

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 3.03 OF THE CITY'S CODE OF MUNICIPAL ORDINANCES BY AUTHORIZING THE CITY COUNCIL OF THE CITY OF BANDERA TO ACT AS THE BOARD OF APPEALS AND AUTHORIZING THE BOARD TO HEAR SUBSTANDARD BUILDING ISSUES AND APPEALS; ESTABLISHING PROCEDURES FOR THE ABATEMENT OF SUBSTANDARD BUILDINGS; PROVIDING FOR PENALTY, NOT TO EXCEED \$500.00 PER DAY PER VIOLATION; REPEALING CONFLICTING PROVISIONS OF THE CITY'S CODE; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, Chapter 214 of the Texas Local Government Code authorizes the City of Bandera to adopt an ordinance requiring the vacation, relocation of occupants, securing, repair, removal or demolition of a building that is dilapidated, substandard or unfit for human habitation and a hazard to the public health, safety, and welfare and to adopt other ordinances as specified in that chapter; and

WHEREAS, the City of Bandera has found it necessary to amend its code of ordinances to adopt suitable regulations and revise the City's existing regulations that govern the maintenance of buildings and other structures within the City's jurisdiction; and

WHEREAS, the City also desires to authorize the city council to act as a board of appeals to conduct hearings as necessary to determine whether buildings deemed by city staff to be dilapidated, substandard or unfit for human habitation comply with the City's property maintenance ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANDERA, TEXAS, THAT:

SECTION 1. ARTICLE 3.03 AMENDED

Article 3.03 of the City of Bandera Code of Ordinances is hereby amended as set forth in the attached Exhibit A.

SECTION 2. CUMULATIVE CLAUSE

That this Ordinance shall be cumulative of all provisions of the City of Bandera, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the more restrictive shall apply.

SECTION 3. SEVERABILITY

It is hereby declared to be the intention of the City Council that if any of the sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such

event shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional or illegal phrase, clause, sentence, paragraph or section.

SECTION 4. REPEALER

All portions of the Code of Ordinances or other ordinances that are in conflict with the provisions of this Ordinance be, and the same are hereby repealed and all other portions of the Code of Ordinances or other Ordinances not in conflict with this Ordinance shall remain in full force and effect.

SECTION 5. PUBLICATION

The City Secretary is directed to publish notice of this Ordinance in the City's official newspaper, in substantially the same form as **Exhibit "B"**, attached hereto and incorporated by reference.

SECTION 6. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

PASSED and APPROVED by the City Council of the City of Bandera, Texas, on this the ____ day of _____ 2016.

CITY OF BANDERA

John Hegemier, Mayor

ATTEST:

APPROVED AS TO FORM:

DRAFT

City Secretary

City Attorney

EXHIBIT A

Amend Article 3.03 of the City of Bandera Code of Ordinances as follows:

REPEAL:

ARTICLE 3.03 SUBSTANDARD BUILDINGS[§]

~~Sec. 3.03.001 — Title~~

~~This article shall commonly be referred to as the city's substandard building ordinance. (Ordinance 230, sec. I, adopted 8/21/03)~~

~~Sec. 3.03.002 — Purpose~~

~~This article is adopted so that the city council may promote the public health, safety, and general welfare within the city through the regulation of substandard buildings. By requiring the repair and/or demolition of substandard buildings, the city council seeks to protect property values and prevent bodily injury, death, and property damage within the city limits. (Ordinance 230, sec. III, adopted 8/21/03)~~

~~Sec. 3.03.003 — Definitions~~

~~As used in this article, the following terms shall be defined as follows:~~

~~Appraised value. The value given the structure by the county tax assessor's office.~~

~~Building. Any structure of any kind, or any part thereof, erected for the support, shelter or enclosure of persons, animals, chattel or property of any kind.~~

~~City council. The city council of the City of Bandera.~~

~~Diligent effort. Best or reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee, including a search of the following records:~~

- ~~(1) — County real property records of the county in which the building is located;~~
- ~~(2) — Appraisal district records of the appraisal district in which the building is located;~~
- ~~(3) — Records of the secretary of state;~~
- ~~(4) — Assumed name records of the county in which the building is located;~~

(5) — City tax records; and

(6) — City utility records.

~~*Minimum housing standards.* Those standards found in the city's adopted standard building, electrical, plumbing, gas, mechanical, existing building and fire prevention codes.~~

~~*Owner.* Any person, agent, firm or corporation named in the real property records of the county where the building is located as owning the property.~~

~~*Structure.* That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner, or any part thereof.~~

(Ordinance 230, sec. IV, adopted 8/21/03)

~~**Sec. 3.03.004 — Declaration of nuisance**~~

~~Any building or structure requiring repair or demolition, as described and defined hereinbelow, shall be, and the same are, hereby declared to be a public nuisance and unlawful. (Ordinance 230, sec. V, adopted 8/21/03)~~

~~**Sec. 3.03.005 — Inspections**~~

~~An inspection shall be made of every building located within the city which is suspected of being in violation of this article. The building inspector or his official designee is hereby authorized to conduct inspections of buildings suspected of being in violation of this article and take such actions as may be required to enforce the provisions of this article. (Ordinance 230, sec. VI, adopted 8/21/03)~~

~~**Sec. 3.03.006 — Notice of violation**~~

~~(a) — Whenever a violation of this article has been discovered and reported by an inspector, a public hearing shall be provided to determine whether a building complies with the standards set out in this article.~~

~~(b) — A notice of the hearing shall be sent to the occupant, if any, and record owner, lienholder or mortgagee. Such notice shall be in writing and shall be served:~~

(Ordinance 230, sec. VII, adopted 8/21/03)

~~(1) — By personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be~~

~~ascertained from the deed of trust establishing the lien and/or other applicable instruments on file in the office of the county clerk; and~~

~~(2) — To all unknown owners, 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.~~

~~(Ordinance adopting Code)~~

~~(c) — The notice shall contain:~~

~~(1) — The names of all persons to whom notice is being served;~~

~~(2) — The street address or legal description of the premises;~~

~~(3) — The date of inspection;~~

~~(4) — The nature of the violation;~~

~~(5) — The date, time and location of the hearing; and~~

~~(6) — A statement 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 article and the time it will take to reasonably perform the work.~~

~~(Ordinance 230, sec. VII, adopted 8/21/03)~~

~~**Sec. 3.03.007 — Standards for ordering repair or demolition**~~

~~The following standards shall be utilized in determining whether a building should be ordered repaired or demolished:~~

~~(1) — The building or structure is liable to partially or fully collapse.~~

~~(2) — The building or structure was constructed or maintained in violation of any provision of the city's minimum housing standards, or any other applicable ordinance or law of the city, county, state, or federal government.~~

~~(3) — Any wall or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle one third (1/3) of its base.~~

~~(4) — The foundation or the vertical or horizontal supporting members are twenty-five (25) percent or more damaged or deteriorated.~~

~~(5) — The nonsupporting coverings of walls, ceilings, roofs, or floors are fifty (50) percent or more damaged or deteriorated.~~

~~(6) — The structure has improperly distributed loads upon the structural members, or they have insufficient strength to be reasonably safe for the purpose used.~~

~~(7) — The structure or any part thereof has been damaged by fire, water, earthquake, wind, vandalism, or other cause to such an extent that it has become dangerous to the public health, safety and welfare.~~

~~(8) — The structure does not have adequate light, ventilation, or sanitation facilities as required by the city.~~

~~(9) — The structure has inadequate facilities for egress in case of fire or other emergency or has insufficient stairways, elevators, fire escapes or other means of ingress or egress.~~

~~(10) — The structure, because of its condition, is unsafe, unsanitary, or dangerous to the health, safety or general welfare of the city's citizens, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects reasonably calculated to spread disease.~~

(Ordinance 230, sec. VIII, adopted 8/21/03)

~~Sec. 3.03.008 — Hearing~~

~~(a) — The date of the hearing shall not be less than ten (10) days after notice is made as described in section 3.03.006.~~

~~(b) — If a building is found to be in violation of this article, the city shall require the owner, lienholder, or mortgagee of the building to within thirty (30) days repair or demolish the building, unless it is proven at the hearing that the work cannot reasonably be done in thirty (30) days.~~

~~(c) — If the city allows more than thirty (30) days for the building to be repaired or demolished, the city shall establish specific time schedules for the work to be commenced and finished and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the hearing official.~~

~~(d) — The city shall not allow the owner, lienholder or mortgagee more than ninety (90) days to repair or demolish the building unless a detailed plan and time schedule for the work are submitted at the hearing and it is proven at the hearing that the work cannot reasonably be completed within ninety (90) days. Additionally, the owner, lienholder, or mortgagee must submit work progress reports to demonstrate compliance with the time schedule established.~~

~~(e) — In any case where fifty (50) percent or more of the value or structure is damaged or deteriorated, a building shall be demolished or removed, and in all cases where a structure cannot be repaired so that it will no longer exist in violation of the provisions of this article, it shall be demolished or removed.~~

~~(Ordinance 230, sec. IX, adopted 8/21/03)~~

~~**Sec. 3.03.009 — Issuance of order; demolition warrant**~~

~~(a) — After the public hearing, if a building is found to be in violation of this article, the city may order that the building be repaired or demolished by the owner within a reasonable time, as established under section 3.03.008.~~

~~(b) — If the building is ordered to be repaired or demolished, the city shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The city shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or the property on which the building is located.~~

~~(c) — If the ordered action is demolition of the building or structure, demolition shall not occur until a magistrate has issued a seizure and demolition warrant supported by a probable cause affidavit stating that:~~

~~(1) — The city has complied with the procedures set forth in this article;~~

~~(2) — Demolition has been ordered by the city; and~~

~~(3) — The time for appeal of the order to district court has expired and no appeal has been taken or, in the alternative, the order was appealed to district court but the appeal has been finally resolved in a manner that does not prevent the city from proceeding with demolition.~~

~~(Ordinance 230, sec. X, adopted 8/21/03)~~

~~**Sec. 3.03.010 — Notice of order**~~

~~(a) — In addition to the order, each identified mortgagee or lienholder shall be sent a notice containing:~~

~~(1) — An identification of the building and the property on which it is located (this does not have to be a legal description);~~

~~(2) — A description of the violation of this article; and~~

~~(3) — A statement that the municipality will demolish the building if the ordered action is not taken.~~

~~(b) — If the notice is returned “refused” or “unclaimed,” the validity of the notice is not affected and the notice shall be deemed delivered.~~

~~(c) — Within ten (10) days after the date that the order is issued, the city shall:~~

~~(1) — File a copy of the order in the office of the city secretary; and~~

~~(2) — Publish a notice in a newspaper where the building is located stating:~~

~~(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 as to where a complete copy of the order may be obtained.~~

~~(Ordinance 230, sec. XI, adopted 8/21/03)~~

~~**Sec. 3.03.011 — Appeals**~~

~~The owner, lienholder, or mortgagee shall have the right to appeal the decision made at the hearing to a district court. A 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, as provided herein. (Ordinance 230, sec. XII, adopted 8/21/03)~~

~~**Sec. 3.03.012 — Repair or demolition by city; assessment of city’s expenses**~~

~~(a) — Whenever it is discovered upon reinspection that the owner, mortgagee or lienholder has failed to either repair or demolish the building within the allotted time, the city, or its authorized agent, may repair or demolish and remove said building or cause the same to be done and charge the expenses incurred in doing such work or having the same done to the owner, mortgagee or lienholder of said land.~~

~~(b) — If such work is done at the expense of the city, then said expense shall be assessed against any salvage resulting from the demolition of the building and against the lot, tract, or parcel of land, or the premises upon which such expense was incurred.~~

~~(c) — For the purposes of this section, any repair, alteration or improvement made to a building by the city will only be to the extent necessary to bring the building into compliance with the city’s minimum housing standards and only if the building is a residential building with ten (10) or fewer dwelling units; provided, however, the city may elect to obtain a judicial determination by a decree of a court of competent jurisdiction of the existence, in fact, of a public nuisance in cases contemplated by this article. Such judicial determination may include any available remedy for the abatement of such a nuisance.~~

(Ordinance 230, sec. XIII, adopted 8/21/03)

~~Sec. 3.03.013 — Lien for city's expenses~~

~~(a) — When the city incurs expenses to repair or demolish and remove the building, the city has a lien against the property on which the building is located, unless it is a homestead as protected by the state constitution. The lien arises and attaches to the property when the city council or the building inspector records and indexes notice of the lien with the county clerk. The notice shall contain:~~

- ~~(1) — The name and address of the owner, if that information can be determined with a reasonable effort;~~
- ~~(2) — A legal description of the property on which the building was located;~~
- ~~(3) — The amount of expense incurred by the city;~~
- ~~(4) — The balance due; and~~
- ~~(5) — The date on which said work was done or improvements made.~~

~~(b) — The city shall have a privileged lien on such lot, lots, or other premises or real estate upon which said building was located, to secure the expenditure so made, which said liens shall be second only to tax liens and liens for street improvements, and said amount shall bear 10% interest from the date such statement was filed. It is further provided that for any such expenditure and interest, as aforesaid, suit may be instituted and recovered, and foreclosure of said lien may be made in the name of the city, and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or expense.~~

~~(c) — 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. (Ordinance 230, sec. XIV, adopted 8/21/03)~~

~~Sec. 3.03.014 — Penalties; additional remedies~~

~~(a) — Authority. The city shall have the power to administer and enforce the provisions of this article as may be required by governing law.~~

~~(b) — Civil penalty.~~

- ~~(1) — Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding one thousand dollars (\$1,000.00) for each and every day of violation or, if the owner shows the property is the owner's lawful homestead, in an amount not to exceed ten dollars (\$10.00) per day for each violation, provided that:~~

~~(A) — The owner was notified of the requirements of this article and the owner's need to comply with the requirements; and~~

~~(B) — After notification, the owner committed an act in violation of this article or failed to take action necessary for compliance with this article.~~

~~(2) — If such a civil penalty is assessed, the city secretary shall file a certified copy of the order containing such penalty with the county district clerk's office no later than three (3) working days after such order.~~

~~(c) — Other remedies.~~

~~(1) — The remedies provided herein shall be available to the city in addition to any penal or other remedy provided by law or equity which the city, state, or any other person may have to remedy the unsafe building condition.~~

~~(2) — The city may bring a civil action in a court of competent jurisdiction to collect the amount due plus all associated costs and fees.~~

~~(Ordinance 230, sec. XV, adopted 8/21/03)~~

~~Sec. 3.03.015 — Liability~~

~~Neither the city nor any authorized agent acting under the terms of this article shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this article. (Ordinance 230, sec. XVI, adopted 8/21/03)~~

ADD:

ARTICLE 3.03 PROPERTY MAINTENANCE CODE

Sec. 3.03.001 Title

This article shall be known as the property maintenance code of the city and shall be referred to herein as "this code."

Sec. 3.03.002 Purpose

The purpose of this code is to provide minimum standards and regulations to help safeguard and preserve life or limb, property and public welfare by regulating the use, occupancy, and maintenance of all structures, buildings and properties within the city.

Sec. 3.03.003 Applicability

This code shall apply to all zoning districts, land, properties, structures and buildings within the city, including all vacant, occupied, residential, nonresidential, improved or unimproved land, properties, structures and buildings.

Sec. 3.03.004 Conflicting regulations

If any other ordinances of the city conflict with this code and the standards and regulations established herein, the more stringent or stricter standards or regulations shall prevail.

Sec. 3.03.005 Definitions

Where terms are not specially defined, they shall have their ordinary accepted meanings within the context within which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, Copyright 1981, shall be considered as providing ordinary accepted meanings. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. The following terms are defined as follows and shall apply to all sections of this code unless defined elsewhere in this article:

Dangerous building. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, and a hazard to the public health, safety, and welfare and a public nuisance, provided that such conditions or defects of dilapidation, substandardness, or unfitness for human habitation pose a threat or potential threat to life, health, property, or human safety:

- (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 walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (3) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.
- (4) Whenever any portion thereof 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 catastrophe and is less than the

minimum requirements of the building code for new buildings of similar structure, purpose, or location.

(5) Whenever any portion, member, or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(6) 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 that 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.

(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 to support such building;

(D) The deterioration, decay, or inadequacy of its foundation; or

(E) Any other cause;

is likely to partially or completely collapse.

(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 plumbline passing through the center of gravity does not fall inside the middle one-third of the base.

(10) Whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its nonsupporting members, or fifty (50) percent damage or deterioration of enclosing or outside walls or coverings.

(11) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated or neglected, as to become a harbor for vagrants or criminals.

(12) Whenever any building or structure has been constructed, exists, or is maintained in violation of the city's minimum housing standards or technical building codes, to the extent the violation poses a threat or potential threat to life, health, safety, or property.

(13) Whenever a building or structure used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction, arrangement, or inadequate light, air, or sanitation facilities, is determined by the health director to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

(14) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other mechanical, structural, or social cause, is determined by the fire chief to be a fire hazard.

(15) 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.

(16) Whenever any portion of a building or structure remains for any period of time on a site after the demolition or destruction of the building or structure, unless such structure has been approved for partial demolition by the department of building inspections in its permitting process.

(17) Whenever any building or structure, regardless of its structural condition, is unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered by children.

(18) Whenever any building or structure is secured by a means inadequate to prevent unauthorized entry or use in the manner described in subsection (17) above.

Distressed property. A property or premises on which there is located a building or structure believed by an appropriate city official or the city council to suffer from one or more of the conditions or defects described in this section.

Enforcement authority. The code compliance officer of the city or the person or department to whom the City Administrator may, from time to time, delegate the enforcement responsibility.

Fencing material. Fencing as described in this article falls within one of the listed categories:

- (1) Ornamental. Typically constructed of wrought iron or galvanized steel, ornamental fencing creates a decorative and secure perimeter line around a property or area. Ornamental fences can be built using brick to accent and further strengthen the fence.
- (2) Privacy. Constructed of wood or vinyl, privacy fences are typically six to nine feet in height, and obstruct visibility from the outside of a property or area to the inside.
- (3) Wood. The traditional fencing material, wood fencing is available in spruce, treated pine, and cedar. Installation variations include wood posts, galvanized steel posts, and brick posts or footings. Styles include picket, shadowbox, ranch rail, lawn rail, split rail, arched picket, scalloped picket, crossbuck, and solid panel privacy. Does not include nontraditional wood material such as plywood, pallets or wooden sheeting.
- (4) Vinyl. PVC “vinyl” is a low-maintenance, durable alternative to wood and ornamental iron fencing.
- (5) Chainlink. Galvanized steel mesh fencing.
- (6) Other fencing. Includes post and chain, brick cinderblock, barbed wire, pliable vinyl (temporary fencing for construction sites, etc.), and glass block. Other options include hinged gates, electronic security gates, and rollaway gates.

Owner. Any person claiming or in whom is vested the ownership, dominion or title of real or personal property, including, but not limited to:

- (1) The holder of the fee simple title.
- (2) The holder of a life estate.
- (3) The holder of a leasehold estate for an initial term of five (5) years or more.
- (4) A buyer in possession, or having right of possession under a contract for deed.

(5) A mortgagee, receiver, executor or trustee in possession or control, or having right of possession or control of real property.

(6) Any agent who is responsible for managing, leasing or operation of property who fails to take the necessary remedial action after having been notified in writing by certified mail, return receipt requested, that the owners have declined to act accordingly.

Premises. Any parcel, lot or tract of land, including any structure, building, landscaping or trees thereon or other structure or improvement located thereon.

Structure. Any residential building, nonresidential building, dwelling, condominium, townhouse, apartment unit, detached garage, shed, awning, fence, screening wall, sign, swimming pool, excavation, or any other edifice, erection or material placed or located on any property within the city and any other improvement of any kind or nature.

TRO. A temporary restraining order issued by a court of competent jurisdiction.

Weatherproof. The treatment of an object to allow it to be able to withstand exposure to weather without damage or loss of function.

Sec. 3.03.006 Enforcement; right of entry

(a) The enforcement authority for this article shall be the code compliance officer of the city or the person or department to whom the City Administrator delegates the enforcement responsibility.

(b) Whenever it is necessary to make an inspection to enforce this code, or whenever the enforcement authority has reasonable cause to believe that there exists in any structure or upon any property a condition or violation which is unsafe, dangerous or hazardous or detrimental to the public interest, the enforcement authority may enter such structure or property at all reasonable times to inspect the same; provided that, if such structure or property is occupied, he shall first present proper credentials and request entry, and if such entry is refused the enforcement authority shall have recourse to every remedy provided by law to secure entry.

Sec. 3.03.007 Responsibility for compliance

(a) Owner. Every owner of the premises shall maintain such premises in compliance with this article. An owner shall not let, rent or lease premises for occupancy or use which do not comply with the provisions of this code.

(b) Owner and tenant. Every owner and every tenant of the premises shall maintain the premises in a clean, sanitary and safe condition, including the disposal of rubbish, garbage, organic or inorganic waste, junk or other waste in a lawful manner.

(c) Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease, or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

Sec. 3.03.008 Exterior grounds

(a) Fences. All fences shall be maintained reasonably plumb and structurally sound. Each structural and decorative member of a fence shall be free of deterioration and be compatible in size, material and appearance with the remainder of the fence. A fence that has deteriorated to a condition that it is likely to fall shall be repaired or replaced. Fences shall not be externally braced in lieu of replacing or repairing posts, columns or other structural members.

(b) Accessory structures. Carports, awnings, patio covers, garages, sheds, storage buildings and other accessory structures shall be maintained structurally sound, and free of deterioration. All accessory structures shall be protected from the elements by periodic painting, staining or other weatherproofing or surface protection.

(c) Outside storage. It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, to allow, permit, conduct or maintain any trash, rubbish, unused construction materials (unless being used in conjunction with a current building permit), plumbing fixtures, auto parts, discarded furniture, household appliances, objectionable, unsightly or unsanitary matter or any other items or personal property not customarily used or stored outside and which are not made of a material that is resistant to damage or deterioration from exposure to the outside environment, to accumulate thereon, unless otherwise allowed.

Sec. 3.03.009 Structural maintenance

(a) Exterior surfaces. The foundation, exterior wall, floor, roof, windows, doors and frames and all exterior surfaces of every structure shall be maintained in a state of repair sufficient to

exclude rats, rodents, birds, vermin or water intrusion. Peeling paint, cracked or loose plaster, broken glass, decayed wood and other defective surface conditions shall be repaired, replaced, or restored. Garage doors shall be capable of being closed reasonably plumb, properly attached and the exterior surface maintained weatherproof as required to prevent deterioration.

(b) Exterior attachments. All exterior canopies, marquees, signs, awnings, stairways, standpipes, rain gutters, exhaust ducts and similar overhang extensions attached to a structure shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. Their exterior surface materials shall be maintained weatherproof and shall be painted or protected as required to prevent deterioration.

(c) Chimneys. All chimneys and similar appurtenances shall be maintained structurally safe, sound, properly mortared and in good repair. Their exterior surface material shall be maintained weatherproof and shall be painted or protected as required to prevent deterioration.

(d) Stairs and porches. Every stair, porch, balcony, and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected. They shall be kept in sound condition and good repair, and their exterior surface shall be maintained weatherproof.

Sec. 3.03.010 Notice to owner; owner's due process rights

(a) Whenever the enforcement authority/officer discovers a state of disrepair or a dangerous building as defined in this article, he, or his designated agent, shall give notice to the owner of the condition requiring remediation by:

- (1) Personally serving the owner with written notice;
- (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- (3) Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in a county in which the building or structure is located if personal service cannot be obtained and the owner's post office address is unknown; or
- (4) 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, which notice the council finds to be reasonably calculated to give the owner notice of such violations.

(b) The notice must contain:

- (1) An identification, which is not required to be a legal description, of the building and the property on which it is located;
- (2) A description of the violation of the municipal standards that are present at the building;
- (3) A statement that the municipality will secure the building as the case may be;
- (4) A notice providing the owner with the date, time and location of a public hearing before the board of appeals to determine whether a structure complies with the standards set out in this article.

Sec. 3.03.011 Board of appeals

(a) The city council shall hereby act as the board of appeals and shall conduct hearings to determine whether a structure complies with the requirements of this article when the enforcement authority deems a structure a dangerous building or distressed property.

(b) The board of appeals shall:

(1) Schedule and hold a public hearing and hear testimony from the building official, the owner and other persons having an interest in the dangerous building or distressed property, and any person desiring to present factual evidence relevant to the unsafe building. Such testimony shall relate to the determination of the question of whether the building or structure in question is a dangerous building and the scope of any work that may be required to comply with this article and the amount of time it will take to reasonably perform the work. The owner or a person having an interest in the dangerous building shall have 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.

(2) Upon conclusion of the hearing, the board of appeals shall determine by majority vote whether the building or structure in question is a dangerous building or distressed property. Upon a determination that the building or structure in question constitutes a dangerous building or distressed property, the board of appeals shall issue an order:

(A) Containing an identification of the building and the property on which it is located;

(B) Making written findings of the violations of the minimum standards that are present at the building;

(C) Requiring the owner and persons having an interest in the building to repair, vacate, or demolish the building within 30 days from the issuance of such order, unless the owner or a person with an interest in the building establishes at the hearing that the work cannot reasonably be performed within 30 days, in which instance the board of appeals shall specify a reasonable time for the completion of the work;

(D) Containing a statement that the city will vacate, secure, remove or demolish the dangerous building and relocate the occupants of the building if the ordered action is not taken within the time specified by the board of appeals; and

(E) The building official or city secretary shall deliver a copy of the order by hand delivery or certified mail to the owner and all persons having an interest in the property, as such persons appear in official public records, including all identifiable mortgagees and lienholders, within 10 days after the date the board of appeals issues its order which shall include an identification and address of the building and the property on which it is located; a description of the violation of this article that is found to be present on the property; a statement that the municipality will vacate, secure, remove, repair, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time; or that the city will take no action; and instructions stating where a complete copy of the order may be obtained.

(3) If the board of appeals allows the owner or a person with an interest in the dangerous building more than 30 days to repair, remove, or demolish the building, the board of appeals in its written order shall establish specific time schedules for the commencement and performance of the work and shall require the owner or person to secure the property in a reasonable manner from unauthorized entry while the work is being performed. The securing of the property shall be in a manner found to be acceptable by the building official.

(4) The board of appeals may not allow the owner or person with an interest in the dangerous building more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the written order unless the owner or person:

(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.

(5) If the board of appeals allows the owner or person with an interest in the dangerous building more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the board of appeals shall require the owner or person to regularly submit progress reports to the board of appeals to demonstrate that the owner or person has complied with the time schedules established for commencement and performance of the work. The written order may require that the owner or person with an interest in the building appear before the city building official to demonstrate compliance with the time schedules.

(6) Any owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an order of the board of appeals may file in district court a verified petition stating that the decision is illegal, in whole or in part and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the board of appeals is personally delivered to them, mailed to them by first-class mail with certified return receipt requested, or delivered to them by the United States Postal Service using signature confirmation service, or such decision of the board of appeals shall become final as to each of them upon the expiration of such 30 calendar day period.

(7) In the event the owner or a person with an interest in a dangerous building fails to appeal from the order issued pursuant to this section within 30 days, or fails to comply with such order within 30 days or such longer period of time as may be specified in the order, the city may, at any time after the expiration of 30 days from the date a copy of the final decision of the board of appeals is mailed to each known owner, lienholder or mortgagee, cause any occupants of the dangerous building to be relocated, and may cause the dangerous building to be secured, removed, or demolished at the city's expense. The city may assess the expenses on, and the city has a lien against, unless it is a homestead as protected by the state constitution, the property on which the dangerous building was located. The lien is extinguished if the property owner or a person having an interest in the building reimburses the city for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice of lien must contain the name and address of the owner of the dangerous building if that information can be determined by a diligent effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the city, and the balance due. Such lien is a

privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to real property.

(8) In addition to the authority set forth in subsection (7), after the expiration of the time allotted in the order for the repair, removal, or demolition of a dangerous building, the city may repair the building at its expense and assess the expenses on the land on which the building stands or to which it is attached. The repairs contemplated by this section may only be accomplished to the extent necessary to bring the building into compliance with the minimum standards established by this article, and to the extent such repairs do not exceed minimum housing standards. The city shall follow the procedures set forth in chapter 214 of the Texas Local Government Code for filing a lien on the property on which the building is located.

(9) After the public hearing, if a building is found in violation of standards set out in this article, the board of appeals may order that the occupants be relocated within a reasonable time.

Sec. 3.03.012 Penalty; culpability

Any person violating any of the provisions of this article shall, upon conviction, shall be assessed a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), and each day's violation shall constitute a separate offense. It shall not be necessary to allege a culpable state of mind in complaints alleging a violation of this article, and same is hereby dispensed with.

Sec. 3.03.013 Emergency measures to secure substandard buildings

(a) In addition to the procedures set forth in this article, the city may follow the procedures set forth in section 214.0011 of the Texas Local Government Code, as amended, to secure a building that the city determines violates the minimum standards set forth in this article and is unoccupied or is occupied only by persons who do not have a right of possession to the building. Such buildings or structures may be ordered to be and shall be secured as an emergency precaution under the following conditions, regulations and procedure:

(1) When it shall appear that a building or structure in the city is a substandard building under the terms of this article and that such building or structure or the manner of its use constitutes an immediate and serious danger to life or property. When such conditions exist, the City Administrator or building official may order that the building or structure be immediately secured and any of the following emergency measures to be taken:

(A) Immediate vacation of such building, structure, and/or adjoining buildings or structures;

(B) Vacation of the danger area around such building or structure;

(C) Such emergency shoring up and bracing of walls, roofs, and supports as are required to render such building or structure safe; or

(D) The destruction of such walls, roofs, and supports or the entire structure or so much thereof as cannot be braced or made secure with safety, or post notices on or near such building or structure, or buildings or structures, notifying the public of such orders and ordering all persons to keep out of such building, buildings, structures, or structure and the areas of danger surrounding it or them.

(b) When any of the above-mentioned measures are ordered to be taken, notice of such order shall be given as follows:

(1) Such order shall be directed to the owner of such substandard building or structure, or his authorized representative, if the same shall be known. Where notification can be accomplished without increasing the danger to life or property, notice shall be given by personal service on the owner of the building or structure, or his said representative.

(2) In the event that such notification would create such a delay as would materially increase the danger of life or property, then such notice need not be given.

(c) In the event that such notification cannot be given before the building is secured or in the event such notice is given and the owner or his representative shall refuse or fail to carry out the orders of the City Administrator or building official, then, the City Administrator or building official may proceed to carry out such orders either by private contract, the city fire department, or through an agency of the city, and the cost thus incurred shall constitute a valid lien against the property so repaired.

(d) Right to request a public hearing. The board of appeals shall conduct a public hearing on the emergency securing of a building or structure as provided under this section is within 30 days after the date the building is secured the owner files with the city a written request for the hearing. A hearing requested under this subsection shall be conducted within 20 days after the date the request is filed.

EXHIBIT "B"

PUBLIC NOTICE

ON _____ 2016, THE CITY OF BANDERA CITY COUNCIL PASSED AND APPROVED AN ORDINANCE AMENDING ARTICLE 3.03 OF THE CITY'S CODE OF MUNICIPAL ORDINANCES BY AUTHORIZING THE CITY COUNCIL OF THE CITY OF BANDERA TO ACT AS THE BOARD OF APPEALS AND AUTHORIZING THE BOARD TO HEAR SUBSTANDARD BUILDING ISSUES AND APPEALS; ESTABLISHING PROCEDURES FOR THE ABATEMENT OF SUBSTANDARD BUILDINGS; PROVIDING FOR PENALTY, NOT TO EXCEED \$500.00 PER DAY PER VIOLATION; REPEALING CONFLICTING PROVISIONS OF THE CITY'S CODE; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE