

**ORDINANCE NO. 20171012-SPEC001**

**AN ORDINANCE REPEALING AND REPLACING ARTICLE 9 OF CITY CODE CHAPTER 25-12 TO ADOPT THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE AND LOCAL AMENDMENTS; CREATING OFFENSES; AND IMPOSING PENALTIES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** City Code Chapter 25-12 is amended to repeal Article 9 (*Property Maintenance Code*) and replace it with a new Article 9 to read as follows:

***ARTICLE 9. PROPERTY MAINTENANCE CODE.***

**§ 25-12-211 PROPERTY MAINTENANCE CODE.**

- (A) The International Property Maintenance Code, 2015 Edition, published by the International Code Council ("2015 Property Maintenance Code") is adopted and incorporated by reference into this section with the deletions in Subsection (B) and amendments in Section 25-12-213 (*Local Amendments to the 2015 Property Maintenance Code*).
- (B) The following provisions of the 2015 Property Maintenance Code are deleted. A subsection contained within a deleted section, or within a subsection is not deleted, unless specifically listed below.

Section 101.1	Section 102.3	Section 102.7
Section 103.1	Section 103.2	Section 103.3
Section 103.4	Section 103.5	Section 104.2
Section 104.3	Section 104.5	Section 106.1
Section 106.2	Section 106.3	Section 106.4
Section 106.5	Section 107.1	Section 107.2
Section 107.3	Section 107.5	Section 107.6
Section 108.1	Section 108.2	Section 108.3
Section 108.4	Section 108.4.1	Section 108.5
Section 108.7	Section 109.1	Section 109.2
Section 109.3	Section 109.4	Section 109.5
Section 109.6	Section 110.1	Section 110.4

Section 111.1	Section 111.2	Section 111.2.1
Section 111.2.2	Section 111.2.3	Section 111.2.4
Section 111.2.5	Section 111.3	Section 111.4
Section 111.4.1	Section 111.5	Section 111.6
Section 111.6.1	Section 111.6.2	Section 111.7
Section 111.8	Section 112.1	Section 112.2
Section 112.3	Section 112.4	Section 201.3
Section 304.3	Section 304.14	Section 304.19
Section 305.1.1	Section 307.1	Section 307.4
Section 309.1	Section 401.3	Section 404.4.1
Section 404.5	Section 404.5.1	Section 404.5.2
Section 502.5	Section 505.1	Section 505.4
Section 506.3	Section 602.2	Section 602.3
Section 602.4	Section 604.2	Section 604.3.1.1
Section 604.3.2.1	Section 605.3	Section 605.4
Section 606	Section 702.1	Section 702.2
Section 702.3	Section 702.5.1	Section 704.1
Section 704.2	Section 704.3	

- (C) The city clerk must retain a copy of the 2015 Property Maintenance Code with the official ordinances of the City of Austin.

## **§ 25-12-212 CITATIONS TO THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE.**

In the City Code, "Property Maintenance Code" means the 2015 International Property Maintenance Code adopted by Section 25-12-211 (*Property Maintenance Code*), as amended by Section 25-12-213 (*Local Amendments to the International Property Maintenance Code*). In this article, "this code" means the Property Maintenance Code.

## **§ 25-12-213 LOCAL AMENDMENTS TO THE 2015 PROPERTY MAINTENANCE CODE.**

The following provisions are local amendments to the 2015 Property Maintenance Code. Each provision of this section is a substitute for any identically numbered provision of the 2015 Property Maintenance Code deleted by Section 25-12-211(B) (*International Property Maintenance Code*) or is an addition to the 2015 Property Maintenance Code.

**101.1 Title.** These regulations are known as the City of Austin Property Maintenance Code and are referred to as the “Property Maintenance Code” or “this code.”

**102.3 Application of other codes.** Repairs, additions or alterations to a structure, or changes of occupancy, must be done in accordance with the procedures and provisions of Title 25 (*Land Development Code*).

**103.1 General.** The City Manager must designate the department or departments charged with enforcement of this code.

**103.2 Designation.** The City Manager must designate a code official.

**103.3 Inspectors.** The code official may designate inspectors to assist with enforcement of this code. Such employees must have powers and duties delegated by the code official.

**103.5 Costs.** The City may assess a property owner for costs incurred to demolish, board, fence, secure, vacate, relocate occupants, repair, treat, remediate or similar action identified in this code. This includes the costs incurred because a property owner fails to comply with a Commission order. Unless exempted by the Texas Constitution, the expense incurred by the City under this code may be recorded as a lien against the real property on which the building, structure, or noncompliant condition is located, with interest on the unpaid balance to accrue at the maximum rate allowed by law.

**103.6 Funds.** Unless otherwise provided for or directed by a Commission order, a cost incurred by the city or its agent to repair, remediate, vacate, relocate occupants from, secure, or clean a structure, building, or property because an owner fails to comply with a Commission order must be paid from demolition funds budgeted by the city council.

**104.2 Inspections.** The code official is authorized to make inspections and may consider written inspection reports prepared and certified by approved agencies or individuals. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

**104.3 Right of Entry.** Whenever it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable or probable cause to believe that a violation exists in a structure or upon a premises, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties authorized by this code or City Code. An owner or other authorized individual may refuse to consent to an inspection conducted by the code official. If consent is refused, the code official may seek an administrative search warrant authorized by Article 18 of the Texas Code of Criminal Procedure (*Search Warrant*) and City Code Section 2-10-1 (*Municipal Court Jurisdiction and Authority*). Nothing in this code limits the ability of the code official to inspect as necessary or as authorized by other law.

**104.7 Commencement of Proceedings.** Whenever the code official finds that a structure or premise is substandard or dangerous, the code official is authorized to begin proceedings to cause the repair, rehabilitation, vacation, demolition, removal, boarding or fencing or other means of closure of the building, structure, or premise.

**104.8 Corrective Action.** The code official is authorized to require the owner of the property or other responsible person to take action to correct a violation of this code. If the owner or other responsible person does not take corrective action within a specified time period, the code official may serve notice to the person(s) to appear before the Building and Standards Commission to show cause why the structure or premise should not be ordered repaired, boarded, fenced, vacated, occupants relocated, or demolished.

**104.9 Utility Termination Authorized.** The code official may request utility termination for a structure or premise as provided for under the applicable provisions of state law and City Code. Provisions of state law and City Code regarding notice and appeal of utility termination apply to a utility terminated under this section.

**106.1 Unlawful acts.** A person that fails to comply with this code, a notice of violation issued under this code, or an order issued under this code commits an offense.

**106.3 Prosecution of a Violation.** A violation of this code is a misdemeanor punishable as set forth in City Code Section 25-1-462 (*Criminal Enforcement*). The filing of a criminal action does not preclude the pursuit of a civil, quasi-judicial, or administrative action for violation of this code.

**106.5 Abatement of violation.** The code official may enforce the provisions of this code by pursuing all civil, quasi-judicial, administrative, and criminal actions; all remedies available to a city under state law; or by any combination of remedies available at law or equity. In any court action, the code official may pursue the collection of attorney's fees and costs; and maximum interest on liens and judgments as allowed by law. The filing of a civil action does not preclude the pursuit of any other action or remedy, whether quasi-

judicial, administrative, or criminal. All remedies authorized under this code are cumulative of all others unless otherwise expressly provided.

**107.1 Notice to person responsible.** Whenever the code official determines that a violation of this code exists or has grounds to believe that a violation exists, notice will be issued and served as set forth in applicable state law, City Code, and this code. Failure of the code official to serve any person required to be served does not invalidate any proceedings as to any other person properly served or relieve that person from any duty or obligation imposed by this code.

**107.2 Form.** A written notice directed to the owner of record and, if applicable, occupant of the structure or premise notice must:

1. identify the structure or premise by street address, or provide a description sufficient for identification of the structure or premise;
2. state that the code official has found the structure or premise to be substandard or dangerous, with a summary description of the applicable provisions of this code and the alleged violations;
3. specify the corrective measures required to bring the structure or premise into compliance with applicable provisions of this code;
4. provide a time period for compliance;
5. include a description of the applicable appeal procedures; and
6. include a provision in Spanish stating that a Spanish translation will be provided on request if the recipient is not able to read the notice in English.

**107.3 Method of Service.** Required notices must be served via any method or combination of methods permitted in state law, City Code, and this code.

**107.3.1 Property Manager.** The code official may also provide a copy of any notice sent to a property owner to the manager of the property. On receipt of a copy of the notice under this section, a property manager must notify the owner of the specifics of the notice within 10 days and must make every reasonable effort to have the owner correct the violation.

**107.6 Transfer of ownership.** Except as otherwise provided by applicable law, the following applies:

**107.6.1. Responsibility of Owner.** An owner of a structure or premise who has been served with a notice, order, or other notification under this code may not sell,

transfer, grant, mortgage, lease, or otherwise dispose of the structure or premise until the owner has:

1. furnished to the purchaser, transferee, grantee, mortgagee, or lessee a true copy of the notice, order or other notification; and
2. provided written notice to the code official of the owner's intent to enter into a transaction affecting the structure or premise, including the name and address of the proposed buyer, transferee, grantee, mortgagee, or lessee.

**107.6.2. Responsibility of Purchaser.** A purchaser of a premise subject to a notice, order, or other notification issued under this code and recorded in the real property records of the county where the premise is located must comply with the terms of the notice, order, or other notification.

**107.6.3 Effect of Transfer.** A transfer of the property does not impact the validity of the notice, order, or other notification.

**107.7 Appeal.** A person affected by a notice may appeal the violation findings contained in the notice to the Building and Standards Commission.

**107.7.1 Deadline to Appeal.** An appeal must be submitted to the code official within 20 days from the date the notice is mailed by the City. It is presumed the City mailed the notice on the date printed on the notice.

**107.7.2 Requirements.** An appeal must be in writing and must contain a brief statement identifying the notice or action being appealed, setting forth any facts supporting the appeal, describing the relief sought, and presenting the reasons why the appealed notice or action should be reversed, modified or otherwise set aside. A request for additional time to comply with the notice due to financial inability or other extenuating circumstance is not a proper basis for appeal.

**107.7.3 Effect of an appeal.** Unless otherwise provided in this code or, in the opinion of the code official, a delay would present an immediate danger or unreasonable risk to any person or property, filing an appeal stays further City action under the notice being appealed.

**107.8 Duty to comply.** A person has a duty to comply with the provisions, requirements, and prohibitions in this code even if the code official has not served the person with separate notice personally informing the person of the duty to comply with this code.

**108.1 General.** When the code official finds a structure, premise, or equipment is unsafe, is unfit for human occupancy, or is unlawful, such structure, premise, or equipment must be subject to the provisions of this code.

**108.4 Placarding.** A structure or premise vacated under this code will be placarded at each entrance and exit of the structure or premise. The placard must be in substantially the following form:

DO NOT ENTER  
UNSAFE TO OCCUPY  
IT IS UNLAWFUL TO REMOVE OR DAMAGE THIS NOTICE.  
CODE OFFICIAL  
CITY OF AUSTIN

**108.4.1 Placard Removal.** Until the required repair, abatement, demolition, or removal is complete, a person may not remove or damage the placard after it is posted by the code official. A required repair, abatement, demolition, or removal is complete when the code official releases the notice or order, or when the building official issues a certificate of occupancy for the structure.

**108.5 Prohibited Occupancy.** A person may not remain in or enter any building, structure, or premise that is subject to an order to vacate or is posted with a placard. A person may not induce, allow, or authorize another person to occupy a structure or premise that is subject to an order to vacate or that is posted with a placard.

**108.5.1 Affirmative Defense.** It is an affirmative defense to prosecution under this section if a person enters a structure or premise described above to repair, abate, demolish, or remove the structure or condition under an applicable permit.

**109.1 Imminent danger.** When, in the opinion of the code official, a condition exists that could cause serious or life-threatening injury or death in the near future, the code official is authorized to recommend the occupants to vacate the premises. A condition means a structure or part of a structure that has fallen or may fall; a structure or part of a structure that has collapsed or may collapse; the presence of explosives, explosive fumes or vapors, toxic fumes, gases, materials; or the presence of dangerous or defective equipment. If a premise is vacated due to an imminent danger, a notice reading as follows: "This Structure/Premise Is Unsafe To Occupy" must be posted at each entrance to such structure or premise.

**109.2 Temporary Safeguards.** The code official may secure a structure before a public hearing is held by the Commission if the code official determines that the structure

violates this code; and is unoccupied or is occupied only by persons who do not have a lawful right of possession to the structure.

**109.2.1. Notice.**

1. Before the 11<sup>th</sup> day after the date the structure is secured, the code official must give notice of the closure:

- a. by personal service to the owner; or
- b. by regular mail and certified mail, return receipt requested, to the owner at the owner's last known address; or
- c. if personal service cannot be obtained and the owner's post office address is unknown, by
  - i. publication at least twice within a 10 day period in a newspaper of general circulation in the county in which the structure is located, or
  - ii. posting the notice on or near the front door of the structure.

2. The notice must contain the following:

- a. an identification, which is not required to be a legal description, of the structure and the premise on which it is located;
- b. a description of the violations of this code or the City Code that are found at the structure;
- c. a statement that the code official has secured the structure or premise; and
- d. an explanation of the owner's right to request a hearing about any matter relating to the securing of the structure by the code official.

**109.2.3. Appeal of Emergency Closure.** The owner of a structure may appeal an emergency closure to the Commission. An appeal must be in writing and must be provided to the code official within 30 days after the date the code official secured the structure. Unless the appellant, in writing, requests or agrees to postpone the hearing on the appeal to a later date, a hearing on the appeal must be heard at the next available agenda date at which a quorum of the Commission is present.



**109.2.4 Costs.** The City may assess costs incurred for emergency closures under this code against the owner of the affected premise and, unless exempted under the Texas Constitution, may secure those costs with a lien against the affected premise.

**110.1 General.** An owner must demolish and remove a structure, equipment, or property condition if the code official finds:

1. the structure, equipment, or property condition so deteriorated, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy; and
2. it is unreasonable to repair the structure, equipment, or property condition.

**110.4 Salvage materials.** If the City demolishes and removes a structure, then the City, or its agent, may sell the salvage and valuable materials at the highest price obtainable.

**112.1 Authority.** The code official is authorized to issue a notice that requires an owner or the owner's agent to stop work that is being performed in a dangerous or unsafe manner.

**201.3 Terms defined in other codes.** If a term is not defined in this code but is otherwise defined in Title 25 (*Land Development Code*), the term has the meaning given in Title 25 (*Land Development Code*).

**202.1 Supplemental and replacement definitions.** The definitions in this subsection apply throughout this code and supplement the definitions in Section 202 (*General Definitions*) of the 2015 Property Maintenance Code, as published, unless the term is defined in both places, in which case the definition in this subsection replaces and supersedes the definition in Section 202 of the 2015 Property Maintenance Code.

**ACTIVITY.** Constructing, enlarging, altering, repairing, moving, demolishing, erecting, installing, removing, converting, or replacing a structure, component of a structure, or any electrical, gas, mechanical, or plumbing system.

**ADULT.** A person 18 years of age or older.

**BED AND BREAKFAST.** The use of an owner-occupied single-family residential structure to provide limited meal service and rooms for temporary lodging for overnight guests in return for compensation.

**BOARDING HOUSE.** A structure, other than a hotel, where lodging and meals are provided for more than six unrelated persons in return for compensation. When used in this code, the term Boarding House includes a transient boarding house.

**COMMISSION.** The Building and Standards Commission described in Section 2-1-122 (*Building and Standards Commission*) of the City Code.

**COMMISSION ORDER.** An order issued by the Commission.

**COMPENSATION.** Any money, thing of value, payment, consideration, reward, tip, donation, gratuity, or profit paid to, accepted, or received by the owner or operator of a lodging establishment; whether paid upon solicitation, demand or contract, or voluntarily, or intended as a gratuity or donation.

**DANGEROUS.** A condition that violates this code that could cause serious or life-threatening injury or death.

**HOTEL.** A structure or a part of a structure, in which there are guest rooms, rooming units, or apartments which may be rented on a daily basis and are used primarily for transient occupancy, and for which desk service is provided. In addition, one or more of the following services may be provided: maid, telephone, bellboy, or furnishing of linen. When used in this code, the term hotel includes a motel.

**JUDICIAL ORDER.** An order issued by a court of competent jurisdiction.

**ORDER.** A commission order or a judicial order.

**PERSONALTY.** Personal property that is not attached to real property.

**PREMISE.** A lot, plot or parcel of land, property, or easement. The term includes the structures located on the lot, plot or parcel of land, or easement.

**ROOMING HOUSE.** A structure, other than a hotel, where lodging for more than six unrelated persons is provided without meals in return for compensation.

**SHORT-TERM RENTAL.** The use of a residential dwelling unit or accessory building, other than a unit or building associated with a group residential use, on a temporary or transient basis in accordance with Chapter 25-2, Subchapter C, Article 4, Division 1, Subpart C (*Requirements for Short-Term Rental Uses*). The use does not include an extension for less than 30 consecutive days of a previously existing rental agreement of 30 consecutive days or more. The use does not include a rental between parties to the sale of that residential dwelling unit.

**SUBSTANDARD.** A structure or premise that does not comply with this code.

**202.2 Nuisance.** Each of the following is declared to be a nuisance for purposes of this code:

1. Any public nuisance known at common law or in equity jurisprudence.
2. Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or on an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.
3. Whatever is dangerous to human health or is detrimental to health, as determined by the health officer.
4. Unsanitary conditions described in City Code Section 10-5-21 (*Duty to Maintain Property in a Sanitary Condition*).
5. A utility room not maintained free of flammable liquids, oil and grease, and other similar materials.
6. Yards, courts, and vacant lots not maintained clean and free of holes, excavations, dead trees and tree limbs, sharp protrusions, and other objects, conditions and hazards that are reasonably capable of causing injury to a person.
7. A manufactured residential building, mobile home, or tourist court not maintained in accordance with the provisions of this code, the manufacturer specifications under which the structure was constructed, or Title 25 (*Land Development Code*) of the City Code.

**301.4 General requirement to obtain a permit.** After receiving written notice that an activity was conducted on the premises without the appropriate permit, an owner must obtain a permit for the activity that was conducted without the appropriate permit.

**304.3 Address Identification.** A premise must be identified with address numbers that are legible and visible from the street or road. The address numbers must comply with the Fire Code and Fire Criteria Manual.

**304.19 Gates.** All exterior gates, components of a gate, operator systems, if provided, and hardware must be maintained in good condition.

**305.1.1 Unsafe conditions.** The following conditions violate this code and are declared unsafe:

1. A structure or a component of a structure cannot perform as intended;

2. A wall or column is not anchored to support a floor or roof;
3. Structural members, including stairs, landings, decks, balconies, walking surfaces, handrails, and guardrails, cannot perform as intended;
4. Structural members, including stairs, landings, decks, balconies, walking surfaces, handrails, and guardrails, are not anchored to support use of the structural member; or
5. Any portion of the foundation system is not supported by footings, is not supported by adequate soil, has cracks or breaks, or is not adequately anchored.

**Exception:** If a person, using an approved method, establishes that the condition is safe, then the condition does not violate this code.

**307.1 General.** A stairway must be maintained in good condition and in accordance with the building code in effect at the time of construction. A handrail or guardrail must be provided and maintained in good condition at stairs, landings, balconies, porches, decks, ramps and other walking surfaces; and be in accordance with the building code in effect at the time of construction.

**307.2 Guardrails.** A guardrail is required for an open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface that is more than 30 inches above floor or grade.

**307.2.1** Guards must be spaced in a manner to prevent a nine inch or larger sphere from passing between the guards.

**307.2.2** Guards must be at least 30 inches tall when measured from the floor of the stair, landing, balcony, porch, deck, ramp, or other walking surface.

**309.1 Infestation.** A structure must not be infested with insects or rodents. A structure that is infested with insects or rodents must be exterminated immediately by an approved process that is not injurious to human health. After pests are eliminated, a person must take proper precautions to prevent re-infestation.

**309.1.1 Exception.** The keeping, maintenance or management of common domestic honey bee colonies, *Apis mellifera* species, must be in accordance with City Code Chapter 3-6 (*Beekeeping*).

**401.3 Alternative devices.** Artificial light or mechanical ventilation that complies with the applicable Building Code or Residential Code requirements is authorized as an alternative to the requirements for natural light and ventilation prescribed in Sections 402 and 403.

**404.4.1 Room Area.** Except for qualifying efficiency units, a bedroom must contain at least 70 square feet; and a bedroom occupied by more than two adults must contain at least 120 square feet plus an additional 50 square feet for each adult in excess of three.

**404.5 Overcrowding.** The number of persons occupying a dwelling unit must not create conditions that, in the opinion of the code official, endanger the life, health, safety, or welfare of the occupants.

**501.3 General requirement to obtain a permit.** After receiving written notice that an activity was conducted on the premises without the appropriate permit, an owner must obtain a permit for the activity that was conducted without the appropriate permit.

**505.1 General requirements for water systems.** A sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture must be properly connected to either a public water system or to an approved private water system. A kitchen sink, lavatory, laundry facility, bathtub and shower must be supplied with hot or tempered and cold running water in accordance with the Plumbing Code.

**505.4 Water heating facilities.** A water heating facility must be properly installed, maintained and capable of providing an adequate amount of water to be drawn at each sink, lavatory, bathtub, shower, and laundry facility at a temperature of not less than 110°F (43°C).

**505.4.1 Compliance.** A water heating facility in a structure with one or more dwelling units complies with the requirement in 505.4 if the temperature of the water drawn at the kitchen sink reaches 110°F (43°C) within three minutes.

**505.4.2 Valves.** A relief valve discharge pipe and approved combination temperature and pressure-relief valve must be properly installed and maintained on water heaters.

**505.4.3 Gas-burning water heater.** Unless installed in a sealed enclosure with adequate air combustion that does not take air from the living space, a gas-burning water heater must not be located in a bathroom, toilet room, bedroom or other occupied room that is normally kept closed when in use. Direct vent water heaters are not required to be installed within an enclosure.

**601.3 General requirement to obtain a permit.** After receiving written notice that an activity was conducted on the premises without the appropriate permit, an owner must obtain a permit for the activity that was conducted without the appropriate permit.

**602.2 Residential Occupancies.** Heating facilities that are capable of maintaining a room temperature of 68°F (20°C) in habitable spaces, bathrooms, and toilet rooms are required

in each dwelling unit. Cooking appliances and unvented fuel-burning space heaters cannot be used to meet or maintain the room temperature required by this section. A portable electric space heater may be used on a temporary basis if used consistent with manufacturer's specifications.

**602.3 Heat Supply.** An occupied commercial structure that includes dwelling units or sleeping units must maintain a temperature of at least 68°F (20°C) in all habitable areas, bathrooms, and toilet rooms.

**602.4 Occupiable work spaces.** Except as otherwise provided, an occupied commercial structure with indoor occupiable work spaces must maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

**602.4.1 Processing, storage, and operation.** A commercial structure with areas that require cooling or special temperature conditions are not required to maintain the temperature in Section 602.4.

**602.4.2 Physical activities.** Areas within a commercial structure where persons are primarily engaged in vigorous physical activities are not required to maintain the temperature in 602.4.

**604.2 Service.** In accordance with NFPA 70, the size and usage of appliances and equipment determines the need for additional electrical facilities. A dwelling unit must be served by an electrical service with a rating of at least 60 amperes.

**604.3.1.1 Electrical equipment.** Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that are exposed to water must be replaced in accordance with the provisions of the Electrical Code.

**Exception:** The following equipment may be repaired when an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated 600 volts or less;
2. Busway, rated 600 volts or less;
3. Panelboards, rated 600 volts or less;
4. Switchboards, rated 600 volts or less;

5. Fire pump controllers, rated 600 volts or less;
6. Manual and magnetic motor controllers;
7. Motor control centers;
8. Alternating current high-voltage circuit breakers;
9. Low-voltage power circuit breakers;
10. Protective relays, meters and current transformers;
11. Low- and medium-voltage switchgear;
12. Liquid-filled transformers;
13. Cast-resin transformers;
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
16. Luminaires that are listed as submersible;
17. Motors;
18. Electronic control, signaling and communication equipment.

**604.3.2.1 Electrical equipment.** Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits that are exposed to fire, must be replaced in accordance with the provisions of the Electrical Code.

**Exception:** Electrical switches, receptacles and fixtures may be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

**605.3 Luminaires.** Luminaires must be maintained in good condition and in accordance with the applicable code(s) in effect at the time of construction.

**605.4 Wiring.** Except as otherwise provided, flexible cords, including extension cords, must not be:

1. used for permanent wiring;
2. used for running through doors, windows, or cabinets; or
3. concealed within walls, floors, or ceilings.

**Exception.** A flexible cord used as permanent wiring, for running through doors, windows, or cabinets, or to be concealed within walls, floors, or ceilings complies with this code if the flexible cord was manufactured for such use and was installed as part of a project permitted by the City. For purposes of this exception, a project permitted by the City means the project passed all required inspections, was completed by a licensed electrician, and was installed consistent with the manufacturer's specifications.

**702.1 General requirements for egress.** A safe, continuous and unobstructed path of travel must be provided from any point in a structure to the public right-of-way. Means of egress must comply with this code as well as applicable provisions of the Fire Code, the Building Code and the Residential Code.

**702.2 Aisles.** Aisles must be unobstructed to achieve the width required in the Fire Code.

**702.3 Locked doors.** Except for door hardware that conforms to the applicable Building, Fire, or Residential Code, doors used for egress must be readily openable from the side used to exit a structure. Readily openable means a door that can be opened without the need for keys, special knowledge, or effort.

**702.5 Additional emergency escape and rescue opening requirements.** Unless the sleeping room(s) meet a specific exception of the code under which the structure was constructed, sleeping rooms in R-2 and R-3, one- and two-family and multiple-family occupancy groups must have at least one emergency escape and rescue opening. An existing escape or opening complies with this code if:

1. the existing emergency escape and rescue opening meets the minimum height and width dimensions, openable area and the maximum sill height requirement of the code(s) under which the structure was constructed; or
2. at the time of construction no code was in effect, an existing emergency escape and rescue opening satisfies this code if it has:
  - a. a minimum net clear openable area of 5 square feet (0.465 m<sup>2</sup>),
  - b. a minimum net clear opening height of 22 inches (559 mm),
  - c. a minimum net clear opening width of 20 inches (457 mm), and



d. a sill height not greater than 48 inches (1219 mm) above the floor; or

3. it meets an alternative method of compliance described in Section 702.5.1.

**702.5.1 Alternate Method of Compliance for existing emergency escape and rescue openings.** An alternate method of compliance for a sleeping room with an emergency escape and rescue opening that does not meet the requirements referenced in Section 702.5 is to install hard-wired, dual chamber smoke alarms with battery backup capability that are served with primary power from the structure wiring. The smoke alarms must be installed inside and outside of the sleeping room and must be interconnected through either wired or wireless interconnection.

**704.1 General requirements for fire protection systems.** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination must be maintained in an operable condition at all times in accordance with the applicable requirements in Chapter 25-12 (*Technical Codes*).

**704.2 Smoke alarms.** Single- or multiple-station smoke alarms must be installed and maintained in dwellings that are not classified Group R-1, regardless of occupant load. Single- or multiple-station smoke alarms must be located:

1. on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms;
2. in each room used for sleeping purposes;
3. in each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics; and
4. in dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level may suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

**704.2.1 Other Groups.** Single- or multiple-station smoke alarms must be installed and maintained in accordance with the Fire Code.

**704.3 Power source.** Except as otherwise provided, a single-station smoke alarm in a dwelling must receive its primary power from the commercial power source wired into the structure; and must be equipped with a battery backup. Wiring must be permanent and, except as required for overcurrent protection, without a disconnecting switch. Smoke alarms must emit a signal when the batteries are low.

**Exceptions:**

1. A smoke alarm may be solely battery operated if, at the time of construction, the existing structure was not required to be wired to provide power to a smoke alarm and any reconstruction, alteration, or repairs does not include the removal of interior walls or ceilings.
2. A smoke alarm may be solely battery operated if the structure is not served by a commercial power source.

**SECTION 705 CARBON MONOXIDE ALARMS.**

**705.1 Installation and Maintenance.** A carbon monoxide alarm must be installed and maintained consistent with manufacturer's specifications.

**705.2 Location.** In a dwelling unit, a carbon monoxide alarm must be installed outside of each separate sleeping area and in the immediate vicinity of each sleeping area. A carbon monoxide alarm must be installed within a sleeping area if a fuel-burning or solid fuel appliance is located within a sleeping area, a bathroom attached to the sleeping area, or a garage attached to the sleeping area.

**705.3 Combination Alarms.** A carbon monoxide alarm that is part of a smoke alarm complies with this code.

**705.4 Power Source.** Except as otherwise provided, a carbon monoxide alarm in a dwelling must receive its primary power from the commercial power source wired into the structure; and must be equipped with a battery backup. Wiring must be permanent and, except as required for overcurrent protection, without a disconnecting switch. Smoke alarms must emit a signal when the batteries are low.

**Exceptions.**

1. A carbon monoxide alarm may be solely battery operated if, at the time of construction, the existing structure was not required to be wired to provide power to a carbon monoxide alarm and any reconstruction, alteration, or repairs does not include the removal of interior walls or ceilings.
2. A carbon monoxide alarm may be operated by battery if a structure is not served by a commercial power source.

**CHAPTER 9 QUASI-JUDICIAL ENFORCEMENT.****SECTION 901 BUILDING AND STANDARDS COMMISSION.**

**901.1 Purpose.** The Building and Standards Commission is established to hear cases concerning alleged violations of City Code related to the condition of, and minimum standards for, the maintenance of existing residential and nonresidential structures, premises, property, and establishments; and to hear appeals when required by City Code and this code. The Commission has the powers and duties under this code, Section 2-1-122 (*Building and Standards Commission*), and applicable state law.

**901.2 Duties.** The Commission shall hear and decide cases concerning alleged violations of this code and appeals as required by this code and City Code. The Commission shall issue orders regarding the cases, as appropriate. The Commission shall hear evidence from each party that attends a hearing. Each order that requires removing or relocating an occupant or repairing, securing, or demolishing a structure must include a time period for compliance.

**901.3 Powers.** The Commission may order or initiate any action, remedy, response, security, or penalty within its authority under applicable state law, this code, or City Code, including:

1. ordering a structure be repaired within a fixed period;
2. declaring a structure or premise to be substandard or dangerous in accordance with the powers granted under state law, City Code, and this code;
3. ordering, as necessary,
  - a. that a structure be vacated;
  - b. that occupants be relocated;
  - c. that persons or property be removed from private property;
  - d. entry on private property; or
  - e. that a substandard or dangerous condition or structure on private property be removed or demolished.
4. issuing orders or directives to any peace officer of the state, including the Austin Chief of Police, a sheriff, or constable, to enforce and carry out the lawful orders or directives of the Commission;
5. determining the amount and duration of the civil penalty allowed under state law;

6. hearing and deciding appeals which may be taken to the Commission; and
7. considering and recommending amendments to the City's housing and building regulations or ordinances.

**901.4 Rules.** The Commission shall adopt rules for its own procedure. The rules shall establish procedures to provide opportunity for presentation of evidence and testimony in its hearings by persons who are alleged to have violated ordinances.

**901.5 Meetings.** Meetings of the Commission are held at the call of the Chairperson and at other times as the Commission may determine. The Chairperson, or the Acting Chairperson in the absence of the Chairperson, may administer oaths and compel the attendance of witnesses. Six members constitute a quorum and the concurring vote of six members is necessary to take any action. The Commission must render all decisions and findings in writing in accordance with the applicable requirements of state law and City Code.

**901.6 Records.** The Commission shall keep records of its minutes, hearings, decisions, and other official actions. The Commission's minutes shall show the vote of each Commission member on each question submitted to the Commission and the fact that a member is absent or fails to vote. Commission records shall be filed in the office of the code official.

**901.7 Notice.** Notice and any required recordation of all Commission hearings, orders, or actions must be posted, filed, served, accomplished or disseminated in accordance with the applicable provisions of state law and City Code.

**901.8 Orders.** A Commission order is final unless appealed in accordance with Chapters 54 and 214 of the Texas Local Government Code. Except for appeals related to temporary safeguards, a Commission order does not include appeals.

**901.9 Civil Penalty.** The Commission is authorized to determine the amount and duration of the civil penalty allowed under state law. The filing of a criminal action or a conviction under 902.1 does not preclude assessment or enforcement of the civil penalty.

**901.10 Satisfaction of Civil Penalty.**

**901.10.1 Applicability.** This section applies to a civil penalty assessed under Section 901.9 of this code for violations relating to:

1. a structure that is designated as an historic landmark or located in a designated historic district; or
2. a residential structure with three or fewer dwelling units.

**901.10.2 Offset Provision.** The code official must accept as full payment of the civil penalty an amount equal to the assessed penalty minus the cost to complete repairs or other corrective action required by the Commission order establishing the penalty if:

1. all repairs or other corrective action required by the Commission order establishing the penalty have been completed;
2. the code official has determined that all repairs or other corrective action comply with City regulations; and
3. the City has not initiated a lawsuit based on the Commission order assessing the penalty.

**901.10.3 Evidence.** A person that seeks an offset must provide evidence to the code official of the cost of repairs or other corrective action required by a Commission order.

**901.10.4 Determination.** The code official must determine whether the evidence, as that term is used in 901.10.3, is associated with a repair or other corrective action ordered by the Commission. The determination by the code official may not be appealed.

**901.11 Validity of Order Not Affected by Transfer.** When a Commission order has been filed in the deed records, the Commission order is valid even if the property is sold or otherwise transferred. A person who acquires an interest in property after a Commission order is recorded is subject to the requirements of the Commission order. Each Commission order must include the text of this provision.

## **SECTION 902 FAILURE TO COMPLY WITH A COMMISSION ORDER.**

**902.1 Criminal Offense and Penalty.** A person commits an offense if the person fails to comply with a final order issued by the Commission. Each day that a person fails to comply with a final order is a separate occurrence. An offense under this section is a class C misdemeanor. The maximum penalty must be \$500 per offense, per occurrence. Proof of a culpable mental state is not required for conviction of an offense under this section.

## **SECTION 903 PERFORMANCE OF WORK REQUIRED FOR COMPLIANCE WITH A COMMISSION ORDER.**

**903.1 Demolition and Remediation authorized.** In addition to any other remedy provided in this section, and on the failure of the owner to comply with any predicate or

requirement of a Commission order, the code official may perform, procure, or contract for any work, services, materials, accommodations, or action required of the property owner by the Commission order. This includes engineering surveys or inspections, cost estimates, construction scheduling, asbestos testing, design services, plan preparation, permitting, fencing, stabilization, grading, filing, draining, the closure of a building, the vacation and relocation of occupants, the removal of personalty or disposal of debris, and the treatment or cleaning of the premises and the lot.

**903.2 Personalty on the Premises.** A property owner is responsible for removing personalty from a structure that must be vacated or demolished. If the City or its agent demolishes the structure, the personalty remaining on the property is considered abandoned and may be removed by the City or its agent in the same manner as other rubbish or debris.

## **CHAPTER 10 LANDLORD/TENANT RELATIONSHIPS.**

**1001 Responsibility of Landlord.** The owner of a building, structure, or property remains responsible for compliance with this Code notwithstanding any rental or other agreement purporting to give tenants or other third parties certain duties or responsibilities with respect to the building, structure, or property.

### **1002 Retaliation.**

**1002.1 Prohibited.** A property owner, owner's agent, management company, or other person responsible for managing a property commits an offense if the property owner, owner's agent, management company, or other person responsible for managing a property raises a tenant's rent, diminishes services to the tenant, or attempts eviction for reasons other than nonpayment of rent or other good cause for six months after a complaint is filed by the tenant with the code official complaining of violations of this code or for six months after completion of repairs required by a notice or order issued under this code, whichever time period is longer.

**1002.2 Penalty.** Unless a culpable mental state is established, a violation of Section 1002 (*Retaliation*) is an offense, punishable by a fine not to exceed \$500 per occurrence. If proof of a culpable mental state is established, a violation of Section 1002 (*Retaliation*) is punishable by a fine not to exceed \$2,000 per occurrence.

**1002.3 Affirmative Defense.** It is an affirmative defense to prosecution under Section 1002 (*Retaliation*) if the action was:

1. an increase in rent under an escalation clause for utilities, taxes, or insurance in a written rental agreement;

2. an increase in rent or reduction in services against the complaining tenant which are a part of a pattern of rental increases or service reductions uniformly applied for an entire multifamily dwelling project of four or more units; or
3. an increase in rent that is reasonably related to repairs or improvements actually made by the landlord after a complaint has been filed and which do not cause the total rent to exceed fair market value of the premises. However, no rental increase may be made until the structure is in full compliance with any notice or order issued under this code.

## **CHAPTER 11 INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED.**

**1101 GENERAL.** No person must obstruct, impede, or interfere with work performed by any of the following individuals for purposes of boarding, securing, repairing, vacating or demolishing a building, structure, or property under the provisions of this code, or in performing a necessary act preliminary or incidental to work authorized under this code:

1. a peace officer;
2. a City employee;
3. a City contractor;
4. an authorized representative of the City;
5. a person who owns or holds an estate or interest in a building, structure, or property; or
6. a person to whom such a structure has been lawfully sold under this code.

## **CHAPTER 12 [Reserved for Expansion].**

## **CHAPTER 13 REGULATED LODGING ESTABLISHMENTS.**

**1301 INSPECTIONS.** The code official must make inspections to determine the condition of short-term rentals, boarding houses, hotels, rooming houses and bed and breakfast establishments located within the City, to ensure compliance with this chapter and other applicable laws. For the purpose of making inspections, the code official or the code official's representative may enter, examine, and survey, at all reasonable times, all buildings, dwelling units, guest rooms, and premises on presentation of the proper credentials. An owner or other authorized individual may refuse to consent to an inspection conducted by the code official. If consent is refused, the code official may

seek an administrative search warrant authorized by Article 18 of the Texas Code of Criminal Procedure (*Search Warrant*) and City Code Section 2-10-1 (*Municipal Court Jurisdiction and Authority*). Nothing in this code limits the ability of the code official to inspect as necessary or as authorized by other law.

**1302 LICENSES AND PERMITS REQUIRED.** No person may operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment unless a license for the operation, in the name of the owner or operator and for the specific dwelling unit, partial unit, accessory unit, building, structure, or property used, has been issued by the code official and is currently valid and in good standing. Unless specifically exempted by the provisions of Chapter 10-3 (*Food and Food Handlers*), each regulated lodging establishment that provides meals or food service is required to have a permit as a food service establishment issued by the Health Authority.

**1303 LEASING, RENTING, OR ADVERTISING UNITS OR ROOMS IN AN UNLICENSED HOTEL, BOARDING HOUSE, ROOMING HOUSE, SHORT-TERM RENTAL, OR BED AND BREAKFAST ESTABLISHMENT IS AN OFFENSE.**

(A) An owner, manager, operator, or person in control of a hotel, boarding house, rooming house, short-term rental, or bed and breakfast establishment commits an offense if the owner or other person leases, rents, advertises, promotes, or otherwise solicits or induces occupancy of a room, structure, dwelling unit, or partial unit in a hotel, boarding house, rooming house, short-term rental, or bed and breakfast establishment which does not have a valid license issued and displayed as required by this chapter or as required by Title 25 (*Land Development*).

(B) A person may not advertise or promote a licensed establishment without including the license number assigned to the establishment by the city in the advertisement or promotion.

(C) Each day that an owner, manager, operator, or other person in control of the property leases, rents, advertises, promotes, or otherwise solicits or induces occupancy of a room in a hotel, boarding house, rooming house, short-term rental, or bed and breakfast establishment which does not have a valid license issued, disclosed, and displayed as required by this chapter is a separate occurrence. An offense under this section is a class C misdemeanor, punishable by a fine not to exceed \$500 per offense, per occurrence, unless proof of a culpable mental state is proven. If proof of a culpable mental state is demonstrated, an offense under this section is punishable by a fine not to exceed \$2,000 per occurrence.



(D) It is an affirmative defense to a violation of Section 1303 if the advertisement or promotion conspicuously disclosed that reservation, occupancy, or rental of the facility is contingent on a pending city licensure application.

**1304 APPLICATION.** An application for a license required by this chapter must be in writing and submitted to the code official. To be considered complete, the application must include all information and documentation required by the Land Development Code regulations specific to the use type or indicated as required by the code official and this code.

**1305 FEE.** Each application for a rooming house, hotel, motel, boarding house, short-term rental, or bed and breakfast establishment license must be accompanied by the payment of a fee in an amount established by separate ordinance. Except for payment of the fee due for a short-term rental, a regulated lodging establishment fee must be prorated on a quarterly basis.

**1306 ISSUANCE.** A boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment license must be issued by the code official after the code official determines that the owner or operator has complied with all applicable ordinances and rules. A license must not be issued or renewed by the code official for any applicant or location in the absence of proof of the applicant or location's substantial compliance with all applicable local hotel occupancy tax rules and regulations.

#### **1307 LICENSE SUSPENSION.**

(A) Except as provided in subsections (D) and (E), whenever the code official finds on inspection of the physical premises or review of applicable records of any boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment that conditions or practices exist that violate any provision of the Property Maintenance Code, City Code, or any rule or regulation adopted under this code, or that the establishment has failed to comply with any provision, prohibition, or requirement related to the registration, reporting, collection, segregation, accounting, disclosure, or payment of local hotel occupancy taxes, the code official must give written notice to the owner of the property and the operator of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment that unless the violations are corrected by an identified deadline, the license must be suspended.

(B) At the end of the time provided for correction of the violation(s), the code official must re-inspect the location or records of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment and, if the conditions or practices

have not been corrected, must suspend the license and give written notice to the licensee that the license has been suspended.

(C) On receipt of notice of suspension, the licensee must immediately stop operation of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment, and no person may occupy for sleeping or living purposes any rooming unit therein, except that the code official may allow continued occupancy by the property owner of a short-term rental use subject to Section 25-2-788 (*Short-Term Rental (Type I) Regulations*). The notice required by this subsection must be served in accordance with the notice provisions of applicable law.

(D) The code official may immediately suspend a license if the code official determines that the license was issued in error. A suspension is effective until the code official determines that the licensee has complied with the requirements of the City Code or any rule or regulation adopted under this code. The code official must give written notice to the owner of the property and the operator of the establishment that the license is suspended.

(E) If a short-term rental is the subject of two or more substantiated violations of applicable law during the license period, the code official may suspend the short-term rental license. The code official must give notice to the licensee of a notice of intent to suspend a license issued under this subsection.

(F) In determining whether to suspend a license as described in subsection (E), the code official must consider the frequency of the substantiated violations, whether a violation was committed intentionally or knowingly, and any other information that demonstrates the degree to which a licensee has endangered public health, safety, or welfare.

### **1308 APPEALS.**

(A) The following actions of the code official may be appealed to the Building and Standards Commission as provided in this Code: the denial of an application for a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment; the suspension of a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment; and the issuance of a notice that a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment will be suspended unless existing conditions or practices are corrected.

(B) An appeal filed under this section must be filed with the code official no later than the 20th day following the date on which the license was denied or suspended, or notice

of violation was received. The appeal must identify each alleged point of error, facts and evidence supporting the appeal, reasons why the action of the code official should be set aside, modified, or reversed, and must be sworn. The appeal must be set for hearing before the Commission on the next available agenda date following receipt of the appeal and must be heard following setting on the scheduled agenda if a quorum is present at the hearing, unless the appellant requests a later date and waives the scheduled hearing.

(C) An appeal of under this section does not stay enforcement of license requirements.

### **1309 EXPIRATION.**

(A) Each rooming house, boarding house, hotel, motel, or bed and breakfast establishment license expires at the end of the calendar year for which the license is issued, unless prior to the end of the calendar year, the license is voided, suspended, or revoked as provided in this chapter, as provided in another section of City Code, or by court order, or other operation of law.

(B) Each short-term rental establishment license expires one year from the date the license is issued, unless prior to the end of one year from the date the license is issued, the license is voided, suspended, or revoked as provided in this chapter, as provided in another section of City Code, or by court order, or other operation of law.

**1310 TRANSFER AND NOTICE ON SALE OF PREMISES.** A license issued under this chapter is not transferable. Every person holding a license must give written notice to the code official no later than 10 days before the conveyance, transfer, or any other disposition of the ownership of, interest in, or control of any boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment. The notice must include the name and address of the person succeeding to the ownership or control of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment.

**1311 DISPLAY.** The license required by this chapter must be displayed at all times in a conspicuous place designated by the code official within each boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment.

**PART 2.** The Council directs the City Manager to engage in additional stakeholder discussion related to insect screening requirements and to bring any recommended ordinance changes to Council by June 30, 2018.

**PART 3.** This ordinance, except for Section 705 (*Carbon Monoxide Alarms*), takes effect on January 1, 2018. Section 705 (*Carbon Monoxide Alarms*) takes effect on April 1, 2018.

**PASSED AND APPROVED**

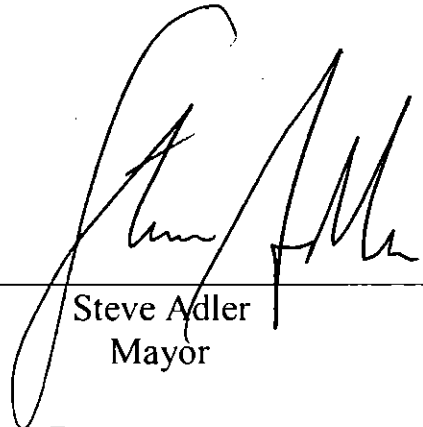
\_\_\_\_\_, October 12, 2017

**APPROVED:**



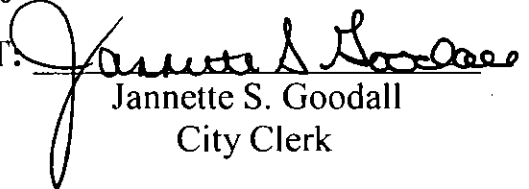
Anne L. Morgan  
City Attorney

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§  
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Steve Adler  
Mayor

**ATTEST:**



Jannette S. Goodall  
City Clerk