



CITY COUNCIL WORKSHOP CITY OF BAY CITY

**Tuesday, March 25, 2025 at 5:00 PM
COUNCIL CHAMBERS | 1901 5th Street**

COUNCIL MEMBERS

Mayor: Robert K. Nelson

Mayor Pro Tem: Becca Sitz

Council Members: Benjamin Flores, Jim Folse, Bradley Westmoreland, Blayne Finlay

Vision Statement

We envision Bay City as a thriving, family-centered community where our citizens can live, work, worship, and play, while welcoming visitors to experience our beautiful environment and diverse culture.

AGENDA

THE FOLLOWING ITEM WILL BE ADDRESSED AT THIS OR ANY OTHER MEETING OF THE CITY COUNCIL UPON THE REQUEST OF THE MAYOR, ANY MEMBER(S) OF COUNCIL AND/OR THE CITY ATTORNEY:

ANNOUNCEMENT BY THE MAYOR THAT COUNCIL WILL RETIRE INTO CLOSED SESSION FOR CONSULTATION WITH CITY ATTORNEY ON MATTERS IN WHICH THE DUTY OF THE ATTORNEY TO THE CITY COUNCIL UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THE OPEN MEETINGS ACT (TITLE 5, CHAPTER 551, SECTION 551.071(2) OF THE TEXAS GOVERNMENT CODE).

CALL TO ORDER AND CERTIFICATION OF QUORUM

PUBLIC COMMENTS

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

- 1. Ordinance ~ Discuss, consider, and/or approve an Ordinance of the City Council of the City of Bay City, Texas amending Chapter 22 “Buildings and Building Regulations” of the Code of Ordinances by adopting revisions to Article XI “Vacant Buildings and Property” to the City of Bay City’s Code of Ordinances to provide for the regulation of vacant buildings and property; repealing all related ordinances or parts of ordinances in conflict therewith; providing for a severability clause; providing for publication and prescribing an effective date. Krystal Mason, Assistant Public Works Director**
- 2. Ordinance – Discuss, consider, and/or approve an Ordinance of the City Council of the City of Bay City, Texas amending Chapter 22 “Buildings and Building Regulations” of the Code of Ordinance by adopting revisions to Article IX “Substandard Buildings” to the City of Bay City’s Code of Ordinances to provide for the regulation of substandard buildings; repealing all related ordinances or parts of ordinances in conflict therewith; providing for a severability clause; providing for publication and prescribing an effective date. Krystal Mason, Assistant Public Works Director**

ITEMS / COMMENTS FROM THE MAYOR, COUNCIL MEMBERS AND CITY MANAGER**ADJOURNMENT****AGENDA NOTICES:**

Attendance By Other Elected or Appointed Officials: It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

CERTIFICATION OF POSTING

This is to certify that the above notice of a Regular Called Council Meeting was posted on the front window of the City Hall of the City of Bay City, Texas on **March 21, 2025 before 6:00 p.m.** Any questions concerning the above items, please contact the Mayor and City Manager's office at (979) 245-2137.



AGENDA REQUEST BUSINESS OF THE CITY COUNCIL CITY OF BAY CITY, TEXAS

Meeting Date:	3/25/2025	Date Submitted:	3/19/2025
Prepared By:	Krystal Mason	Presented By <i>(if different)</i>	Krystal Mason
Department:	Public Works	Type of Agenda Item:	Regular

ITEM TITLE:

AGENDA LANGUAGE:

Ordinance – Discuss, consider, and/or approve an Ordinance of the City Council of the City of Bay City, Texas amending Chapter 22 “Buildings and Building Regulations” of the Code of Ordinance by adopting revisions to Article XI “Vacant Buildings and Property” to the City of Bay City’s Code of Ordinances to provide for the regulation of vacant buildings and property; repealing all related ordinances or parts of ordinances in conflict therewith; providing for a severability clause; providing for publication and prescribing an effective date.

EXECUTIVE SUMMARY/BACKGROUND

The Vacant Buildings and Property ordinance requires property owners or agents to register buildings classified as a vacant building. In addition to registration, property owners or agents are charged with securing buildings in a timely manner and providing a maintenance plan for code violations. The revisions to the ordinance better define the procedural requirements of property owners and thereby streamline the enforcement of the ordinance.

STRATEGIC PLAN GOALS ADDRESSED:

	☒		☐		☐		☐		☐		☐
Safety & Community Appearance		Community & Civic Engagement		Infrastructure		Planning & Development		Culture & recreation		Operational Excellence	

FINANCIAL NOTES

RECOMMENDATION: Approval of ordinance revisions.

ATTACHMENTS: Red-lined revisions of Chapter 22, Article XI “Vacant Buildings and Property”

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AMENDING CHAPTER 22 “BUILDINGS AND BUILDING REGULATIONS” OF THE CODE OF ORDINANCES IS AMENDED BY ADOPTING REVISIONS TO ARTICLE XI “VACANT BUILDINGS AND PROPERTIES” TO THE CITY OF BAY CITY’S CODE OF ORDINANCES TO PROVIDE FOR THE REGULATION OF VACANT BUILDINGS AND PROPERTY; REPEALING ALL RELATED ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND PRESCRIBING AN EFFECTIVE DATE.

WHEREAS, Section 2.02 of the City’s Charter permits the City to pass and enforce ordinances, not inconsistent with the Charter and State law, upon any subject expedient for the life; general welfare; health; morals; comfort; safety; amusement; quiet; prosperity; and convenience of the City, its inhabitants, and property; and may provide suitable penalties for the violations of any ordinance;

WHEREAS, the City Council of the City of Bay City finds that buildings that are vacant and unsecured and/or not properly maintained are a blight and cause deterioration, preservation and financial instability in the City; and

WHEREAS, buildings that are vacant and unsecured and/or not properly maintained are declared to be public nuisances and pose serious threats to the public’s health and safety; and

WHEREAS, abatement and rehabilitation of buildings that are vacant and unsecured and/or not properly maintained is necessary; and

WHEREAS, after careful consideration by the City Council, it is of the opinion that vacant buildings and property in the City are in need of regulation; and

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendments to the Municipal Code of Ordinances. The City of Bay City’s Municipal Code of Ordinances, Chapter 22 Article XI (entitled “Vacant Buildings and Property”), are amended by adding language that is underlined (underlined) and deleting language that is stricken (~~stricken~~) as shown on the attached Exhibit A:

Section 3. Payment of Fees. All persons, firms, or corporations applying for licenses or permits or receiving other City services described herein that require the payment of a fee incident to such application or service shall pay the fees as prescribed herein. It shall be a

violation of this Ordinance to conduct any activity or commence any use or receive any service for which payment of a fee described herein is required until such fee has been paid (if required to be paid in advance) or to fail to pay such fee when properly billed.

Section 4. Cumulative. This Ordinance shall be cumulative of all fee provisions of the Code of Ordinances of the City of Bay City, Texas as to the fees set forth herein on the effective date of this Ordinance, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

Section 5. Amending Fees. The City Council may, from time to time, by adopting new ordinances, add to the fees set forth herein. and the fees now or hereafter set forth may be modified from time to time by order of the City Council.

Section 6. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality 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 phrase, clause, sentence, paragraph, or section.

Section 7. Remedies. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the Code of Ordinances in effect on the effective date of this Ordinance and modified by this Ordinance or any other ordinances in effect on the effective date of this Ordinance and modified by this Ordinance and requiring the payment of fees for licenses, permits, and other services provided by the City which have accrued on the effective date of this Ordinance; and any and all accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, shall not be affected by this Ordinance but may be prosecuted until disposition by the courts.

Section 8. Effective Date. This Ordinance shall be in full force and effect on _____,

PASSED AND APPROVED ON this _____ day of _____, 2025

ATTEST:

Jeanna Thompson, City Secretary

Robert K. Nelson, Mayor
APPROVED AT TO FORM:

Anne Marie Odefey, City Attorney

<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Robert K. Nelson Mayor	_____	_____	_____
Brad Westmoreland	_____	_____	_____
Blayne Finlay	_____	_____	_____
Benjamin Flores	_____	_____	_____
Becca Sitz Mayor Pro-Tem	_____	_____	_____
Jim Folse	_____	_____	_____

Robert K. Nelson, Mayor

ATTEST:

Jeanna Thompson, City Secretary

ARTICLE XI. VACANT BUILDINGS AND PROPERTY¹

Sec. 22-520. Purpose, [applicability, and scope.](#)

[Purpose.](#) The City of Bay City focuses on the revitalization of the city through marketing, promotions, events and historic preservation. As such, the city council finds that:

- (a) Buildings that are vacant and unsecured and/or not properly maintained are a blight and cause deterioration and preservation and financial instability in the city.
- (b) Buildings that are vacant and unsecured and/or not properly maintained are declared to be public nuisances and pose serious threats to the public's health and safety.
- (c) Buildings that are vacant and unsecured and/or not properly maintained are vulnerable to being set on fire.
- (d) Buildings that are vacant and unsecured and/or not properly maintained attract vagrants, gang members and criminals as prime locations to conduct illegal criminal activities.
- (e) Abatement and/or rehabilitation of buildings that are vacant and unsecured and/or not properly maintained is necessary.

[Applicability.](#) [This article shall apply to all vacant buildings within the city limits which are now in existence, or which may hereafter be constructed or converted from other uses.](#)

[Scope.](#) [This article shall not apply to a vacant building that has a valid open building permit for construction, remodeling or repair; is being actively marketed for sale or lease for a period of less than six \(6\) consecutive months following the date the building became a vacant building by a licensed real estate broker or an owner is regularly advertising the property for sale; is under contract for sale or lease for a period of less than six \(6\) months following the date that the building became a vacant building.](#)

(Ord. No. 1694, § 1(22-480), 8-23-2022)

Sec. 22-521. Definitions.

Unless otherwise expressly stated, the following words, terms, and phrases, when used in this article, have the meanings ascribed to them in this section, unless the context of their usage clearly indicates a different meaning: The word "shall" is mandatory; the word "may" is permissive. All public officials, bodies, and agencies to which reference is made are those of the city, unless otherwise indicated.

Administrator means the city's city manager [or his/her designee.](#)

Board, when used as a verb, means to cover an opening with lumber, wood panels or other material.

¹Ord. No. 1694 , adopted August 23, 2022, enacted provisions to be designated as §§ 22-480—22-490. In order to maintain the numerical standards of the Code, said provisions have been redesignated as §§ 22-520—22-530. Original section designations have been maintained in the history notes following each section.

Boarded building means a building on which any opening to the outside is covered with lumber, wood panels, or other materials.

Building means any structure used or intended for supporting or sheltering any use or occupancy to which this article applies, and includes an enclosed building, open building, and partially open building.

Commercial means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to any place of amusement or entertainment and includes all adjacent parking areas under the control of the owner of the establishment.

Historical means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The standards and guidelines can be applied to historic properties of all types, materials, construction, sizes, and use. They include both the exterior and the interior and extend to a property's landscape features, site, environment, as well as related new construction. To promote and protect the preservation of historic buildings and homes the City of Bay City requires a certificate of appropriateness to all historic structures prior to all work. This certificate approves work done on buildings within the historic district. Everything that can be seen from outside the house, including windows, doors, paint colors, materials, rooflines, gutters, fences, and yards must receive a COA confirming that it is appropriate and acceptable.

Owner means the owner of record in the county where the real property is situated; anyone identified as the owner on a registration form; the holder of an unrecorded contract for deed; a mortgagee or vendee in possession; a mortgagor or vendor in possession; and an assignee of rents, receiver, executor, trustee, lessee, or other person in possession or with the right to control of the premises or a portion of the premises. Any person who is included in this definition as an owner has joint and several obligations for compliance with the provisions of this article. A tenant who does not have the right of possession or control of a portion of the building that is unoccupied is not an owner for the purposes of this article.

Properly maintained means taking measures to:

- (a) Prevent the physical deterioration of the building;
- (b) Prevent a decline in the appearance of the building, including keeping painted surfaces with a secure and intact coating and preserving signage without physical deterioration;
- (c) Keep a building in a clean, safe, secure, and sanitary condition, compliant with all applicable codes; and
- (d) Prevent the building from becoming an attractive nuisance.

Residential use means the primary use of property is limited to one of the following:

- (a) Apartment means a room or a group of related rooms, among similar sets in one building, designed for use as a dwelling; or a multi-family building type that is comprised of three or more dwelling units, each having an entrance to a hallway, stairway, or balcony in common with at least one other dwelling unit. Apartments may be leased, rented, or owned in a condominium style of ownership;
- (b) Attached single-family dwelling;
- (c) Detached single-family dwelling; or
- (d) Duplex means a single-family attached building which contains two dwelling units, each of which is totally separated from the other by:
 - (1) An unpierced wall extending from foundation to roof ("side-by-side" duplex); or
 - (2) A ceiling/floor that extends from exterior wall to exterior wall, pierced only by a stairway that is not in side of either dwelling unit ("over-under" duplex).

Secure means to take measures to ensure that the building is weatherproof and water-tight and that the interior of the building cannot be accessed by:

- (a) Unauthorized persons; or
- (b) Birds, rodents or other animals through broken windows or other openings in the structure.

Secured by normal measures means the use of structural components of a building, including fixtures, such as doors, unbroken windows, locks, latches, electronic security systems, storm shutters, and security shutters which were installed while the building was constructed or added to the building while the building was occupied and being used for lawful purposes.

Secured by other than normal measures means a building secured by means other than those used in the design of a building or that are normally installed and utilized while a building is occupied and being used for lawful purposes. The term includes boarding any window or door opening.

Unoccupied means not being used for a lawful occupancy.

Vacant building means a building that is any of the following:

- (a) Occupied by an unauthorized person[s] and unsecured;
- (b) Unoccupied and unsecured;
- (c) Unoccupied;
- (d) Unoccupied and for utilities have not been provided to the building space for a continuous period of time over six months; or
- (ed) Unoccupied and has had two or more violations of property maintenance ordinances within the previous 12-month period.

(Ord. No. 1694, § 1(22-481), 8-23-2022)

Sec. 22-522. ~~Procedures~~ Notice of vacant building; procedures.

~~Notice of vacant building:~~

- (a) Upon reasonable observation or upon receipt of a complaint about a building that may be a vacant building, the administrator may cause an inspection of the property in order to determine if the building should be classified as a vacant building. ~~reasonable observation that a building may be a vacant building as determined by the administrator, or receipt of a complaint about a vacant building, the administrator may, upon their discretion, inspect or cause an inspection of the property, by the administrator or their designee, in order to determine if the building should be classified as a vacant building.~~
- (b) If the administrator determines that a building or a portion of a building may be is classified as a vacant building under this article, the administrator: ~~shall make a diligent effort to contact the owner or an agent of the owner, identified by any sign posted on the property or as identified in Matagorda real property or appraisal district records, or by City of Bay City tax or utility records by telephone or electronic written communication and advise the owner or agent that the building has been identified as a vacant building and that the following measures need to be taken:~~
 - (1) File a completed vacant building registration, pursuant to section 22-523 of this article within 14 days from the date of notification;
 - (2) Pay the registration fee, required by section 22-524 within 14 days from the date of notification;

-
- (3) If the building is not secure and would allow for unauthorized persons to enter, take immediate measures to secure the building.
- (c) If the administrator determines that a building or a portion of a building is classified as a vacant building under this article, the administrator shall mail a notice by certified mail, return receipt requested, to the owner or agent identified in subsection (b) which advises that the following measures need to be taken by the owner:
- (1) If not yet filed, file a completed vacant building registration, pursuant to section 22-523 of this article within 14 days from the date of the notice;
- (2) If not yet paid, pay the registration fee required by section 22-524 within 14 days from the date of the notice;
- (3) File a written plan to remediate maintenance items, if identified, and advise on lease or sale proceedings with the administrator within 30 days from the date of the notice;
- (4) Secure the building temporarily by normal or other than normal measures within 14 days from the date of the notice given pursuant to section 22-522 and, for areas visible from the roadway, by normal measures within 90 days from date of the notice given, in accordance with the design standards set forth in section 22-527(b)(1).
- (d) If code violations were identified, the administrator shall include a statement in the notice advising the owner or agent of the code violations and to expect an additional notice and requirements specific to the code violations.
- (e) Contents of the notice. The administrator shall include information on any known financial grant opportunities with the notice.
- (f) The administrator shall post a vacant building placard on the building nearest to the entrance.
- (g) The notice under section 22-522 must comply with the applicable requirements of the V.T.C.A., Local Government Code 54.005.
- (h) The administrator may issue a citation or file a complaint in municipal court for any violations of this article.
- (i) If the owner disputes the administrator's determination that the building should be classified as a vacant building under this article, the owner shall file a written notice of appeal with the administrator within fifteen (15) days from the date of the notice provided in this section. The administrator shall schedule a hearing before the city council to determine whether the building should be classified as a vacant building. The appeal shall be placed on the city council's first available agenda. The city council shall hear the appeal in open session and shall render a decision at the conclusion of the hearing. Said decision shall be final.
- ~~(1) — Shall direct the attempt to contact the owner or an agent of the owner, identified by any sign posted on the property, or as identified in the Matagorda County Appraisal District records, by telephone or electronic and written communication, and advise the owner or agent that the building is a vacant building in the city and provide them with written property and building maintenance options and financial grant opportunity information from the city to bring the property and building into compliance. The property owner will be advised that they have 30 days to contact the administrator (or designee) with a plan to remediate maintenance items and advise on lease or sale proceedings. If the property owner fails to contact the administrator within the 30 days, then the administrator will require the following measures to be taken by the owner:~~

-
- ~~(A) File a completed vacant building registration within 14 days from receipt of the notice given, pursuant to section 22-523 of this article;~~
 - ~~(B) Pay the registration fee required by section 22-524;~~
 - ~~(C) Take action to correct any code violations; and~~
 - ~~(D) Take measures to secure the building temporarily by normal or other than normal measures within 14 days from receipt of the notice given pursuant to section 22-522 and, for areas visible from the roadway, by normal measures within 90 days from receipt of the notice given, in accordance with the design standards set forth in subsections 22-527(b)(1), (2), (3);~~
 - ~~(2) Shall mail certified notice to the owner, with a copy to any agent identified by any sign posted on the property, or as identified in the Matagorda County Appraisal District records, which advises the owner that the building is a vacant building and that the following measures need to be taken by the owner:~~
 - ~~(A) File a completed vacant building registration as more particularly described in section 22-523 within 14 days from receipt of the notice given pursuant to this subsection;~~
 - ~~(B) Pay the registration fee required by section 22-524;~~
 - ~~(C) Take action to correct any code violations; and~~
 - ~~(D) Take measures to secure the building temporarily by normal or other than normal measures within 14 days from receipt of the notice given pursuant to section 22-522 of this article, and, for areas visible from the roadway, by normal measures within 90 days from receipt of the notice given, in accordance with the design standards set forth in subsections 22-527(b)(1), (2), (3);~~
 - ~~(3) May post notice on the building that it appears that the building is a vacant building and that the following measures need to be taken by the owner:~~
 - ~~(A) File a completed vacant building registration as more particularly described in section 22-523 within 14 days from the receipt of the notice given pursuant to subsection (b)(2) of this section;~~
 - ~~(B) Pay the registration fee required by section 22-524;~~
 - ~~(C) Take action to correct any code violations; and~~
 - ~~(D) Take measures to secure the building temporarily by normal or other than normal measures within 14 days from receipt of the notice given pursuant to section 22-522 of this article, and, for areas visible from the roadway, by normal measures within 90 days from receipt of the notice given, in accordance with the design standards set forth in subsections 22-527(b)(1), (2), (3); and~~
 - ~~(4) May issue a citation or file a complaint in municipal court for any violations of this article or other applicable provisions of this Code. The notice under section 22-522 must comply with the applicable requirements of the V.T.C.A., Local Government Code § 54.005.~~
 - ~~(5) If the owner disputes the administrator's determination that the building should be classified as a vacant building under this article, the owner shall file a written notice of appeal with the administrator within 15 days from receipt of the notice provided in this section. The administrator shall schedule a hearing before the city council to determine whether the building should be classified as a vacant building. The appeal shall be placed on the city council's first available agenda. The city council shall hear the appeal in open~~

~~session and shall render a decision at the conclusion of the hearing. Said decision shall be final.~~

Exceptions:

Upon an owner's written request to the administrator for an exception to the registration fee requirement, and a finding by the administrator that a vacant structure qualifies as described below, the following shall be exceptions from the registration fee requirements of this chapter:

1. A vacant structure that has a city building permit issued for remodel/repair, which complies with the City of Bay City, as follows:
 - a. If the work described in any building permit has not begun within 90 days from the date of issuance, the building permit shall expire and be canceled by the building official. Written notice shall be given to the persons affected.
 - b. If the work described in any building permit has not been substantially completed within one year of the date of issuance, the building permit shall expire and be canceled by the building official. Written notice shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a special building permit has been obtained.
2. A vacant structure that is being actively marketed for sale or lease for less than 12 months by a licensed real estate broker or an owner who is regularly advertising the property; or
3. A vacant structure that is under a contract for sale or lease for less than 12 months.

(Ord. No. 1694, § 1(22-482), 8-23-2022)

Sec. 22-523. Registration.

The owner of a vacant building, or a vacant portion of the building, shall register with the administrator, in accordance with this subsection, no later than 14 days after the owner receives written notice under section 22-522. The registration must be verified under a notary public, shall be on a form prescribed by the administrator, and shall at a minimum contain the following information:

- (a) A description of the premises, including its address and legal description;
- (b) The names, addresses, and telephone numbers of all owners with a right of control over the property;
- (c) If the owner does not reside within Matagorda County, the owner shall designate an agent who resides within Matagorda County;
- (d) If owner designates an agent with the authority to independently act on the owner's behalf to repair or maintain the property, the contract, notarized affidavit or power of attorney reflecting such authority and the ability for the agent to receive and accept notices from the city on behalf of the owner shall be submitted;
- (e) The name, address, and telephone number of the owner's property manager or agent, and whether the property manager or agent has the authority to independently act on the owner's behalf to repair or maintain the property;
- (f) The name, address, and telephone number of the owner's property manager or agent authorized to respond to any emergency or alleged violation relating to the vacant building;

-
- (g) Identify a time frame the building will remain vacant and a plan for maintenance of the building during the period of vacancy with certification from the administrator that the building is compliant with all applicable codes;
 - (h) Measures the owner will employ to secure the building, which may include one or more of the methods as required pursuant to the design guidelines, under subsections 22-527(b)(1), (2), (3);
 - (i) Administrator's action on registration. The registration submitted by the owner must be approved by the administrator as being complete and sufficient to secure the vacant building;
 - (j) Term. A registration is valid for one year from (12 months) from the month of registration, which will also apply if the ownership of the vacant building changes; new registration required;
 - (k) Annual registrations. The owner of a vacant building shall be required to annually register until such time as the building is returned to an authorized occupancy. The annual registration must be verified under a notary public, shall be on a form prescribed by the administrator and contain a certification from the owner that the information on file with the administrator is true and correct.
 - (l) Change in ownership. The owner of a registered vacant building shall be required to disclose to any buyer that the property is under registration with the city as a vacant building. The owner shall also disclose the requirement for the buyer to advise the administrator of a proposed development plan within 90 days of closing.
 - (m) Updates. If a change other than described in subsection (e) of this section occurs during the period that a registration is otherwise valid, the owner shall be required to update the information with the city secretary in writing within 14 days of the change.

(Ord. No. 1694, § 1(22-483), 8-23-2022)

Sec. 22-524. Fees.

The owner of each vacant building shall pay to the administrator a vacant building registration fee in accordance with the below referenced chart:

- (a) *Annual registration fee.* \$250.00 for commercial, \$100.00 for historical, and \$50.00 for residential To be paid on the date of registration of the vacant building and shall extend for one year from the month of registration. The registration fee shall be paid annually each year thereafter for as long as the registration remains valid.
- (b) *Annual inspection fee.* The administrator shall assess an inspection fee of \$50.00 for inspections of a vacant building against the owner of the vacant building. This fee will be charged annually for inspections associated with registration and thereafter as inspections are warranted in accordance with this article.
- (c) *Late payment charge.* Any fee required by subsections (a) or (b) of this section, which is not timely received by the administrator, shall be assessed an additional fee of:
 - (1) Late registration fee if the annual registration fee is not paid on the date of registration of the vacant building or by 15th of the month of registration each year thereafter during such time as said registration is valid: \$50.00.
 - (2) Late inspection fee if inspection fee is not paid on the date of registration of the vacant building or by 15th of the month of registration each year thereafter during such time as said registration is valid: \$50.00.

(Ord. No. 1694, § 1(22-484), 8-23-2022)

Sec. 22-525. Inspections.

- (a) The administrator shall provide for the building inspection and coordinate a fire marshal, code enforcement, and building inspector's inspection of each registered vacant building at the time of registration and in accordance with the schedule set forth below. The number of years a building has been vacant shall be measured starting on the effective date of the ordinance codified in this section.

Vacant Building Inspections	
Years Vacant	Frequency
1—3	Annually
4—6	Bi-Annually
7 +	Quarterly

- (b) In addition to the inspection referenced in subsection (a) of this section, if there is probable cause to believe that a code violation may be present in the vacant building or on the premises where the vacant building is located, the administrator shall provide for an additional fire marshal, code enforcement officer, and/or building inspector's inspection of the vacant building and/or premises.
- (c) All inspections shall be conducted to determine compliance with this article and all applicable codes.
- (d) The results of the inspection shall be provided to the owner of the vacant building and the person designated by the owner to facilitate a response to any emergency or alleged violation related to the vacant building.

(Ord. No. 1694, § 1(22-485), 8-23-2022)

Sec. 22-526. Standards.

Maintenance of vacant building and premises:

- (a) *Compliance with applicable laws.* Any repairs, improvements, or alterations to the vacant building or on the property must comply with all applicable laws, codes, and regulations, and as further defined under section 22-521, property maintenance ordinances.
- (b) *Duty to clean.*
- (1) The owner of a vacant building shall remove any garbage and/or rubbish from the interior of the building.
 - (2) The owner of a vacant building shall remove any garbage, rubbish, high weeds and/or brush from the premises on which the vacant building is located.
 - (3) The owner shall keep the premises on which the vacant building is located properly maintained until the building is returned to an authorized occupancy or demolished.
- (c) *Duty to secure.*
- (1) The owner of a vacant building shall lock or secure all doors, windows, and other openings to the vacant building.
 - (2) The owner shall keep a vacant building secured, safe, and properly maintained.
 - (3) If securing a vacant building by normal measures fails to keep the vacant building secure, the owner must use other than normal measures to secure the building, including boarding the vacant building in accordance with the design guidelines, under section 22-527 (b)(1), (2), (3).

-
- (4) Failure of the owner to maintain a vacant building in a secured condition, which failure results in abatement by the city, is subject to lien placement and/or any applicable penalties.
 - (d) *Duty to remove or repair.* The owner of a vacant building shall promptly remove or repair any element of the building or on the premises that is in a condition of decay or partial ruin by reason of neglect, misuse, or deterioration.

(Ord. No. 1694, § 1(22-486), 8-23-2022)

Sec. 22-527. Standards for boarding a vacant building.

- (a) The owner shall take measures to secure the building temporarily by normal or other than normal measures within 14 days from receipt of the notice given pursuant to section 22-522 of this section, in accordance with the following:
 - (1) All unsecured doorways, windows, or other exterior openings must be covered by exterior grade wooden structural panels or other means as approved in writing by the administrator in order to ensure that such doorways, windows and other exterior openings are secured and not easily penetrated.
 - (2) The materials used to secure the building shall be:
 - (A) Flat, square, and level; and
 - (B) In a manner accepted as good workmanship.

The administrator has the sole discretion to determine if the work was performed in a manner that meets the requirements and intent of this Code.
 - (3) All exterior materials used to board a vacant building must be painted or coated the same color that is the predominant color of the building.
 - (4) All broken glass and any other loose material must be removed from the opening before the covering systems are installed.
 - (5) Exterior access to floor areas above the first floor, such as fire escapes and ladders, must also be secured.
 - (6) Fascia signs, overhanging signs, roof signs, and all other appurtenances, such as sun visors or awnings must be removed if they are in a dangerous condition or could create such a condition.
 - (7) All loose or defective materials, trim, or structural elements on the exterior of the building must be removed.
 - (8) Any condition which may become a hazard or danger to the public must be corrected.
- (b) The owner shall secure the building by normal measures for areas visible from the street within 90 days from receipt of the notice as described, in part, below:
 - (1) Historical: existing doors, windows, and awnings as prescribed in the certificate of appropriateness.
 - (2) Commercial: normal commercial doors, windows, and awnings.
 - (3) Residential: normal residential doors, windows, and awnings.

(Ord. No. 1694, § 1(22-487), 8-23-2022)

Sec. 22-528. Abatement notice and order to abate.

- (a) Upon finding a violation of this article, the administrator shall serve, in person or by certified mail, return receipt requested, a written notice and order to abate upon the owner.
- (b) The notice must advise the owner of the violation and comply with the requirements of V.T.C.A., Local Government Code § 54.005.
- (c) If the owner fails to abate the violation within the period stated in the notice or within any additional time as the administrator may grant, the administrator may, without further notice, enter upon the property and abate the violation. The owner is liable for the costs incurred by the city to secure the premises and to abate the violation, including any administrative expenses, materials, and labor.

(Ord. No. 1694, § 1(22-488), 8-23-2022)

Sec. 22-529. Notice of costs incurred by city; lien.

- (a) The administrator shall mail a notice to the owner and lienholder of the property upon which the nuisance has been abated of the costs incurred or expended by the city to abate the nuisance.
- (b) The notice must advise the owner and lienholder that the city proposes to assess its costs against the property and place a lien on the property to collect the costs incurred by the city.
- (c) The administrator shall file a lien against the property for the city's costs.
- (d) Any lien filed pursuant to this section shall be security for the expenditures made.

(Ord. No. 1694, § 1(22-489), 8-23-2022)

Sec. 22-530. Enforcement authority.

The administrator is authorized to enforce the provisions of this chapter and to make all necessary inspections, to issue citations, to give notice, to file applicable charges and to otherwise cooperate in the enforcement of this article, pursuant to section 1-16 or the City of Bay City Code of Ordinances.

(Ord. No. 1694, § 1(22-490), 8-23-2022)



AGENDA REQUEST BUSINESS OF THE CITY COUNCIL CITY OF BAY CITY, TEXAS

Meeting Date:	3/25/2025	Date Submitted:	3/19/2025
Prepared By:	Krystal Mason	Presented By <i>(if different)</i>	Krystal Mason
Department:	Public Works	Type of Agenda Item:	Regular

ITEM TITLE:

AGENDA LANGUAGE:

Ordinance – Discuss, consider, and/or approve an Ordinance of the City Council of the City of Bay City, Texas amending Chapter 22 “Buildings and Building Regulations” of the Code of Ordinance by adopting revisions to Article IX “Substandard Buildings” to the City of Bay City’s Code of Ordinances to provide for the regulation of substandard buildings; repealing all related ordinances or parts of ordinances in conflict therewith; providing for a severability clause; providing for publication and prescribing an effective date.

EXECUTIVE SUMMARY/BACKGROUND

Revisions of Chapter 22, Article IX “Substandard Buildings” defines substandard buildings, establishes minimum requirements for buildings and structures in the city and procedures for abating buildings and structures declared as substandard. The revisions align with the Texas Local Government Code and streamline the enforcement of the ordinance.

STRATEGIC PLAN GOALS ADDRESSED:

	☒		☐		☐		☐		☐		☐
Safety & Community Appearance		Community & Civic Engagement		Infrastructure		Planning & Development		Culture & recreation		Operational Excellence	

FINANCIAL NOTES

RECOMMENDATION: Approval of ordinance revisions.

ATTACHMENTS: Red-lined revisions of Chapter 22, Article IX “Substandard Buildings”

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AMENDING CHAPTER 22 “BUILDINGS AND BUILDING REGULATIONS” OF THE CODE OF ORDINANCES IS AMENDED BY ADOPTING REVISIONS TO ARTICLE IX “SUBSTANDARD BUILDINGS” TO THE CITY OF BAY CITY’S CODE OF ORDINANCES TO PROVIDE FOR THE REGULATION OF SUBSTANDARD BUILDINGS; REPEALING ALL RELATED ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND PRESCRIBING AN EFFECTIVE DATE.

WHEREAS, Section 2.02 of the City’s Charter permits the City to pass and enforce ordinances, not inconsistent with the Charter and State law, upon any subject expedient for the life; general welfare; health; morals; comfort; safety; amusement; quiet; prosperity; and convenience of the City, its inhabitants, and property; and may provide suitable penalties for the violations of any ordinance;

WHEREAS, the City Council of the City of Bay City seeks to promote the health, safety, and general welfare of the community by preventing death, injuries, and property damage within the City of Bay City; and

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

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

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

WHEREAS, pursuant to the laws of the State of Texas, including Texas Local Government Code section 51.001, the City Council has the authority to adopt, publish, amend or repeal an ordinance that is for the good government, peace or order of the City; and

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

WHEREAS, pursuant to Texas Local Government Code section 214.001, et seq, the City Council has the authority to regulate substandard buildings or structures; and

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

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendments to Municipal Code of Ordinances. The City of Bay City's Municipal Code of Ordinances, Chapter 22 Article IX (entitled "Substandard Buildings"), are amended by adding language that is underlined (underlined) and deleting language that is stricken (~~stricken~~) as shown on the attached Exhibit "A":

Section 3. Payment of Fees. All persons, firms, or corporations applying for licenses or permits or receiving other City services described herein that require the payment of a fee incident to such application or service shall pay the fees as prescribed herein. It shall be a violation of this Ordinance to conduct any activity or commence any use or receive any service for which payment of a fee described herein is required until such fee has been paid (if required to be paid in advance) or to fail to pay such fee when properly billed.

Section 4. Cumulative. This Ordinance shall be cumulative of all fee provisions of the Code of Ordinances of the City of Bay City, Texas as to the fees set forth herein on the effective date of this Ordinance, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

Section 5. Amending Fees. The City Council may, from time to time, by adopting new ordinances, add to the fees set forth herein, and the fees now or hereafter set forth may be modified from time to time by order of the City Council.

Section 6. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality 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 phrase, clause, sentence, paragraph, or section.

Section 7. Remedies. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the Code of Ordinances in effect on the effective date of this Ordinance and modified by this Ordinance or any other ordinances in effect on the effective date of this Ordinance and modified by this Ordinance and requiring the payment of fees for licenses, permits, and other services provided by the City which have accrued on the effective date of this Ordinance; and any and all accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, shall not be affected by this Ordinance but may be prosecuted until disposition by the courts.

Section 8. Effective Date. This Ordinance shall be in full force and effect on _____,

PASSED AND APPROVED ON this _____ day of _____, 2025

ATTEST:

Robert K. Nelson, Mayor
APPROVED AS TO FORM:

Jeanna Thompson, City Secretary

Anne Marie Odefey, City Attorney

<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Brad Westmoreland	_____	_____	_____
Blayne Finlay	_____	_____	_____
Benjamin Flores	_____	_____	_____
Becca Sitz Mayor Pro-Tem	_____	_____	_____
Jim Folse	_____	_____	_____
Robert K. Nelson Mayor	_____	_____	_____

Robert K. Nelson, Mayor

ATTEST:

Jeanna Thompson, City Secretary

ARTICLE IX. SUBSTANDARD BUILDINGS

Sec. 22-440. Substandard buildings defined.

All buildings or structures which have any or all of the following defects or lack of facilities, shall be deemed substandard buildings:

- (1) All buildings or structures which do not have the number of plumbing fixtures as required by the plumbing regulations of the city or which have pit privies where the same are not permitted by law, or which are not connected to the city sewer when required by law, or where inadequate and unsanitary pit privies or septic tanks exist.
- (2) All buildings or structures that have become deteriorated through accident or lack of repair or natural causes, or by damage through exposure to the elements, especially winds, hail or rain, or damage through fire, to the extent that the roof, windows and doors, or portions of the building or structure, which protect from the weather will no longer protect from the weather.
- (3) All buildings or structures which constitute or in which are maintained, fire hazards, as that term is defined through the fire prevention code of the city.
- (4) All buildings or structures which are so structurally deteriorated that they are in danger of collapse, or which cannot be expected to withstand winds of hurricane force.
- (5) All buildings or structures not wired in conformity with the electrical code of the city.
- (6) All buildings or structures not constructed in conformity with the city building code.
- (7) All buildings or structures so constructed or permitted to be so constructed as to constitute a menace to 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 the use of deteriorated materials.
- (8) All dwellings, apartment houses, rooming houses or buildings or structures used as such which are unsafe, unsanitary, unfit for human habitation, or not provided with adequate egress; or are otherwise dangerous to human life, or which, in relation to existing use, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment or which do not comply with the minimum standards for dwellings and apartments as set out in the International Property Maintenance Code, as adopted in this chapter.

(Ord. No. 1562, § 2, 12-17-2015)

Sec. 22-440. Definition; unfit condition declared.

- (a) The term "substandard building" means any building which does not meet the established minimum standards for continued use and occupancy, as set forth in this article regardless of the date of its construction.
- (b) For purposes of this article, a building shall be deemed to be substandard if it is:
 - (1) Dilapidated, substandard, or unfit for human habitation;
 - (2) A hazard to the public health, safety and welfare;

-
- (3) 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
 - (4) Boarded up, fenced, or otherwise secured in any manner if:
 - a. The building constitutes a danger to the public even though secured from entry; or
 - b. The means used to secure the building are inadequate to prevent unauthorized entry or use of the building.

Sec. 22-441. Declaration.

All substandard buildings or structures within the terms of this article that shall constitute a menace to the health, safety or general welfare of its occupants or of the public are declared to be public nuisances and shall be ordered to be either vacated, repaired or demolished as provided by this article.

Sec. 22-442. Enforcement official; right of entry; duty to inspect.

- (a) The provisions of this article shall be enforced by the Director of the Planning and Development Services Division and/or their authorized representative, hereinafter referred to as building official.
- (b) The building official may enter a building, structure or premises at all reasonable times to make an inspection or enforce any of the provisions of this article.
- (c) When entering a building, structure or premise that is occupied, the building official shall first present proper identification, and request entry. If the building, structure or premise is unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge of the building and request entry. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.
- (d) No person, owner or occupant of any building or premise shall fail, after proper identification and an administrative search warrant are displayed, to permit entry into any building or onto any property by the building official for the purpose of inspections pursuant to this article.
- (e) The building official is hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this article.

Sec. 22-443. Public Utilities.

- (a) The building official may request public utilities to be disconnected without notice to the owner where a known dangers condition related to the type of service provided exists, for as long as such a condition exists. In all other instances, public utilities may be disconnected only after the owner has received notice and an opportunity to have a public hearing on the matter.
- (b) Once utility services to a building, structure or premises are disconnected pursuant to this article, they shall not be reconnected without an inspection and certificate of occupancy being issued by the building official.

Sec. 22-444. Conditions constituting imminent danger.

In cases where the condition of a building constitutes an imminent danger to the health, life, or safety of any person unless immediately vacated, repaired, or demolished, the building official may cause such immediate vacation, repair, or demolition to the extent necessary to alleviate the imminent danger. The costs of such emergency repairs shall be collected in the same manner as provided in 22-454.

Sec. 22-445. Minimum standards for use and occupancy

In this article, a building meets minimum standards if it is not dangerous and a hazard to the public health, safety, and welfare. The following conditions violate minimum standards:

- (a) All buildings or structures which do not have the number of water closets, urinals and lavatories required by the city plumbing ordinance, or which have pit privies where the same are not permitted by law, or which are not connected to the city sewer when required by law.
- (b) All buildings or structures not wired in conformity with the city electrical code, as the same now exists or as hereafter amended and which are dangerous or hazardous.
- (c) All buildings or structures not constructed in conformity with the city building code, as the same now exists or as hereafter amended and which are dangerous and hazardous.
- (d) Inadequate sanitation.
 - 1. Lack of a bathroom or the existence of an improper bathroom.
 - 2. Lack of or an improper kitchen.
 - 3. Lack of hot and cold running water to plumbing fixtures.
 - 4. Lack of or improper required heating, mechanical ventilation or electric facilities.
 - 5. Lack of required amounts of natural light and ventilation.
 - 6. Lack of or improper space or floor area.
 - 7. Lack of required electrical lighting.
 - 8. Dampness of habitable space.
 - 9. Infestation of insects, vermin or rodents.
 - 10. The existence of dead trees, tree limbs, holes, excavations or other conditions reasonably capable of causing injury to a person.
 - 11. Lack of or improper connection to required sewage disposal.
 - 12. Lack of or improper garbage and rubbish storage and removal facilities.
 - 13. Lack of or improper drainage so as to prevent standing or stagnant water on the premises.
- (e) Structural hazards.
 - 1. Improper foundations.
 - 2. Improper flooring or floor supports.
 - 3. Flooring or floor supports of insufficient size to carry imposed loads safely.
 - 4. Members of walls, partitions or other vertical supports that split, lean, list, or buckle due to defective material, deterioration, or improper construction.
 - 5. Members of walls, partitions or other vertical supports that are insufficient size to carry imposed loads safely.
 - 6. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material, deterioration, or improper construction.
 - 7. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.
 - 8. Fireplaces or chimneys which list, bulge or settle due to defective material, deterioration, or improper construction.
 - 9. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads safely.
 - 10. Lack of or improper required railings, stairs, steps and balconies.
- (f) Improperly maintained roofs. Roofs shall be maintained in good condition to prevent buckling, rotting, curling or other defects. If an improperly maintained roof is found to be failing, the city may require the repair or replacement of the roof to prevent consequential damage to the structure. Roof replacement materials, if not replaced on the entirety of the surface, shall be of similar material and color as the existing roof. Roof defects, when accompanied by other minimum housing violations, shall establish grounds for an interior inspection of the dwelling to determine failure of the roof and the existence of other deficiencies related thereto.

-
- (g) Hazardous wiring. Any wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in operating condition.
 - (h) Hazardous plumbing. Any plumbing except that which conformed with all applicable laws in effect at the time of installation, which has been maintained in operating condition, and which is free of cross-connections or siphonage between fixtures.
 - (i) Hazardous mechanical equipment. Any mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in operating condition.
 - (j) Faulty weather protection.
 - 1. Improper, crumbling or loose plaster or wall coverings.
 - 2. Lack of or improper waterproofing of exterior walls, roof, foundations or floors, including broken windows and doors.
 - 3. Lack of or improper weather protection for exterior wall coverings including lack of paint, or weathering due to lack of paint or other approved protective covering.
 - 4. Lack of or improper exterior wall coverings or roof coverings.
 - (k) Inadequate exits. Any building, or portion thereof, not provided with adequate exit facilities as required by this article, except, those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of construction. When an unsafe condition exists due to improper location of exits, additional exits may be required to be installed.
 - (l) Improper occupancy. Any building, or portion thereof, occupied for living, sleeping, cooking or dining purpose which was not designed or intended to be used for such occupancies.
 - (m) Unsecured buildings. Any building that is vacant and open. A building is open if any door, window or other opening is not securely closed to prevent unauthorized entry.
 - (n) The International Property Maintenance Code as referenced and adopted by reference in section 22-4 shall apply to all existing structures and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators, and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

Sec. 22-446. Public hearing.

- (a) The Planning Commission shall act as the board for public hearings within the terms of this article and will act as authorized under this article and V.T.C.A, Local Government code chapters 54 and 214.
- (b) The building official, upon determination that a building is declared substandard within the meaning of this article, shall request a public hearing before the Planning Commission for the purpose of determining whether a structure is a substandard building within the terms of this article. The building official shall present all cases before the council.
- (c) In a public hearing to determine whether a building complies with the standards set out in this article, the owner, mortgagee, or lienholder 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.

Sec. 22-447. Notice; publication; time of notice.

- (a) The building official shall make a diligent effort to discover each owner, mortgagee or lienholder of the affected property before conducting the public hearing. Such diligent effort shall include searching the following records:
 - 1. County real property records of Matagorda County;
 - 2. Appraisal district records of Matagorda County;
 - 3. Records of the Secretary of State;
 - 4. Assumed name records of Matagorda County;
 - 5. City of Bay City tax records; and
 - 6. City of Bay City utility records.
- (b) The building official shall issue a notice of the public hearing in accordance with Sec. 22-448 to the owner of the building and mortgagee and/or lienholder, as applicable. The notice shall be served at least ten (10) calendar days prior to the hearing date and posted on or near the front door of the building declared substandard. The notice may be served either personally or by certified mail, return receipt requested.
- (c) The notice shall be published in a newspaper of general circulation in the city one (1) time on or before the tenth calendar day before the date fixed for the hearing.
- (d) The notice shall be filed in the official public records of real property in the Matagorda County Clerk's Office.
- (e) If the notice is returned as "refused" or "unclaimed", the validity of the notice is not affected, and the notice is considered delivered.

Sec. 22-448. Notice contents.

The notice must include:

- (a) The name and address of the owner of the affected property, a legal description of the affected property, and a description of the hearing; and
- (b) A statement that the owner, mortgagee and/or lienholder, as applicable, 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; and
- (c) The following statement: According to the real property records of Matagorda County, you own the real property described in the notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the twentieth calendar day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice.
- (d) The Affidavit of Non-ownership form shall be included with the contents of the notice.
- (e) If the building official receives an executed affidavit under this section, the building official shall:
 - 1. Send the appropriate notice to the person named in the affidavit as having acquired the property. A notice sent under this subsection must include the statement included in subsection (c) above.
 - 2. Maintain the affidavit on file for at least two (2) years after the date the affidavit is received;
 - 3. Deliver a copy of the affidavit to the chief appraiser of the Matagorda County Appraisal District.
 - 4. The notice is considered to have been provided to a property owner if the notice is sent in compliance with this section and an executed affidavit is not received from the record owner or an executed affidavit is not received from the person to whom the notice was sent under subsection (e)(1) above.
- (f) If an affidavit under subsection (d) above is not received, the record owner is presumed to be the owner of the property for all purposes to which the notice relates.

Sec. 22-449. Order.

- (a) If the Planning Commission determines that a building is substandard, it shall proceed to determine whether the building should be vacated, repaired, secured, demolished and/or the occupants relocated under the standards contained herein and in accordance with the following:
 - 1. If the structure is in such a condition as to make it hazardous to the health, safety or general welfare of its occupants or the public, it shall be ordered vacated and secured, and the order may also require the occupants to be relocated.
 - 2. If the structure can be feasibly repaired or the condition remedied so that it will no longer exist in violation of the provisions of this article, it shall be ordered remedied or repaired. Repairs shall be deemed feasible only if less than fifty (50) percent of the value or structure of the building must be repaired or replaced.
 - 3. In any case where fifty (50) percent or more of its 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.
- (b) If the Planning Commission determines the building to be substandard, it shall issue an order based upon this determination, requiring the owner of the building to vacate, repair, secure, demolish and/or relocate the occupants from the building. The order shall specify a reasonable time as provided by Section 22-450 for the ordered actions to be taken by the owner and an additional reasonable time as provided by Section 22-450 for the ordered actions to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided by the order. Each order requiring the repair, removal, or demolition of a building shall require that a building permit for such repair or demolition be obtained by the owner prior to commencing work required by the order.
- (c) The building official shall, no later than the next working day after the Planning Commission issues an order:
 - 1. Mail a copy of the order by first class mail, certified return receipt requested, to the owner and any record lienholder and mortgagee of the building; and
 - 2. Post a substandard building placard in a conspicuous location at the entrance to the substandard building. Such placard shall remain posted until the required action is completed.
- (d) The building official shall, no later than ten (10) calendar days after the date that the Planning Commission issues an order:
 - 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 the street address or legal description of the property, the date of the hearing, a brief statement indicating the results of the order, and instructions stating where a complete copy of the order may be obtained.

Sec. 22-450. Compliance time schedule.

- (a) The Planning Commission in each substandard building order shall, unless otherwise provided herein, require the owner, mortgagee or lienholder to 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 required cannot reasonably be performed within thirty (30) calendar days.
- (b) If the Planning Commission allows the owner, mortgagee, or lienholder more than thirty (30) calendar days to repair, remove or demolish the building, the Planning Commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, mortgagee, or lienholder to secure the property in a reasonable manner from unauthorized entry while work is being performed, as determined by the Planning Commission.

-
- (c) The Planning Commission may not allow the owner, mortgagee, or lienholder more than ninety (90) calendar days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, mortgagee, or lienholder:
1. Submits a detailed plan and time schedule for the work at the hearing; and
 2. Establishes at the hearing that the work cannot reasonably be completed within ninety (90) calendar days because of the scope and complexity of the work.
- (d) If the Planning Commission allows the owner, mortgagee, or lienholder more than ninety (90) days to complete any part of the work required to repair, remove, or demolish the building, the Planning Commission shall require the owner, mortgagee, or lienholder to regularly submit progress reports to the building official to demonstrate that the owner, mortgagee, or lienholder has complied with the time schedules established for commencement and performance of the work.

Sec. 22-451. Appeal.

- (a) The owner, lienholder, or mortgagee of record shall have the right to appeal the decision of the Planning Commission to the City Council. A notice of appeal must be filed with the building official within seven (7) calendar days from the date the Planning Commission renders its order. The City Council shall hold a hearing on the matter at its next regularly scheduled meeting, unless to do so would make it impossible for the City Council to render a decision prior to the expiration of the time frame in which to file an appeal with the district court as provided in subsection (b) below, in which case a special meeting shall be called. The City Council may reverse or affirm, in whole or in part, or modify the Planning Commission's order and make the correct order.
- (b) Notwithstanding the above, the owner, lienholder, or mortgagee of record, shall have the right to appeal the decision of the Planning Commission to district court. In addition, the owner, lienholder, or mortgagee shall have the right to appeal the decision of the Planning Commission, as reversed, affirmed, in whole or in part, or modified by the City Council, if applicable, to district court. In either event, a notice of appeal must be filed with the district court clerk within thirty (30) calendar days from the date the Planning Commission's order is mailed to the owner, lienholder and mortgagee.

Sec. 22-452. Abatement.

- (a) 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.
- (b) The city may repair a building under this section only to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with ten or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum housing standards.

Sec. 22-453 Authority to secure a substandard building.

- (a) Notwithstanding anything to the contrary in this article, the building official may secure a building that is declared a substandard building and is unoccupied or occupied only by persons who do not have a right of possession to the building.
- (b) Before the 11th day after the date the building is secured, the building official shall give notice to the owner 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 Matagorda County 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.
- (c) 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 is present at the building;
 3. A statement that the building official will secure or has secured, as the case may be, the building; and
 4. An explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building.
- (d) The Planning Commission shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the building official's securing of the building if, within 30 days after the date the building is secured, the owner files with the city secretary a written request for the hearing. The Planning Commission shall conduct the hearing within twenty (20) days after the date the request is filed.

Sec. 22-454. Lien.

- (a) Authority. When the city incurs expenses under section 22-452 and/or 22-453, the city may assess the expenses on, and the city shall have a lien against, unless it is a homestead as protected by the state constitution, the property on which the building was located. 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. In the event the lien is filed, the city may charge a 20-percent administrative fee of the statement of expenses which represents the administrative cost of the process to obtain the lien.
- (b) Notice; contents. The notice of lien filed by the city must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of the expenses incurred by the city, and the balance due.
- (c) Preference. Except as provided by subsection (a) of this section, the city's lien to secure the payment of a civil penalty or the costs of repairs, removal, or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the city's lien attached if the mortgage lien was filed for record in the county clerk's office of the county in which the real property is located before the date the civil penalty is assessed or the repair, removal, or demolition is begun by the city. The city's lien is superior to all other previously recorded judgment liens.

Sec. 22-455. Interest.

Civil penalties or other assessments imposed under this article accrue interest at the rate of ten percent a year from the date of the assessment until paid in full.

Sec. 22-456. Nontransferable.

The city may not transfer its rights to the assessment of the lien to a third party.

Sec. 22-457. Penalty.

Any person, owner, occupant, executor, administrator or trustee who has possession and control of any premises upon which a nuisance exists and the same has been determined to be a nuisance under the terms of this article, and has not removed the same, shall be guilty of a Class C misdemeanor.

Secs. 22-441~~58~~⁵⁸—22-463. Reserved.