

CITY OF TATUM, TEXAS

ORDINANCE NO. 2017-- 01

AN ORDINANCE OF THE CITY OF TATUM, TEXAS AMENDING/REPLACING ORDINANCE NO. 97-05 ESTABLISHING MINIMUM STANDARDS FOR ALL BUILDINGS; PROVIDING FOR THE DECLARATION OF SUBSTANDARD BUILDINGS AS A PUBLIC NUISANCE; PROVIDING FOR NOTICE TO PROPERTY OWNERS, OCCUPANTS, MORTGAGEES, AND LIENHOLDERS OF SUBSTANDARD BUILDINGS; PROVIDING FOR A PUBLIC HEARING ON THE SUBSTANDARD BUILDING; PROVIDING FOR THE ABATEMENT OF NUISANCES; PROVIDING FOR THE RECOVERY OF COSTS; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR JUDICIAL REVIEW; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION OF THE CAPTION THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 214 of the Texas Local Government Code authorizes the City of Tatum, Texas ("City"), to adopt an ordinance to require 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;

WHEREAS, Chapter 214 of the Texas Local Government Code requires that the Ordinance (i) establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; (ii) provide for giving proper notice to the owner of a building; and (iii) provide for a public hearing to determine whether a building complies with the standards set out of the Ordinance;

WHEREAS, the Ordinance (i) establishes minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; (ii) provides for giving proper notice to the owner of a building; and (iii) provides for a public hearing to determine whether a building complies with the standards set out in this Ordinance; and

WHEREAS, The City Council has determined that this Ordinance is necessary to protect the public health, safety, and welfare,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TATUM, TEXAS, THAT;

SECTION 1. The recitals set forth above are hereby found to be true and correct and are incorporated into the body of this Ordinance for all purposes as if full set forth herein.

SECTION 2. The City does hereby, by the authority granted by Texas Local Government Code, Chapter 213, adopt the following Ordinance relative to substandard buildings, which modifies and replaces the provisions of the City of Tatum, Texas Ordinance No. 97-05 in their entirety and replaces them with the following:

"SUBSTANDARD BUILDINGS"

I. Adoption of Substandard Building Ordinance pursuant to Chapter 214, Texas Government Code.

The City hereby adopts this Ordinance pursuant to Chapter 214 of the Texas Local Government Code, as amended and the following minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; (ii) the following provisions for giving proper notice to the owner of a building; and (iii) the following provisions for a public hearing to determine compliance of buildings. If any provisions of this Ordinance conflicts with said Chapter 214, or if any provisions of said Chapter 214 has been omitted from this chapter, the City shall be entitled to pursue its remedies in conformity with said state law, as hereafter amended.

II. Public Hearing to be conducted by City Council.

(A) **Public Hearing.** Any public hearing conducted under Chapter 214 of the Texas Local Government Code, or this Ordinance, shall be conducted by the City Council, which, when performing review of substandard building matters, will be referred to as the "Council Hearing Panel". At its option, or if no quorum can be assembled because of recusals, The Council Hearing Panel may refer the matter to be heard by the City Municipal Court, pursuant to Section 214.001 (P), Texas Local Government Code.

(B) **Duties of Code Enforcement Personnel.** One or more of the Code Enforcement Officer, Fire Marshal, and the Building Inspector of the City shall inspect all buildings reported to be or believed to be substandard and present an oral report of such inspection, together with such documents as he/she or they may deem necessary, to the Council Hearing Panel at the Public Hearing.

(C) **Officers of the Council Hearing Panel.** The Council Hearing Panel shall select from its members a Chairperson, a Vice-chairperson and a Secretary of the Hearing Panel.

(D) Rules and Procedures.

(1) Four members of the Council Hearing Panel shall be required to constitute a quorum and the concurring vote of four members of the Council Hearing Panel is necessary to take any action under this chapter.

(2) A Council Hearing Panel member having a personal or financial interest in any matter before the Council Hearing Panel shall recuse him/herself from the discussion and the vote on that matter.

(3) The person action as secretary of the Council Hearing Panel shall make a record of all proceedings of the Panel, which shall set for the particulars of the matter before the Panel, the decisions rendered by the Panel, the reason for the said decision and the vote of each member participating therein.

(4) The Mayor, City Secretary or Chairperson of the Council Hearing Panel may call meetings of the Panel, when necessary to rule on any case brought before it regarding substandard (nuisance) buildings.

- (5) Any materials to be presented at the Council Hearing Panel may be submitted to the City Secretary.
- (6) The Council Hearing Panel shall establish such other rules and procedures it deems necessary for the election of officers and the conduct of its business.

(E) **Duties.** The Council Hearing Panel (or Municipal Court, when the matter has been referred) shall hear any case dealing with a substandard building (nuisance) and make a ruling as to whether such building complies with the standards set forth in this Ordinance, and should building be found to be in violation of the standards, whether the building should be vacated, secured, repaired, removed, or demolished, and whether the occupants should be relocated.

III. Alterations, Additions, and Repairs

All buildings that are required to be repaired under provisions of this chapter shall be subject to all applicable sections of the International Building Code, and International Property Maintenance Code as adopted by the City.

IV. Declaration of Public Nuisance

Any building, in or on which there exists a condition not in compliance with this chapter shall be deemed and is hereby declared to be (i) a public nuisance, (ii) a violation of this chapter, and (iii) subject to the penalty clauses and remedies available to the City hereunder and under the common law or equity jurisprudence of the State of Texas.

V. Definitions

Terms, words, phrases and their derivatives used, but not specifically defined in this Chapter, shall have the meanings defined in Chapters 54 and 214 of the Texas Local Government Code, and the International Building Code and International Property Maintenance Code, as adopted by the City. Words used 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. For purposes of this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) *Building* means and includes any real property, structure, premises or any portion thereof, including a vacant lot.
- (2) *Enforcement Officer* means the Code Enforcement officer, Fire Marshal or Building Inspector, or their designated representatives, charged by the City with any enforcement and administration of this chapter.
- (3) *Inspection* means the examination of a building by the Enforcement Officer or his authorized representative for the purpose of evaluating its condition as provided for in this chapter.

(4) ***Manifestly Unsafe*** means a building that is a public nuisance, as that term is defined in this section, or unsafe for human occupation, whether temporary or permanent, or a hazard to the public health, safety and welfare.

(5) ***Occupant*** means any person who occupies a building and who is not the owner.

(6) ***Owner*** means any person having a legal or equitable interest in a building as shown on the most recent tax role.

(7) ***Person*** means an individual, corporation, organization, government, business trust, partnership, association or any other legal entity.

(8) ***Public Nuisance*** means:

- (a) The physical condition or use of any building regarded as a public nuisance at common law or as defined elsewhere in the City's Code of Ordinances.
- (b) Any physical condition, use or occupancy of any building or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures;
- (c) Any building that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecure as to endanger life, limb or property;
- (d) Any building from which the plumbing, heating and/or facilities required by the City's Code of Ordinances have been removed or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against unauthorized use or entry have not been provided;
- (e) Any building that is in a state of dilapidation, deterioration or decay, faulty construction, overcrowded, open, vacant or abandoned, damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and dangerous to anyone on or near the building.
- (f) Any physical condition, use or occupancy of any building or its appurtenances that is dangerous to the physical health or safety of an occupant or other person; or
- (g) Because of violations of Section VII of this chapter, the state of repair is such that it could reasonably cause injury, damage, or harm to a considerable portion of the community in use and enjoyment of property, materially interfering with the proper use or comfort and enjoyment of surrounding property, taking into consideration the nature and use of properties in the area and the character of the community in which they are situated, which condition would be substantially offensive and annoying to persons of ordinary sensibilities living in the community.

VI. Specific Nuisances.

Without limiting the power of the City to hereafter declare as public nuisances any other act, condition or thing, by ordinance, the following specific acts, conditions and things are, each and all of them, hereby declared to be and constitute public nuisances.

(1) Any building that is:

- (a) dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;**
- (b) regardless of its structural condition, 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 or used by children; or**
- (c) Boarded up, fenced or otherwise secured in any manner if:**
 - (i) the building constituted a danger to the public even though secured from entry; or**
 - (ii) the means used to secure the building are inadequate to prevent unauthorized entry or use of the building by vagrants or other uninvited persons as a place of harborage or by children.**

(2) Any building that has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent the life, health, property or safety of the public or its occupants is endangered:

- (a) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not arranged so as to provide safe and adequate means of exit in case of fire or panic.**
- (b) 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.**
- (c) 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 by the International Building Code for new buildings of similar structural, purpose or location.**
- (d) Whenever any portion of a building 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 a catastrophe and is less than the minimum requirements set forth by the International Building Code for new buildings of similar structure, purpose or location.**

- (e) Whenever any portion of a building, or member or appurtenance there, is likely to fail, or to become detached or dislodge, or to collapse and thereby injure persons or damage property.
- (f) Whenever any portions 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 International Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted by aforementioned code.
- (g) Whenever any portion of a building has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to wind or earthquakes than is required in the case of similar new construction.
- (h) Whenever the building, or any portion thereof, is manifestly unsafe because of:
 - (i) dilapidation, deterioration or decay;
 - (ii) faulty construction;
 - (iii) the removal, movement or instability of any portion of the ground necessary for this purpose of supporting such building;
 - (iv) the deterioration, decay or inadequacy of its foundation; or
 - (v) any other cause, likely to cause partial or complete collapse.
- (i) Whenever, for any reason, the building, or any portion thereof is manifestly unsafe for the purpose for which it is being used.
- (j) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- (k) Whenever the building, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- (l) Whenever the building has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to:
 - (i) become an attractive nuisance to children
 - (ii) become a harbor for vagrants, criminals, immoral persons; or
 - (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

- (m) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the City, as specified in the International Building Code or International Property Maintenance Code, as adopted by the City, or of any law of this state or ordinance of the City relating to the condition, location or structure of buildings.
- (n) Whenever any building, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than fifty percent (50%) , or in any supporting part, member or portion less than sixty-six percent (66%) of the:
 - (i) strength;
 - (ii) fire-resisting qualities or characteristics; o
 - (iii) weather-resisting qualities or characteristics

Required by law in case of newly constructed build of lie area, height and occupancy of the same location.

- (o) Whenever a building, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Enforcement Officer to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease.
- (p) Whenever any building, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections of heating apparatus, or other cause, is determined by the Fire Marshal to be a fire hazard.
- (q) Whenever any building is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
- (r) Whenever any portion of a building remains on a site after the demolition or destruction of the building or whenever any building is abandoned for a period in excess of six (6) months so as to make such building or portion thereof an attractive nuisance or hazard to the public.
- (s) Whenever water heating facilities are not properly installed or maintained in a safe and good working condition and/or such water heating facilities are not capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred twenty degrees Fahrenheit (120). Such water heating facilities shall be capable of meeting the requirements of this subsection when the dwelling or dwelling unit heating facilities required under the provisions of this subsection are not in operation.

VII. Minimum Standards

The minimum standards for the continued use and occupancy of all buildings, regardless of the date of construction thereof, shall be those established by the International Property Maintenance Code, which standards are hereby adopted, as well as those standards established by the international Building Code as heretofore previously adopted or hereafter adopted or amended by the City, and those standards established by this Ordinance. If a building fails to meet the minimum standards set forth herein, or if a building is a public nuisance as defined herein, the building shall be in violation of the minimum standards, and shall be subject to the order of the Council Hearing Panel.

VIII. Notice to Property Owners and Others of Public Hearing.

(A) If an Enforcement Officer determines that a building condition requires the vacation, securing, repair, or removal of a building, the abating of a nuisance condition, or the relocation of the occupants of the building, the Enforcement Officer shall:

- (1) give notice of the nuisance to the owner of the building by personal service or by certified mail (with a duplicate copy addressed to such owner or occupant as shown in the most recent tax roll or utility records of the City and deposited in the U. S. Mail, postage paid). A copy will also be provided or sent to at least one (1) known occupant, (if building is occupied);
 - (2) provide detail in such notice of the standard(s) violated under this Ordinance and the necessary action to abate the nuisance (a copy of an Enforcement Officer's report is sufficient for this purpose;
 - (3) advise such owner or occupant of the date and time of the public hearing at which a determination will be made by the Council Hearing Panel as to whether the nuisance exists and whether the building complies with the standards of this Ordinance.
 - (4) include a statement in such notice that the owner, lienholder of mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this Ordinance and the time it will take to reasonably perform the work and
 - (5) provide a copy of such notice of nuisance, details thereof, the required action necessary to abate the nuisance, and the date and time of the hearing to any mortgagee or lienholder of record after a diligent effort to discover such mortgagee or lienholder.
- (B) If the City mails a notice in accordance with this section to a property owner, occupant, lienholder, mortgagee or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

- (C) The City satisfies the requirements of this Ordinance to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, an occupant, a lienholder, or a mortgagee if the City searches the following records:

- (1) county real property records of Rusk and Panola Counties;
- (2) appraisal district records of Rusk and Panola Counties;
- (3) records of the Secretary of State;
- (4) assumed name records of Rusk and Panola Counties;
- (5) tax records of the City; and
- (6) utility records of the City.

IX. Date of Public Hearing.

The date of the public hearing before the Council Hearing Panel shall not be less than thirty (30) days from the earlier of the date of (i) personal service or (ii) deposit of the notice in the U.S. Mail, except when an immediate threat to public health and safety has been declared by an Enforcement Officer.

X. Filing of Notice of Public Hearing in Public Records

Except where an immediate threat to public health and safety has been declared, the City shall file a notice of the hearing in the Official Public Records of Real Property in Rusk and/or Panola Counties at least ten (10) days before the date of the hearing. The notice must contain:

- (1) the name and address of the owner of the affected property, if that information can be determined from a reasonable search of the instruments on file with the County Clerk.
- (2) A legal description of the affected property; and
- (3) a description of the hearing.

The Filing of Notice of Public Hearing of this Ordinance is binding on subsequent grantees, lienholders, or other transferees of any interest in the building who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the building who acquires such interest after the filing of the notice.

XI. Conduct of Public Hearing.

The Council Hearing Panel shall conduct a public hearing to determine whether a building complies with the standards set out in this Ordinance. At the hearing, if a building is held to

violate the minimum standards herein, the owner, lienholder or mortgagee shall have the burden of proof to demonstrate the scope of any work that may be required to comply with this Ordinance and the time it will take to reasonably perform the work.

XII. Orders and Notice After Public Hearing

(A) If, after conducting a public hearing, the Council Hearing Panel finds that a building is in violation of the standards set out in this chapter, the Council Hearing Panel shall require the owner, lienholder or mortgagee of the building within thirty (30) days:

- (1) secure the building from unauthorized entry; or
- (2) repair, remove or demolish the building unless the owner, mortgagee or lienholder establishes at the hearing that the work cannot reasonably be performed within thirty (30) days. If the Council Hearing Panel allows the owner, lienholder or mortgagee more than thirty (30) days to repair, remove or demolish the building, the Council Hearing Panel shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the building in a reasonable manner from unauthorized entry while the work is being performed. The Council Hearing Panel may also order that occupants of the building be relocated within a reasonable time.

(B) The Council Hearing Panel may not allow the owner, lienholder or mortgagee more than ninety (90) days to complete any part of the work required to comply with the order unless the owner, lienholder or mortgagee has: (1) submitted at the hearing a detailed plan and time schedule and (2) establishes at the hearing that the work cannot be reasonably completed within ninety (90) days because of the scope and complexity of the work. If the Council Hearing Panel allows the owner, lienholder, or mortgagee more than ninety (90) days to complete any part of the work required to repair, remove or demolish the building, the Council Hearing Panel shall require the owner, lienholder or mortgagee to regularly submit progress reports to the Council Hearing Panel through an Enforcement Officer to demonstrate compliance with time schedules established for commencement and performance of the work and may require that the owner, lienholder, or mortgagee appear before the Enforcement Officer, the Council Hearing Panel, or their designees, to demonstrate compliance with the time schedules. The Council Hearing Panel shall 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 Ordinance. In lieu of a bond, the Council Hearing Panel may require the owner, lienholder, or mortgagee to prove a letter of credit from a financial institution or a guaranty from a third party approved by the Council Hearing Panel. 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 issues the order.

(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 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.

(D) After the hearing, the City shall promptly mail by certified mail with return receipt requested, deliver by the United States Postal Service using signature confirmation service, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The City shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.

(E) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This subsection does not limit the ability of the City to collect on a bond or other financial guaranty that may be required by subsection (B) of section XII of this Ordinance.

XIII. Repair, Vacation or Demolition.

The following standards shall be followed by the Council Hearing Panel in ordering the repair, vacation or demolition of any building, and any building declared a nuisance under this Ordinance shall be made to comply with one or more of the following:

- (1) The building shall be repaired in accordance with the current International Building Code or other current codes applicable to the type of substandard conditions requiring repair.
- (2) Repairs shall be deemed feasible only if less than fifty percent (50%) of the building must be repaired or replaced, and the repairs amount to less than fifty percent (50%) of the buildings value.
- (3) If the building is in such a condition as to make it dangerous to the health, safety and welfare of the occupants, it shall be ordered vacated and secure from unlawful entry.
- (4) If the building requires repairs over greater than fifty percent (50%) of its surface or amounting to greater than fifty percent (50%) of its value, it shall be demolished. Further, if a building cannot be repaired so that it will be brought into compliance with this chapter, it shall be demolished. Additionally, if the building as it stands presents an incurable fire hazard in violation of the terms of this Ordinance or any Ordinance of the City or law of the state, it shall be demolished. For the purpose of the Ordinance, the term 'demolished' includes the cleaning and grading of the building and the removal of all debris and trash.

(5) If the building is not vacated, secured, repaired, removed or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove or demolish the building or relocate the occupants at its own expense, and shall thereafter assess expenses and establish a lien against the property as set forth in Section XII. Subsection (E) of this Ordinance.

(6) If, after the expiration of the time allotted under Section XII of this Ordinance, the owner, lienholder or mortgagee fails to comply, the City may repair or cause the repairs necessary to bring the building into compliance with this chapter and only if the building is a residential building with ten (10) or fewer dwelling units. The repairs may not improve the building to the extent that the building exceed the minimum standards, as defined by this Ordinance, and expenses shall be assessed as provided in this Ordinance.

XIV. Designation of Enforcement Officer and Enforcement Authority and Liability

Any Enforcement Officer, or his designated representative(s) is hereby directed and authorized to administer and enforce the provisions of this Ordinance. Nothing contained herein is meant to limit discretion of the Enforcement Officer(s) in evaluating and directing compliance with this Ordinance.

An Enforcement Officer, or his designated representatives(s), acting in good faith and without malice in the discharge of his duties, shall not render himself personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of his duties. Any suit brought against the Enforcement Officer, or his designated representative(s), because of such act or omission performed in the enforcement of any provision of this Ordinance, shall be defended by legal counsel provided by the City until final determination of such proceedings.

XV. Remedies.

To enforce any requirement of this chapter, the Enforcement Officer may gain compliance by any or all of the following:

- (1) taking such action as the Enforcement Officer deems appropriate with the authorization provided for in this Ordinance or any other Ordinance of the City.
- (2) causing appropriate action to be instituted in a court of competent jurisdiction;
- (3) ordering the abatement of the nuisance and assessing the costs of abatement against the property if the owner of the property does not abate same after the required notice; and
- (4) any other remedies permitted as authorized at law or in equity.

Twenty-Four Hour Abatement Under Certain Circumstances

Nothing in this Ordinance shall prohibit the requirement for abatement within twenty-four (24) hours, or a period of time less than as prescribed herein for public hearings, notice thereof, or the recovery of costs and establishment of liens when nuisance has been declared an immediate threat to the public health, safety and welfare by an Enforcement Officer.

XVI. Contracting for Abatement

Whenever the property owner, or agent fails to abate the nuisance within the time allowed, an Enforcement Officer is hereby authorized to contract with a contractor to perform such work as may be required to abate the nuisance.

XVI.V. Recovery of Costs

- (A) Whenever the City enters a building and causes any work to be performed to abate a nuisance, or if the building is not vacated, secured, repaired, removed, or demolished, or if the occupants are not relocated within the allotted time, the City may take such action at its own expense, and a charge will be made to the property owner, or agent to recover the costs associated with the abatement. The charge shall be the actual cost of abatement, plus applicable sales taxes.**
- (B) An administrative fee of \$200.00 shall be assessed for each such charge.**
- (C) If the actual charge and the administrative fee are not paid to the City within thirty (30) days after billing, the City shall file a lien against the property. Said lien shall be filed in the Deed Records of Rusk or Panola County, Texas. The charges shown on the lien shall be interest at the rate of ten (10) percent per annum from the due date until paid. The lien shall be collected under the same terms and provisions of law as the City's ad valorem taxes. The lien may be extinguished prior to foreclosure if the owner or other person have an interest in the legal title to the building reimburses the City for its expenses. If the notice is given pursuant to Section XV, and the opportunity to abate the nuisance or repair, remove or demolish the building is afforded to each mortgagee or lienholder under said section of this Ordinance, the lien is a privileged lien subordinate only to tax liens as authorized by Texas Local Government Code section 214.001(o).**

XVII. Penalty Clause

- (1) Any person violating or failing to comply with any provision, requirement or order issued pursuant to this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction in the Municipal Court of the City of Tatum, Texas, shall be fined \$200.00. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.**

(2) In addition to any other remedies or penalties contained in this Ordinance, the City may enforce the provisions of this Ordinance pursuant to the applicable provisions of the Texas Local Government Code, Chapter 54, which provides for the enforcement of municipal ordinances.

(3) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this Ordinance.

XVIII. Judicial Review

Any owner, lienholder, or mortgagee of record of a building jointly or severally aggrieved by an order of the Council Hearing Panel issued under this Ordinance may file in district court a verified petition pursuant to Section 214.0012 of the Texas Local Government Code, as amended. The City shall be entitled to an award of attorney's fees and other costs and expenses, and judgment therefor, pursuant to and as authorized by Section 214.0012(h) of the Texas Local Government Code.

XIV. Municipal Court Proceedings Not Affected.

Action taken by the City pursuant to this Ordinance shall not affect the ability of the City to proceed under the jurisdiction of the City's Municipal Court, and the City may elect to pursue substandard building remedies pursuant to this Ordinance, applicable state law, or municipal court proceedings without limitation and in combination where applicable.

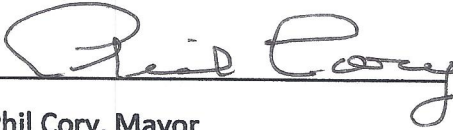
SECTION 3. Any provision of any prior Ordinance of the City, which is in conflict with any provision of this Ordinance is hereby repealed to the extent of the conflict; however, all other provisions of a prior City Ordinance which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 4. It is the intent of the City Council that each word, paragraph, sentence, subdivision, clause, phrase or section be deemed severable, and should such word, paragraph, sentence, subdivision, clause, phrase or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of provisions of this Ordinance left standing, or the validity of any other ordinance of the City.

SECTION 5. This Ordinance shall take effect and shall be in full force from and after its adoption and publication as provided by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Tatum, Texas, this 17 day
of JAN. 2017.

CITY OF TATUM, TEXAS

A handwritten signature in dark ink, appearing to read "Phil Cory", written over a horizontal line.

Phil Cory, Mayor

ATTEST:

A handwritten signature in dark ink, appearing to read "Rhonda Ross", written over a horizontal line.

Rhonda Ross, City Secretary