

**CITY OF SANDY OAKS, TEXAS**

**ORDINANCE NO. 2016-46**

**AN ORDINANCE OF THE CITY OF SANDY OAKS, TEXAS ESTABLISHING STANDARDS FOR BUILDINGS AND STRUCTURES; PROVIDING FOR THE DECLARATION OF SUBSTANDARD BUILDINGS AND STRUCTURES AS A PUBLIC NUISANCE; PROVIDING FOR NOTICE TO PROPERTY OWNERS, OCCUPANTS, MORTGAGEES, AND LIENHOLDERS OF SUBSTANDARD BUILDINGS AND STRUCTURES; PROVIDING FOR A PUBLIC HEARING ON THE SUBSTANDARD BUILDING OR STRUCTURE; PROVIDING FOR THE ABATEMENT OF NUISANCES; PROVIDING FOR RECOVERY COSTS; PROVIDING A PENALTY CLAUSE; PROVIDING FOR JUDICIAL REVIEW; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 214 of the Local Government Code authorizes the City Council of the City of Sandy Oaks, Texas ("City"), by 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; 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 boarded up, fenced, or otherwise secured in any manner if the building constitutes a danger to the public even though secured from entry or the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by Chapter 214.

**WHEREAS**, Chapter 214 of the Local Government Code also requires that the ordinance establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; provide for giving proper notice to the owner of a building; and provide for a public hearing to determine whether a building complies with the standards set out in the ordinance; and

**WHEREAS**, the City Council desires to establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; provide for giving proper notice to the owner of the building; and provide 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 of its citizens.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS:**

**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 fully set forth herein.

## **Section 2. Substandard Buildings.**

- A. **Adoption of Chapter 214, Subchapter A, Local Government Code.** The City hereby adopts Chapter 214, Subchapter A, of the 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; the following provisions for giving proper notice to the owner of a building; and the following provisions for a public hearing to determine the compliance of real property, buildings, structures, premises and vacant lots with this ordinance. In the event that any provision of this ordinance conflicts with said Chapter 214, Subchapter A, or in the event that any provision of said Chapter 214, Subchapter A, has been omitted from this ordinance, the City shall be entitled to pursue its remedies in conformance with Chapter 214, Subchapter A, as hereafter amended.
- B. **Building Standards Commission.**

- (1) Building Standards Commission Created. There is hereby created a Building Standards Commission ("Commission"), which shall consist of the City Council. All cases to be heard by the Commission shall be heard by a panel of at least four members.
- (2) Ex officio members. The City Marshal, police chief, code enforcement officer, fire marshal and building official shall be ex officio, nonvoting members of the Commission. It shall be the duty of the ex officio members to inspect all buildings or structures reported to be or believed to be substandard and present a report of such inspection to the City Secretary.
- (3) Officers of the Commission. At its first meeting of each calendar year, the Commission shall select from its members a chairperson and vice-chairperson. The City Secretary, or his/her designee, shall act as secretary of the Commission.
- (4) Rules and Procedures.
  - a. Four members of the Commission shall be required to constitute a quorum and the concurring vote of four members of the Commission is necessary to take any action under this ordinance
  - b. A Commission member having a personal or financial interest in any matter before the Commission shall excuse himself/herself from the discussion and vote on that matter.
  - c. The person acting as secretary to the Commission shall make a record of all proceedings of the Commission, which shall set forth the particulars of the matter before the Commission, the decision rendered by the Commission, the reason for the said decision and the vote of each member participating therein.
  - d. The chairperson or City Secretary may call meetings of the Commission when necessary to rule on any case brought before it regarding substandard building nuisances.
  - e. The Commission shall establish such other rules and procedures it deems necessary for the election of officers and the conduct of its business.



- (5) **Duties.** The Commission shall hear any case dealing with substandard buildings nuisances and make a ruling as to whether such building is a public nuisance and whether such building or structure should be repaired, removed, secured, vacated and/or demolished or that its occupants be relocated.
- C. **Alterations, Additions, and Repairs.** All buildings or structures that are required to be repaired under the provisions of this ordinance shall be subject to all applicable sections of the International Building Code, as amended and International Fire Code, as amended, and as adopted by the City, and any and all ordinances and codes related to buildings adopted by the City.
- D. **Declaration of Public Nuisance.** Any real property, building, structure or any portion thereof, or any premises, including a vacant lot, in or on which there exists a condition not in compliance with this ordinance shall be deemed and is hereby declared to be a public nuisance, a violation of this ordinance and 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.
- E. **Definitions.** For the purposes of this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.
- (1) "Building" means a structure with walls and a roof, or a structure that was originally construed with walls and a roof, *e.g.* a house. This term includes, but is not limited to, residential or commercial structures and includes any accessory structure on the same property. The term building includes the term structure.
  - (2) "Enforcement Officer" means the City Marshal, chief of police, building official, code enforcement officer or their designated representative(s), charged with any enforcement and administration of this ordinance.
  - (3) "Inspection" means the examination of property by the enforcement officer or his/her authorized representative for the purpose of evaluating its condition as provided for in this ordinance.
  - (4) "Manifestly Unsafe" means a building that is a public nuisance, as that term is defined in this section, or unsafe for human occupancy, whether temporary or permanent, and a hazard to the public health, safety and welfare.
  - (5) "Owner" means any person, agent, firm, corporation, association or other entity having a legal or equitable interest in a property as shown on the most recent tax roll.
  - (6) "Person" means any person, agent, firm, corporation, association or other legal entity, or tenant as that term is defined in this section.
  - (7) "Public Nuisance" means:

- a. The physical condition or use of any premises regarded as a public nuisance at common law or as defined elsewhere in the ordinances or codes of the City.
- b. Any physical condition, use or occupancy of any premises 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 premises that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecure as to endanger life, limb or property;
- d. Any premises for which the plumbing, heating and/or facilities required by the City's ordinances or codes 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 structure or 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/or dangerous to anyone on or near the premises;
- f. Any physical condition, use or occupancy of any premises or its appurtenance that is dangerous to the physical health or safety of an occupant or other person; or
- g. Because of violations of Section 2(G) of this ordinance, the state of disrepair is such that it could reasonably be foreseen to cause injury, damage, or harm to a considerable portion of the community in the use and enjoyment of property or materially interfere with the proper use and enjoyment of surrounding property, taking into consideration the nature and use of the 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.

(8) "Tenant" means any person, agent, firm, corporation, or association who occupies a property or premises and who is not the owner.

F. **Specific Nuisances.** Without limiting the power of the City Council 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 or any portion thereof 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 person 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 constitutes 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.

(2) Any building that has any or all of the conditions or defects as herein described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that 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 in the International Building Code for new buildings of similar structure, purpose or location.
- d. Whenever any portion of a building has been damaged by fire, earthquake, wind, hurricane and flood or by another other cause, to such 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 of the International Building Code for new buildings of similar structure, purpose or location.
- e. Whenever a portion of a building, or member or appurtenance thereof, is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- f. Whenever any portion of a building, or any member, appurtenance or ornamentation to 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 in the International Building Code for such buildings.
- g. Whenever any portion of a building has cracked, warped, buckled or settled to such an extent that walls or other structural portion have materiality less resistance to wind or earthquake that 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 the purpose of supporting such building;
  - iv. The deterioration, decay or inadequacy of its foundation; or
  - v. Any other cause or is likely to partially or completely 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, shows 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 nonsupporting 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 or 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 requirements or prohibition applicable to such building provided by the building regulations of this jurisdiction, as specified in the International Building Code, or of any law or ordinance of this state or jurisdiction related to the condition, location or structure of buildings.
- n. Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting 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; or
  - iii. Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
- o. Whenever 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 exit, lack of sufficient fire-resistive conditions, faulty electric wiring, gas connections or 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 constitute such building or portion thereof an unattractive 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.

- t. Whenever any minimum standards provided by the International Building Code, the International Fire Code, and as adopted by the City Council, are not met for any building.

#### **G. Minimum Standards**

- (1) 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 promulgated by the International Conference of Building Officials as heretofore previously adopted or hereafter adopted or amended by the City, and those standards established by this ordinance.
- (2) Those standards specified and enumerated in Section 2(F) of this ordinance

#### **H. Notice to Property Owners and Others of Public Hearing**

- (1) If the building official determines that the nuisance requires the vacation, securing, repair, or removal of a building, structure, or nuisance condition on the property, or the relocation of the occupants of the property, the building official shall:
  - a. give notice of the nuisance to the owner of the property as well as any one (1) known tenant or occupant by personal service or by certified mail (with a duplicate copy addressed to such owner, tenants or occupants as shown in the most recent tax roll or utility records of the City and deposited in the U.S. Mail, postage prepaid);
  - b. provide detail in such notice of the standard(s) violated under this ordinance and the necessary action to abate the nuisance (a copy of the building official's report is sufficient for this purpose);
  - c. advise such owner, tenant or occupant of the date and time of the public hearing at which a determination will be made by the Commission as to whether the nuisance exists and whether the real property, building, structure, premises or any portion thereof complies with the standards of this ordinance.
  - d. include a statement in such notice that the owner, lienholder or mortgagee will be required to submit 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
  - e. 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 public hearing to any mortgagee or lienholder of record after a diligent effort to discover such mortgagee or lienholder.
- (2) If the City mails a notice in accordance with this ordinance to a property owner, lienholder, or mortgagee and the United States Postal Service returns the notice as

“refused” or “unclaimed,” the validation of the notice is not affected, and the notice is considered delivered.

- (3) 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 identify and address of an owner, a lienholder, or a mortgagee if the City searches the following records:
  - a. Bexar County real property records;
  - b. Bexar County Appraisal District records;
  - c. Records of the Secretary of State;
  - d. Assumed name records of Bexar County;
  - e. Tax records of the City of Sandy Oaks; and
  - f. Utility records of any utility doing business in the City of Sandy Oaks.
- I. **Date of Public Hearing.** The date of the public hearing before the Commission shall not be fewer than thirty (30) days from the date of personal service or depositing of same in the U.S. Mail, whenever is earliest.
- J. **Filing of Notice of Public Hearing in Public Records.** The City Secretary shall file a notice of public hearing in the Bexar County real property records at least ten (10) days before the date of the public hearing. The notice of public hearing shall contain (1) the name and address of the owner of the affected real property, if that information can be determined from a reasonable search of the documents on file with the County Clerk; (2) a legal description of the property; and (3) a description of the hearing.
- K. **Effect of Filing Notice in Public Records.** The filing of the notice of public hearing under Section 2(J) of this ordinance shall be binding upon subsequent grantees, lienholders, or their transferees of any interest in the property 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 property who acquires such interest after the filing of the notice.
- L. **Conduct of Public Hearing.** The Commission shall conduct the public hearing to determine compliance with the standards set out in this ordinance. At the public hearing, 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.
- M. **Orders and notice after public hearing.**
  - (1) If, after a public hearing, the Commission finds that a nuisance exists pursuant to this ordinance, the Commission shall require the owner, lienholder or mortgagee of the real property, building, structure or premises to within thirty (30) days:
    - a. secure the offending building from unauthorized entry; or
    - b. abate the nuisance or repair, remove or demolish the building unless the owner, mortgagee or lienholder establishes at the hearing that the work cannot reasonably be performed within the thirty (30) days allowed. The Commission shall establish a specific time schedule for the commencement and



performance of the work and shall require the owner, lienholder or mortgagee to secure the property in an reasonable manner from unauthorized entry while the work is being performed.

- (2) If, after the public hearing, a building, structure or premises is found to be in violation of the standards set forth in this ordinance, the Commission may order that the building, structure, or premises be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this section. The Commission also may order that the occupants be relocated within a reasonable time, at the cost of the owner. The Commission reserves the right to determine what is a reasonable amount of time to perform the ordered work or what is a reasonable amount of time to relocate occupants. In the event the owner fails to comply with the order within the time provided for action by the owner, the Commission may order any of the mortgages or lienholders to vacate, secure, repair, remove or demolished the building, structure or premises to comply with the order within a reasonable time as provided by this section. The Commission also may order that the occupants be relocated within a reasonable time, at the cost of any of the mortgagees or lienholders. Under this section, the City is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.
- (3) If the owner, lienholder or mortgagee establishes at the public hearing that the work cannot be reasonably completed within ninety (90) days because of the scope and complexity of the work, and if the owner, lienholder or mortgagee has submitted at the hearing a detailed plan and time schedule, and the Commission allows the owner, lienholder, or mortgagee more than ninety (90) days to complete any part of the work required to abate the nuisance or secure, repair, remove or demolish the building, the Commission shall require the owner, lienholder or mortgagee to regularly submit progress reports to the Commission or the building official to demonstrate compliance with the time schedule for commencement and performance of the work and may require appearance before the building official, the Commission, or their designees to demonstrate compliance. If the owner, lienholder or mortgagee owns property, including structures or improvement on property, within the City's boundaries that exceeds \$100,000 in total value, the Commission may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the Commission may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the Commission. The bond must be posted, or the letter of credit or third-party guaranty provided not later than the 30<sup>th</sup> day after the date the City issues the order.
- (4) Within ten (10) days after the date that the order is issued, the City Secretary shall:
  - a. File a copy of the order in the City Secretary's office; and
  - b. Publish in a newspaper of general circulation in the City a notice containing:
    - i. the street address or legal description of the property;
    - ii. the date of the hearing;
    - iii. a brief statement indicating the result of the order; and

iv. instructions stating where a complete copy of the order may be obtained.

- (5) After the public hearing, the City Secretary shall promptly mail by certified mail with return receipt requested, delivery by the United State 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, structure or premises.
- (6) If the building, structure or premises 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 a bond or other financial guaranty that may be required by Section M(3).

N. **Repair, Vacation or Demolition.** The following standards shall be followed by the Commission in ordering the repair, vacation or demolition of any building, structure, or premises, and any building, structure or premises declared a nuisance under this ordinance shall be made to comply with one or more of the following:

- (1) The building, structure, or premises shall be repaired in accordance with the current building code or other current code applicable to the type of substandard condition 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 building's 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 secured from unlawful entry.
- (4) If the building requires repairs of 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 ordinance, 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 statute of the State, it shall be demolished. For the purpose of this ordinance, the term "demolished" includes the cleaning and grading of the property 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 may thereafter assess expense and establish a lien against the property, as set forth in Section 2(T) of this ordinance.



- (6) If, after the expiration of the time allotted under Section 2(M) of the ordinance, the owner, lienholder or mortgagee fails to comply, the City may do or cause to be done the repairs necessary to bring the building into compliance with this ordinance 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 exceeds the minimum standards, as defined by this ordinance, and expenses may be assessed as provided in Section 2(T) of this ordinance.
- O. **Designation of Code Enforcement Officer.** The code enforcement officer, or his/her designated representative(s), are hereby directed and authorized to administer and enforce the provisions of this ordinance. Nothing contained herein is meant to limit the discretion of any enforcement officer in evaluating and directing compliance with this ordinance.
- P. **Enforcement Authority and Liability.** The code enforcement officer, or his/her designated representatives(s), acting in good faith and without malice in the discharge of his/her duties, shall not thereby render himself/herself personally liable for any damage that may accrue to person or property as a result of any act or by reasons of any act or omissions in the discharge of his/her duties. Any suit brought against the code enforcement officer, or his/her 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 termination of such proceedings.
- Q. **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 a nuisance has been declared an immediate threat to health and safety by any enforcement personnel.
- R. **Remedies.** To enforce any requirement of this ordinance, any enforcement personnel may gain compliance by any or all of the following:
- (1) Taking such action as the code enforcement officer deems appropriate within the authorization provided for in this ordinance or any other ordinances 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.
  - (4) Any other remedies permitted or authorized at law or in equity.
- S. **Contracting for Abatement.** Whenever the property owner, agent, or tenant fails to abate the nuisance within the time allowed, the code enforcement officer is hereby authorized to contract with a contractor to perform such work as may be required to abate the nuisance.
- T. **Recovery of Costs.**
- (1) Whenever the City enters upon the premises 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, agent, or tenant to recover costs associated with the abatement. The charge shall be the actual cost of abatement, plus applicable taxes.

- (2) An administrative fee of \$200.00 shall be assessed for each such charge.
- (3) 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 Bexar County, Texas. The charges shown on the lien shall bear interest at the rate of eight percent (8 percent) per annum from the due date until paid. The lien shall be collected under the same terms and provision of law as on City ad valorem taxes. The lien may be extinguished prior to foreclosure if the owner or other person having an interest in the legal title to the property reimburses the City for its expense. If the notice is given pursuant to this ordinance and the opportunity to abate the nuisance or repair, remove, or demolish the building is afforded to each mortgagee or lienholder under this ordinance, the lien is a privileged lien subordinate only to tax liens as authorized by Local Government Code section 214.001(o).

#### **U. 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, shall be fined an amount not to exceed \$2,000. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues or occur.
- (2) In addition to any other remises or penalties contained in this ordinance, the City may enforce the provisions of this ordinance pursuant to the applicable provision of Local Government Code, Chapter 54, which chapter 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.

**V. Judicial Review.** Any owner, lienholder, or mortgagee aggrieved by an order of the Commission issued under this ordinance shall be entitled to appeal the decision to a Texas district court pursuant to Local Government Code section 214.0012.

**W. 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.

**Section 3. Severability.** If any provision, section, subsection, sentence, clause, or phrase of this ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the

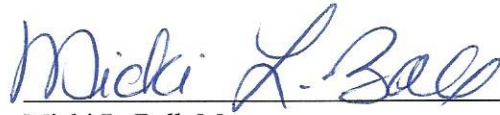


intent of the City Council in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidances or invalidity of another portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

**Section 4. Effective Date.** This ordinance shall take effect and shall be in full force from and after its adoption and publication as provided by law.

**PASSED AND APPROVED** on this 10<sup>th</sup> day of March, 2016.

**CITY OF SANDY OAKS, TEXAS**

A handwritten signature in blue ink that reads "Micki L. Ball". The signature is written in a cursive, flowing style.

Micki L. Ball, Mayor

**ATTEST:**

A handwritten signature in blue ink that reads "Charlotte Rabe". The signature is written in a cursive, flowing style.  
\_\_\_\_\_  
Charlotte Rabe, City Clerk