lessees or other invitees and, regardless of its structural condition, is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place or harborage or used by children, or (c) boarded up, fenced or otherwise secured in any manner if (1) the building constitutes a danger to the public even though secured from entry, or (2) the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described in the foregoing (b).

Sec. 3.1202 Statutory Authority

This Article is intended to adopt and implement in the broadest possible terms the powers, duties, and authorities set out in Subchapters B and C of Chapter 54 of the Texas Local Government Code, as amended, Sections 214.001-214.003 of Subchapter A to Chapter 214 of the Texas Local Government Code, and Texas Government Code Section 30.00005(d), as said statutes apply to the subject matter of this Article, and as otherwise stated herein, as well as the home rule powers granted the City as a home-rule city by its Charter and by the laws of the State of Texas. Provisions of this Article shall not be narrowly construed, but shall be broadly applied to accomplish the stated purposes of this Article.

**Sec. 3.1203 Minimum Standards for Use and Occupancy of Buildings;
Substandard Buildings Defined and Deemed**

(a) Minimum standards for continued use and occupancy of all buildings, structures or premises located within the City are as follows:

(1) Foundations.

- a. Concrete. The slab must be structurally sound and free of cracks;
- b. Pier and Beams. Floor joists, floors and subfloors must be structurally sound, level, and free from decay, rot and termites.

(2) Walls. All walls, inside and outside, must be in good repair, in place and free of defects or openings.

(3) Roof.

- a. All supporting beams, rafters, joists and other supports must be structurally sound and free of decay and rot, and must not be sagging;
- b. The roof must be structurally sound, all shingles or roofing material must be in place, and the roof

must be in place, and the roof must be free from leaks and sags. There must not be any more than two layers of shingles on any one roof.

(4) Windows and doors.

- a. All movable windows must be screened and in good and workable condition. This also includes the window frames and sash;
- b. All doors, door jambs and hardware must be in good and workable condition.

(5) Cabinets and countertops.

- a. All cabinets and hardware must be in good and workable condition;
- b. All countertops must be in good condition.

(6) Floor covering. All floor coverings must be cleanable and in good condition.

(7) Drives and parking areas. All drives and parking areas must be an approved hard surface and structurally sound and in good condition.

(8) Yards. The yard must be adequately drained and free of high grass, trash and rubbish.

(9) Plumbing.

- a. All plumbing must comply with City codes.
- b. Any plumbing equipment of fixtures condemned by the plumbing official because of wear, damage, defect or sanitary hazards must not be reused for plumbing purposes.
- c. Gas line minimum requirements must be one inch, and all valves must be A.G.A. approved;
- d. Water heaters must be in good working order. Vents must be double-walled through the roof. Pop-off valves must be vented to the outside. Gas regulators must be in good working order.
- e. All heat-producing vents must be of double-walled construction;
- f. All vents and traps must be in good working order;
- g. All homes must be plumbed with a washing machine connection and also an electric or gas dryer connection;
- h. Hot and cold water lines serving sink, lavatories, washing machines and water closets must have individual shutoff valves;
- i. All fixtures must be of good quality with no need of repair;
- j. All faucets must be repairable;
- k. Yard sewer lines of concrete must be replaced with Schedule 40 ABS or PVC;
- l. Septic tanks must be backfilled and left open for inspection

(10) Electrical.

- a. All electrical wiring and facilities must comply with the electrical code of the City;
- b. Concealed wiring must be made available for inspection as the electrical inspector deems necessary.

(b) Any building, structure or premise that does not meet one or more of the minimum Standards as set out in subsection (a) of this section may be declared dilapidated, substandard or unfit for human habitation and a hazard to the public health, safety and welfare in accordance with the provisions of this Article.

(c) In addition to and notwithstanding the foregoing minimum standards, all buildings, and structures, regardless of their date of construction, that have any or all of the following defects or lack of facilities are deemed to be dilapidated, substandard or unfit for human habitation and a danger to the public health, safety and welfare:

(1) Walls or other vertical structural members that list, lean or buckle in excess of one-quarter inch of horizontal measurement for each foot of vertical measurement;

(2) Thirty-three percent or more damage or deterioration of the supporting member, or 50 percent or more damage or deterioration of the nonsupporting members or outside walls or coverings;

(3) Roofs or walls that are not weathertight and waterproof;

(4) Improperly distributed loads upon the floors or roofs or in which the floors are overloaded, or which floors or roofs have insufficient strength to be reasonably safe for the purpose used;

(5) Parts that are not properly attached so that they may fall or injure members of the public or property;

(6) Light, air or sanitation facilities that are inadequate to protect the life, safety or the general health and welfare of the structure's occupants or inhabitants of the City;

- (7) Unsafe or defective electrical wiring, devices or equipment, or unsafe or defective gas piping or appliances that are liable to cause or promote fires;
- (8) Damage by fire, explosion, wind, vandalism, elements of nature or otherwise so as to be hazardous to the life, safety or the general health and welfare of the structure's occupants or inhabitants of the City;
- (9) Dilapidated, decayed, unsafe, unsanitary or substandard conditions or any conditions that fail to provide amenities essential to decent living so that the premises are unfit for human habitation or are likely to cause sickness or disease so as to cause injury to the public health, safety, and welfare;
- (10) Conditions that violate any provision of this Article to such an extent as to be a danger to the public health, safety, and welfare, including but not limited to the following:
- (i) Buildings or structures that have become deteriorated through natural causes or by damages through exposure to the elements, especially wind, hail, rain or damage through fire to the extent that the roof, windows or doors or portions of the building or structure that protect the interior from the weather, no longer reasonably protect from the weather;
 - (ii) Buildings or structures that are so structurally deteriorated that they are in danger of collapse, or which cannot be expected to withstand the forces of nature;
 - (iii) Buildings or structures not wired so as to provide in operating condition electrical circuits sufficient to safely carry a load imposed by normal use of appliances and fixtures;
 - (iv) Buildings or structures of which the floors, walls, ceilings, and all supporting members are not capable of bearing imposed loads safely;
 - (v) Buildings or structures so deteriorated or constructed or permitted to be constructed as to constitute a menace to the health or safety, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects, reasonably calculated to spread disease, and including such conditions hazardous to safety as inadequate bracing or use of deteriorated materials;
 - (vi) Buildings or structures that constitute or in which are maintained fire hazards as that term is defined by the ordinances of the City of Bridge City, Texas;
 - (vii) Buildings or structures substantially in noncompliance with the requirements of the City's building code, electrical code, plumbing code, fire code, or other applicable codes of the City of Bridge City such that said building or structures constitute a menace or hazard to the public health, safety and welfare;
 - (viii) Buildings or structures so dilapidated or substandard as to be unfit for human habitation; or
 - (ix) Buildings or structures that, because of activities involving the sale, use or abuse on said premises or illicit drugs or alcohol or other similar activities as certified by the Chief of Police, a City health officer or a designee of any of the foregoing individuals, constitute a fire hazard or a menace to the health, safety, and welfare of the citizens of the City of Bridge City. Or,
- (11) Buildings and structures, regardless of their structural condition, that have during times that they were not actually occupied by their owners, lessees or other legal invitees, been left unsecured from unauthorized entry to the extent that they may be entered by vagrants or other uninvited persons as a place of harborage or could be entered by children.
- (d) A building that is boarded up, fenced or otherwise secured in any manner is nevertheless declared to be a substandard building under the foregoing criteria of subsection (c) if:
- (1) The building constitutes a danger to the public even though secured from entry;
 - (2) The building's roof, walls or floor contains holes that would allow insects, ectoparasites, rodents or other pests to gain access to the building for harborage to the extent constituting a present hazard to health or safety; or
 - (3) It is found that the means used to secure the building are inadequate to prevent unauthorized entry or use of the building.
- (e) A building that does not meet the minimum standards of subsection (a) or that is determined to be a substandard building under subsections (c) and (d) above is referred to in this Article as a "substandard building".

Sec. 3.1204 Declared Nuisance

A substandard building or structure within the terms of this Article is declared to be a public nuisance and must be vacated, secured, repaired, removed or demolished as provided in this Article.

It shall be unlawful for any person to knowingly permit, allow or suffer any building under that person's ownership or control to be or remain in such a condition as to constitute a substandard building. The issuance of a notice by the building official as defined under this Article establishing a date and time for hearing for the securing, vacating, repairing or demolishing of a building will not be construed to condone the violation of this section prior to the hearing date stated in such notice.

Sec. 3.1205 Duties of the Building Official

The City's chief building official, a representative of or inspector from the building officials' office, or any other person designated by the City Manager to enforce and administer the provisions of this Article or that person's designated representative (hereinafter "the building official"), must undertake the following actions:

- (a) Inspect or cause to be inspected any building or structure situated within the City that may be in violation of Sec. 3.1203 of this Article, whether based upon public complaint or determination by a City employee or representative;
- (b) If, upon inspection and investigation, the building official finds that the building or structure is a substandard building as that term is defined herein, the building official must issue a notice that substantially complies with Sec. 3.1206 of this Article, advising any person interested in such building or structure, or his or her authorized agent or representative, and all lienholders of notice, to appear at a public hearing to determine whether the building complies with the standards set out in this Article and show cause why an order should not be issued for action against such building or structure in accordance with this Article.
- (c) Appear at hearings conducted pursuant to this Article, testify as to the condition existing in and/or about the substandard building, and perform all other staff-related functions in support of the activities of the hearing process.

3.1206 Notice of Hearing

If a building has, upon inspection, been determined to be a substandard building under the provisions of this Article, then the building official must serve written notice on the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the property as shown by the real property records of the county in which the property is located as well as by the current City tax and water meter records, either by personal service or certified mail, return receipt requested.

This notice must inform the persons that a hearing will be held in which the City will seek an order requiring the building to be vacated and/or requiring the building to be repaired and/or demolished and/or secured, upon a finding by the hearing officer that the building is a substandard building. The notice must also set forth:

- (a) An identification of the building and the property on which it is located, which is not required to be a legal description;
- (b) A description of the violation of the City codes or articles that exist at the building, including the specific conditions that render the building dilapidated, substandard, unfit for human habitation or otherwise constitutes a hazard to the health, safety and welfare of the citizens, within the standards set forth in Sec. 3.1203;
- (c) That a hearing will be held before the Building Standards Commission in which the City may seek an order that the building be vacated, repaired and/or demolished as provided in Sec. 3.1204 if ordered action is not taken within a reasonable time as prescribed by the hearing officer;
- (d) The date, time and place of the hearing;
- (e) That all persons having an interest in the property have the right to appear in person and/or be represented by an attorney and to present testimony or other evidence and examine or cross-examine witnesses; and
- (f) That the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this provision and the time it will take to reasonably perform the work.

Any notice under this Sec. 3.1206 to the owner, occupant, lessee or other party having an interest in the property as determined by the City must be mailed or posted at least 10 days prior to the date set for hearing.

In identifying the name and address of an owner, lienholder or a mortgagee of a substandard building or structure, as defined herein, the City will be deemed to have made a diligent or reasonable effort if it searches the records prescribed by the applicable section, and, additionally, the real property records of the county in which the building is located, the appraisal district records of the county in which the building is located, records of the secretary of state, assumed name records of the county in which the building is located, and the current City tax and utility records, whichever have not previously been reviewed.

If notice to any person having an interest in the property is returned undelivered, unclaimed or refused, the validity of the notice is not affected and the notice is considered delivered. If the address of any person having an interest in the property as shown in the deed records is unknown, a copy of such notice must be posted in a conspicuous place on the property on which the building is located. The posting of such notice will constitute notice to any person having an interest in the property who does not receive personal notice or notice by mail.

In addition to the foregoing, the City may in its discretion file notice of the hearing in the real property records of the county in which the property is located. The notice must contain the name and address of the owner of the affected property if that information may be determined from a reasonable search of the information on file in the office of the county clerk, a legal description of the affected property, and 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 an interest after the 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. 3.1207 Hearings

(a) There is hereby created a Building Standards Commission to be composed of three (3) members, each of whom shall be a resident of the City of Bridge City, Texas. They shall hold office for a period of two (2) years, or until their successors are appointed. As near as practical they shall be qualified in one or more of the fields of: fire prevention, building construction, sanitation, health, and public safety. There shall also be two (2) alternate members of the Building Standards Commission who shall serve in the absence of one (1) or more members of said commission upon the request of the City Manager to do so. In addition to said three members, the Building Official of the City of Bridge City, Texas shall be ex-officio non-voting members of said Commission. All hearings must be held before the Building and Standards Commission. The Commission shall be referred to as the hearing officer(s).

(b) The hearing officer must hold such hearing at the time, date and place set by the notice and must conduct proceedings to implement and enforce provisions in this Article.

(c) All parties will have the right to representation by an attorney, although an attorney is not required. Each party may present witnesses in the party's own behalf and each party has the right to cross-examine all witnesses. The hearing officer may inspect the building, structure or premises in question, whether during the course of the hearing or subsequent thereto, as he or she deems necessary. Only evidence presented to the hearing officer at the hearing may be considered in rendering the order, with the exception of any facts that may be gathered by the hearing officer on any subsequent inspection of the building that he or she may direct on his or her own motion.

(d) The owner has the burden of proof to demonstrate the scope of any work that may be required to comply with this Article and the time it will take to reasonably perform the work necessary to meet the criteria of Sec. 3.1203(a) or to remove the elements of Sec. 3.1203(c) or (d), as applicable.

(e) If no person having an interest in the building appears before the hearing officer at the date and time specified for the hearing, the building official or the City's designated representative must proffer evidence showing the building to be a substandard building within the standards and factors set forth in Sec. 3.1203. The failure of any person having an interest in the building to appear at the hearing set in accordance with the provisions of this Article will constitute a waiver of that person's right to any additional hearing on the notice.

(f) In the conduct of all proceedings before the hearing officer, the purpose of such proceeding will be to determine whether or not a building or structure complies with the standards set out in this Article and/or exhibits elements deemed to be substandard in this Article.

(g) Prior to any such hearing under this Sec. 3.1207, the City must make a diligent effort to identify the owner, lienholder, or mortgagee of the building or structure under review and provide notice as required in Sec. 3.1206 to the persons that the City could reasonably identify as having an interest in the building or structure at issue, so that such persons have an opportunity to appear at the hearing for purposes of notice under Sec. 3.1206.

Sec. 3.1208 Authority and Findings of Hearing Officer; Order

(a) After completion of the presentation of testimony by the building official and all parties appearing, the hearing officer must make written findings of fact as to whether or not the building is a substandard building as defined under Sec. 3.1203 of this Article.

(b) If the hearing officer finds that the building is substandard building and/or constitutes a hazard to the health, safety or welfare of the citizens, he or she must issue a written order directing the owner, occupant and all other persons having an interest in the building as shown by the real property records of the county in which the property is located, as well as the City tax and water meter records, that:

(1) The building be vacated if it is occupied and the hearing official finds that the building is in a condition that makes it hazardous to the health, safety and welfare of its occupants or of the public;

(2) The building be lawfully repaired or renovated, but only if it can reasonably be brought into compliance by one or more of these actions and no longer be in a condition that is in violation of this Article;

(3) The building be demolished if it cannot reasonably be repaired or renovated so that its existence will no longer be in violation of the terms of this Article; and/or

(4) If the building is unoccupied and the condition of the building is such that it may be brought into compliance by securing it from unauthorized entry, then the order may provide that the building be lawfully secured and be kept secured as provided in Sec. 3.1214(d) and may include or adopt written specifications that must be complied with in securing the building and may provide that the building be demolished if it is not secured in compliance therewith.

(5) That any utility service to the building be terminated if the building or structure is unoccupied and is a substandard building as defined herein.

(c) In addition to written findings of fact as required herein, the hearing officer must keep a record of its proceedings and official actions.

(d) Where authorized by Texas Local Government Code Sec. 214.0015, the hearing officer may determine and assess a civil penalty that the City may recover pursuant to said statute. If the owner shows that the property is the owner's lawful homestead, the penalty shall not exceed \$10.00 per day for each violation. A certified copy of a homestead designation from the county appraisal district shall constitute prima facie evidence of the homestead status, and a certified letter sent to the property owner shall constitute prima facie evidence that the owner was notified of the requirements of this Article and the owner's need to comply.

Sec. 3.1209 Time Allowed for Action

(a) If the hearing officer determines that the building is a substandard building, the order must state the date by which the action ordered must be completed, and that the building official must cause the building to be secured, vacated, repaired and/or demolished if the persons having an interest in the property do not comply with the order. The order must require the owner of a substandard building to comply with the order within 30 days; provided that, if the owner establishes at the hearing that the work cannot reasonably be performed within 30 days, and the hearing officer determines from the record of the hearing that a greater period of time is warranted, the hearing officer may provide for a specified period greater than 30 days as provided below.

(b) If the hearing officer allows the owner more than 30 days to comply with the order, the hearing officer shall establish specific time schedules for the commencement and performance of 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 hearing officer may not allow the owner more than 90 days to perform fully all work required to comply with the order, unless the owner: (a) submits a detailed plan and time schedule for the work at the hearing; and (b) establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work. If the hearing officer allows the owner more than 90

days to comply with the order, or any part of the work required to comply with the order, the hearing officer must require the owner to submit regular progress reports in writing to the City, with photographic or other visual evidence attached, to demonstrate that the owner has complied with the time schedules established for the commencement and performance of the work. The order may require that the owner appear before the hearing officer to demonstrate compliance with the specified time schedules, in addition to the written report and documentary evidence.

(d) If the owner, lienholder or mortgagee owns property, including structures or improvements on property, within the municipal boundaries that exceeds \$100,000 in total value, the City may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this Article or, alternatively, provide a letter of credit from a financial institution or a guaranty from a third party approved by the City. The bond must be posted, or the letter of credit or third-party guaranty provided not later than the 30th day after the date the City makes such requirement.

Sec. 3.1210 Placarding

(a) If the hearing officer finds that the building is a substandard building and in a condition that makes it hazardous to the health, safety or welfare of its occupants or to the citizens, the hearing officer must order that the building official place a notice in a conspicuous place on such building. The notice shall state the following, or words substantially similar thereto, sufficient to be visible from the nearest public street:

THIS BUILDING HAS BEEN FOUND TO BE A SUBSTANDARD BUILDING. OCCUPANCY OF THIS BUILDING IS PROHIBITED BY LAW AS SUCH OCCUPANCY IS DANGEROUS TO THE HEALTH, SAFETY AND WELFARE OF ITS OCCUPANTS. THIS NOTICE IS POSTED
_____ [here the notice shall set forth the date and hour such notice is posted].
ALL PERSONS MUST VACATE THIS BUILDING NOT LATER THAN 48 HOURS AFTER THE TIME OF POSTING AND SHALL NOT RE-ENTER THE SAME UNTIL THE CITY FINDS THAT THE BUILDING HAS BEEN REPAIRED SO AS TO BE IN COMPLIANCE WITH THE ORDINANCES OF THE CITY OF BRIDGE CITY. THIS SHALL REMAIN ON THIS BUILDING UNTIL IT IS REPAIRED OR DEMOLISHED.

(b) If the hearing officer finds that, in addition to requiring vacation as described above, the building is in such condition that it is dangerous or unsafe for anyone to enter other than to carry out work in compliance with the order, the hearing officer must order that the City place a notice in the conspicuous place on the building, stating the following, or words substantially similar thereto, sufficient to be visible from the nearest public street:

THIS BUILDING HAS BEEN FOUND TO BE A SUBSTANDARD BUILDING BY THE CITY OF BRIDGE CITY. NO PERSON MAY ENTER THIS BUILDING EXCEPT PERSONS AUTHORIZED BY THE OWNER WHO ENTER SOLELY FOR THE PURPOSE OF CORRECTING THE HAZARDOUS CONDITIONS THEREIN AND INSPECTORS OF THE CITY OF BRIDGE CITY. THIS NOTICE SHALL REMAIN ON THIS BUILDING UNTIL IT IS REPAIRED OR DEMOLISHED.

The initial posting by the City on a substandard building of the applicable notice hereunder will constitute satisfaction of the City's obligation under this Sec. 3.1210, and the City will have no further obligation regarding the posting of notice on a substandard building under this Sec. 3.1210 if a person or entity other than the City or its representatives removes, destroys or otherwise affects the posted notice in a manner that impedes its purpose.

Sec. 3.1211. Notice of Order.

(a) After the hearing, the City shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building, and if the owner does not take the ordered action within the time allotted in the order, the City shall promptly mail by certified mail, return receipt requested, a copy of order to any lienholder or mortgagee of the building. The City must use reasonable and diligent efforts in determining the identity and address of any owner, lienholder, or mortgagee of the building, as described in Sec. 3.1206. If the address of a person having an interest in the property as shown on the real property records is unknown, or if the order is returned undelivered, a copy of the order must be posted in a conspicuous place on the building subject to the order. The posting of the order will constitute notice to any person having an interest in the property who does not receive personal service.

(b) Within ten days after the date that the order is issued, the City must (i) file a copy of the order in the office of the City secretary; and (ii) publish in a newspaper of general circulation in the City 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 order, and (D) instructions stating where a complete copy of the order may be obtained. A copy of the order of the hearing officer must also be filed in the real property records of the county in which the property is located.

Sec. 3.1212. Action by City authorized.

(a) Owner's Failure to Comply

(1) If one or more of the persons having an interest in the property fail to comply with the order of the hearing officer within the time specified in the order for compliance, the City may cause the building to be vacated, repaired, secured, and/or demolished pursuant to the order.

(2) The demolition of such building or structure and removal of the building or structure from such owner's property will be at the City's expense, and the City may charge the expense to the account of the owner of such property and assess the expense against the real estate or lots upon which such expense is incurred. The City may obtain a privileged lien upon such property, second only to tax liens and liens for street improvements, to secure the expenditure so made, pursuant to Sec. 3.1215. This Sec. 3.1212 does not limit the ability of the City to collect on a bond or other financial guaranty that may be required under Sec. 3.1209.

(b) Immediate Hazard

When, in the reasonable opinion of the building official, any building or structure within the boundaries of the City is in such condition as to constitute an immediate hazard requiring immediate action to protect the health, safety or welfare of the public, the City Manager or his designated representative may direct the building official or his designated representative to erect barricades or cause the building or structure to be vacated, secured, repaired, removed, demolished or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, occupants, lienholders, mortgagees, and agents. After the action necessary to address the immediate hazard is completed, the building manager must proceed to provide notice and schedule a hearing in accordance with this Article if the building or structure remains substandard, notwithstanding the correction of the immediate hazard. The cost of any action under this section may be assessed against the property as provided in Sec. 3.1215.

Sec. 3.1213. Enforcement; Authority of the City Attorney.

The City attorney or his or her representative is hereby authorized and it will be the duty of the City attorney of the City without further authorization of the City council to enforce the orders of the hearing officer upon appeal and to undertake, by all legal means appropriate or necessary, the enforcement of this Article, including, but not limited to filing of appropriate civil actions in courts of appropriate jurisdiction to seek compliance with said orders, or defending the City from suit if suit is taken to appeal any action of the City.

Sec. 3.1214. Penalties; Remedies.

(a) Criminal Penalties.

(1) The owner, occupant, lessee, agent or any other person subject to any notice and order issued by the hearing officer under this Article who fails to comply with said order to repair, remove, demolish or secure such building or structure, or any person who willfully refuses or fails to leave a building that has been ordered vacated under the terms of this Article or who enters an area around such building that has been declared to be substandard and notice of which declaration has been posted and/or any person who interferes with or hinders the vacation, repair or demolition of any building under the terms of this Article will be deemed guilty of a misdemeanor and will be subject to a fine not to exceed \$500.00. Each and every day's violation will constitute a separate and distinct offense.

(2) If the owner or occupant of any substandard building ordered vacated, repaired or demolished under the terms of this Article is a corporation that violates any provision of this Article, the president, vice-president, secretary, or treasurer of such corporation, or any manager, agent or employee of such corporation, will be also severally liable for the penalties provided in this section.

(3) Any person removing or otherwise altering the notice provided for in Sec. 3.1210 from the building or structure will be deemed guilty of a misdemeanor and subject to a fine not to exceed \$500.00.

(b) Civil Penalties

(1) In addition to the foregoing, the hearing officer, upon a finding that the owner was actually notified of

the provisions of this Article and any other applicable City building standards, and a further finding that after the owner received notice of the Article's provisions, the owner committed acts in violation of the Article or failed to take action necessary for compliance with the Article, the hearing officer may then determine the amount and duration of a civil penalty that the City may be entitled to recover for such violations, not to exceed \$1,000 per day for each violation of this Article. An assessment of a civil penalty by the hearing officer as provided in this Article 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 as provided in subsection (2) below.

(2) To enforce any civil penalty as assessed hereunder, the City secretary or his or her representative shall file with the district clerk of the county where the property is located a certified copy of the hearing officer's order establishing the amount and duration of the civil penalty. No other proof is required for a district court to enter final judgment on said penalty.

(c) Civil Action Authorized

(1) Remedies authorized. The City attorney may in his or her discretion seek any and all remedies authorized under state law, including without limitation the provisions of Chapters 54 and 214 of the Local Government Code. Such remedies may include, but are not limited to injunctive relief, enforcement and collection of civil penalties authorized under this Article, an action to compel the repair, demolition, or securing of any building or structure, recovery of all costs of the City, including court costs and attorneys fees, appointment of a receiver to administer any non-compliant property in accordance with Section 214.003 of the Local Government Code, and any and all other remedies actionable to the City under law or equity.

(2) Lis pendens authorized. The City attorney may file a notice of lis pendens in the office of the county clerk regarding such action. If the City files such notice, a subsequent purchaser or mortgagee who acquires an interest in the non-compliant property will take the property subject to the enforcement proceeding of the City and subsequent orders of any court.

(d) Buildings or Structures Secured by the City.

Notwithstanding anything to the contrary herein, the City may secure a building that the building official determines (i) violates the minimum standards or otherwise deems to be substandard in accordance with Sec. 3.1203 and (ii) is unoccupied or is occupied only by persons who do not have a right of possession to the building. For any building or structure which the City itself may wish to secure in accordance with this Article, the City must undertake the following procedure after the securing of said building or structure:

(1) Before the 11th day after the date the building is secured, the City must give notice to the owner of said property by:

- A. personally serving the owner with written notice;
- B. depositing the notice in the U.S. mail addressed to the owner at the owner's post office address;
- C. publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owner's post office address is unknown; or
- D. posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.

(2) The notice must contain:

- A. an identification, which is not required to be a legal description, of the building and the property on which it is located;
- B. a description of the violation of this Article that is present on the premises on which the building is located;
- C. a statement that the City will secure or has secured, as the case may be, the building or other structure; and
- D. an explanation of the owner's entitlement to request a hearing about any matter relating to the City's securing of the building.

(3) The City must conduct a hearing before the hearing officer as provided in this Article at which the

owner may testify or present witnesses or written information about any matter relating to the City's securing of the building if, before the expiration of 30 days after the date the City secures the building, the owner files with the City a written request for the hearing. The hearing officer must conduct a hearing within 20 days after such a request is filed. After the hearing, if the hearing officer finds that the building is a substandard building as defined in this Article, the hearing officer may issue an order to secure or continue to secure said building. If the hearing officer finds that the building is not a substandard building as defined in this Article, and if so requested by the owner, the hearing officer must issue an order to the City to unsecure the building.

(4) The hearing officer may issue warrants for the securing of buildings either before or after the hearing described in this section has been conducted; provided, however, that the hearing officer must comply with any and all requirements of state and/or federal law applicable to the issuance of such warrants.

(5) The City has the same authority to assess expenses under this section as it has to assess expenses under Sec. 3.1215 herein. A lien is created under this section in the same manner that a lien is created under Sec. 3.1215 and is subject to the same conditions as a lien created under that section.

(6) The City may provide the notice required by this section and the hearing officer may conduct the hearing required herein before securing a substandard building or structure and both must do so if required by state or federal law.

(7) The authority granted in this subsection (d) is in addition to that granted in the other provisions of this Article.

(e) Nonexclusive

The remedies and penalties set out herein are intended to be non-exclusive; that is, they shall be construed to not exclude the City from seeking any and all remedies at law or equity to which the City may be entitled under state law or otherwise, and the remedies as set out herein shall be considered in addition to and cumulative of such remedies as set out in state law. Namely, the imposition of the penalties prescribed in this section will not preclude the City attorney from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the occupancy of a building, structure or premises, or to prevent an illegal act, conduct business or use in or about any premises on which a substandard building or structure may be situated, or any other actions as may be provided in this Article or under state law.

Sec. 3.1215 Lien; Statement of expenses.

(a) Whenever the City has performed any work or has incurred any expenses in connection with any work done under this Article, the City may assess the expenses on, and the City has a lien against the property on which the building was located, unless it is a homestead protected by the Texas Constitution. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the City for the expenses. The lien arises and attaches to the property at the time notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located.

It is the duty of the City Manager or his or her designated representative to prepare and personally deliver or mail by certified mail, return receipt requested, to the owner of the substandard building a notice consisting of an itemized statement in the form of an affidavit, duly sworn to by the mayor, City manager, building official or City secretary of all such work performed and all costs and expenses incurred and paid by the City in connection with such work. The statement shall be sent to the owner of the property if a true address is known; if not, then to the owner of record according to the last official tax rolls of the City at the address carried in connection with such rolls. Such affidavit, among other things and provisions, shall contain the following:

(1) Name and address of owner, and name and address of agent of property, if known, and if unknown, recite that fact;

(2) Description of the property sufficient to identify the property; where the property has been subdivided, a description by lot and block number of any particular subdivision will be sufficient, or the description as per the revised map of the City;

(3) Statement of the actions of the building official regarding notice and the hearing officer regarding any order;

(4) Itemized statement of the work done and performed, together with the cost opposite each item;

(5) Statement of payment made by the City to other parties, and to whom made, or reasonable charges by any concerned City department; and

(6) The balance due.

(b) Upon delivery or mailing of the notice provided for in subsection (a), the City will be entitled to the payment of the aggregate amount so expended, or reasonable charges for City work, or costs paid, as set forth in subsection (a). Should the owner fail or refuse to pay the amount due within 30 days after the date of such statement, the affidavit containing the information as set out in subsection (a), must be filed with the county clerk. Such statement, when filed, will constitute a privileged lien upon the property on which the expense was incurred, second only to tax liens and liens for street improvements; and the amount remaining unpaid on the statement shall accrue interest at the rate of ten percent per annum from the date of expenditure by the City, or from the date the City itself performed such work and incurred the expense, as provided for in Texas Health and Safety Code Ch. 342.

(c) The City may institute suit and recover such expenses in any court of competent jurisdiction, and the statement so filled with the county clerk, or a certified copy thereof, will be prima facie proof of the amount expended in any such work to remedy such condition or remove any such building or structure. Notice of such filing with the county clerk shall be mailed to the owner of such property by United States mail.

Sec. 3.1216. Scope of Ordinance

Nothing in this ordinance will be construed to abrogate or impair the powers of the courts or of any department of the City to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this ordinance are and will be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this ordinance will be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by State statutes.

If any section or subsection, clause, sentence, or paragraph of this Ordinance shall be found illegal, invalid, or void by any Court of competent jurisdiction, then such findings shall not affect the remaining portions of this Ordinance, but the same shall be valid and in effect, it being expressed intention of the City Council of the CITY OF BRIDGE CITY, TEXAS, to pass each sentence, clause, paragraph, section, or exhibit individually.

EFFECTIVE DATE AND PUBLICATION;

This Ordinance shall become effective ten (10) days after its publication date, in caption form only, after its passage by the City Council of the CITY OF BRIDGE CITY, TEXAS, after its reading at any two (2) regularly scheduled City Council meetings of the CITY OF BRIDGE CITY, TEXAS, such passage to be within ninety (90) days of the first reading hereof.

First Reading: October 17, 2006

Second Reading: November 7, 2006

PASSED BY THE CITY COUNCIL OF THE CITY OF BRIDGE CITY, TEXAS, this 7th day of November 2006.

/s/ Kirk Roccaforte

KIRK ROCCAFORTE, Mayor

ATTEST:

/s/ Sherry Tisdale

SHERRY TISDALE, City Secretary

/s/ Paul M. Fukuda

PAUL M. FUKUDA, City Attorney

Publication Dates:

11/12/06

11/15/06

Effective Date: 11/22/06