

CITY OF HARKER HEIGHTS

Building and Standards Commission

Wednesday, January 27, 2021

*At 6:30 P.M.**

**Immediately following the Planning and Zoning Commission Meeting*





BUILDING AND STANDARDS COMMISSION AGENDA

HARKER HEIGHTS CITY HALL
KITTY YOUNG COUNCIL CHAMBER
305 MILLERS CROSSING

WEDNESDAY, JANUARY 27, 2021 at 6:30 P.M.

Notice is hereby given that, beginning at 6:30 P.M. on Wednesday, January 27, 2021, and continuing from day to day thereafter if necessary the Building and Standards Commission (BSC) of the City of Harker Heights, Texas, will conduct a telephonic meeting in order to contain the spread of COVID-19 in accordance with Governor Abbott's declaration of the COVID-19 public health threat and action to temporarily suspend certain provisions of the Texas Open Meetings Act issued on March 16, 2020. The subjects to be discussed are listed in the following agenda:

- I. Convene and establish a quorum.**
- II. Approval of minutes from meeting held on December 2, 2020.**
- III. Recognition of Affidavits for Conflict-of-Interest.**
- IV. Public Comments.**
- V. Receive and discuss a Presentation by Building Official, Michael Beard, on the duties of the Building and Standards Commission.**
- VI. Receive and discuss a presentation by Building Official, Michael Beard, on the 2012 Lynn Drive demolition order.**
- VII. Public Hearings:**
 1. Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home on property described as: Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as **121 East Valley Road**, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.
 2. Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: Lot Five (5), Block One (1), Kern Terrace Addition Third Extension, an addition to the City of Harker Heights in Bell County, Texas, according to the plat of record in Volume Two, Page 103-C, of the Plat Records of Bell County, Texas, also commonly known as **206 Cynthia Drive**, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.
 3. Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home and accessory structures on property described as: Lots Six (6), and Seven (7), Block Twenty-Two (22), Comanche

Land, Second Unit, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat of record in Cabinet A, Slide 184-A, Plat Records of Bell County, Texas, also commonly known as **1508 Ute Trail**, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

4. Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that one accessory structure and an accessory structure/accessory dwelling unit on property described as: Tract H.B. Littlefield No. 511, AKA Lot Ten (10), and Eleven (11), Block Thirty-Seven (37), Comanche Land Life Estates, also commonly known as **1701 Ute Trail**, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.
5. Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: 0.5 acres, more or less, out of Abstract No. 401 of the U. Hunt Survey, City of Harker Heights, Bell County, Texas, also commonly known as **13902 East Farm-to-Market 2410**, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

VIII. Staff Comments.

IX. Adjournment.

I, the undersigned authority, do hereby certify that pursuant to the Texas Open Meetings Act, the above Notice of Meeting of the Building and Standards Commission of the City of Harker Heights, Texas, was posted at the Harker Heights Municipal Building, and the City of Harker Heights website which is readily accessible to the public at all times, by 10:00 A.M. on Friday, January 22, 2021. Please contact the Planning and Development Department at (254) 953-5648 for further information.

Courtney Peres

Courtney Peres
City Planner of the City of Harker Heights

**The public may participate remotely in this meeting by dialing-in using:
United States (Toll Free): 1 866-899-4679 or 1-571-317-3116
Access Code: 806-361-613**

**The public may participate remotely in this meeting from your computer, tablet, or smartphone by clicking on the link below:
<https://global.gotomeeting.com/join/806361613>**

The public will be permitted to offer public comments telephonically as provided by the agenda. Written questions or comments may be submitted two hours before the meeting to the Planning and Development Department. When submitting your written questions or comments, you must include your Name and Address. Agenda packet and recording of the telephonic meeting will be posted on the City of Harker Heights website at www.harkerheights.gov



**Minutes of the Teleconference Meeting of the Harker Heights
Building and Standards Commission
December 2, 2020**

Present: Larry Robison Chairman
Robert Robinson III Vice Chairman
Adam Parker Secretary
Noel Webster Commissioner
Nuala Taylor Commissioner
Rodney Shine Commissioner
Joshua McCann Commissioner
Stephen Watford Commissioner
Kay Carey Commissioner

Michael Stegmeyer Alternate Commissioner

Staff: Kristina Ramirez Planning & Development Director
Courtney Peres City Planner
Dan Phillips GIS Analyst/Planner
Michael Beard Building Official
Brad Alley Fire Marshal
Wilson Everett Planning & Development
Administrative Assistant

Absent: Christopher Albus Alternate Commissioner

Agenda Item I: A quorum was established, and the meeting was called to order at 7:58 P.M.

Agenda Item II: was the approval of minutes from the October 30, 2019 meeting. Secretary Parker made the motion to approve the minutes and Commissioner Watford seconded the motion. **The motion passed unanimously (9-0).**

Agenda Item III: Michael Beard stated there were no recognized affidavits for Conflict-of-Interest.

Agenda Item IV: Next agenda item was citizens to be heard and there was no one present to speak.

Agenda Item V: Public Hearings:

V-1. Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: the East fifty feet of Lot Two (2), Block One (1), Kern Terrace, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat or record in Cabinet A, Slide 224-D, Plat Records of Bell County, Texas, and Lot 1-A, Block One (1), Billy Shelton Kern Terrace First Extension,

Replat of Lot One (1) and the West 28 feet of Lot Two (2), Block One (1), an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat or record in Cabinet A, Slide 231-A, Plat Records of Bell County, Texas, generally located at **111 W. Nolan Trail**, Harker Heights, Bell County, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Mr. Michael Beard, Building Official for the City of Harker Heights, explained that the case had previously been brought to the attention of the Building and Standards Commission in 2019. During that time, the Commission allowed the owner of the property to repair and bring the home up to code and standards. Since the commission last met, the structure remained to have several concerning code issues that had not been addressed by the property owner. Mr. Beard explained there had not been any inspections for the construction of the structure and the owner had not obtained an approved permit. There was an application submitted for the home; however, several months passed by and the applicant did not provide Staff proper documentation to approve the permit.

Chairman Robison asked if there was anyone present representing the request and no one was present.

Chairman Robison then asked if there was a motion to Find/Do Not Find that a site built structure on property described as: the East fifty feet of Lot Two (2), Block One (1), Kern Terrace, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat or record in Cabinet A, Slide 224-D, Plat Records of Bell County, Texas, and Lot 1-A, Block One (1), Billy Shelton Kern Terrace First Extension, Replat of Lot One (1) and the West 28 feet of Lot Two (2), Block One (1), an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat or record in Cabinet A, Slide 231-A, Plat Records of Bell County, Texas, generally located at 111 W. Nolan Trail, Harker Heights, Bell County, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Secretary Parker made a motion to find the site-built structure on the property located at 111 W. Nolan Trail as a unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances. Commissioner Webster seconded the motion. **The motion passed unanimously (9-0).**

Chairman Robison asked if there was an **Order** that the owner, mortgagee or lienholder immediately **Repair, Vacate and Secure, OR Demolish and Remove** the structure with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Commissioner Parker made a motion to **Demolish and Remove** the structure on the property within sixty (60) days and Commissioner McCann seconded the motion. **The motion passed unanimously (9-0).**

V-2. Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: Lot One (1), Block One (1), Kern Terrace First Extension Replat, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat of record in Cabinet A, Slide 231-A, Plat Records of Bell County, Texas, generally located at **115 W. Nolan Trail**, Harker Heights, Bell County, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Mr. Beard explained there are many code deficiencies and concerns about the substandard structure. Mr. Beard noted that the home was built prior to any inspections being conducted by City Staff and without any approved permits. Mr. Beard also mentioned that staff has received returned receipts from the notices sent to the responsible property owner but have not been contacted by anyone in person or over the phone in reference to the property.

Chairman Robison opened the public hearing and asked if there was anyone present representing the case. No one was present.

Chairman Robison then asked if there was a motion to Find/Do Not Find that a site built structure on property described as: Lot One (1), Block One (1), Kern Terrace First Extension Replat, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat of record in Cabinet A, Slide 231-A, Plat Records of Bell County, Texas, generally located at 115 W. Nolan Trail, Harker Heights, Bell County, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Secretary Parker made a motion to find a site-built structure on the property located at 115 W. Nolan Trail as an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances. Commissioner Carey seconded the motion. **The motion passed unanimously (9-0).**

Chairman Robison asked if there was an **Order** that the owner, mortgagee or lienholder immediately **Repair, Vacate and Secure, OR Demolish and Remove** the structure with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Commissioner Webster made a motion to **Demolish and Remove** the site-built structure from the property within sixty (60) days. Secretary Parker seconded the motion. **The motion passed unanimously (9-0).**

V-3. Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home on property described as: 11.120 acres of land more or less out of the H. R. Morrell Survey, Abstract No. 579, in Bell County, Texas, Executed by Charles E. Hilliard aka Charlie Hilliard, a single person to Nolanville Properties, LTD, a Texas limited partnership in Volume 4314, Page 169, and corrected in Volume 4364, Page 524, Official Public Records of Real Property of Bell County, Texas, generally located at **2919 Cedar Knob Road, Unit 9**, Harker Heights, Bell County, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Mr. Beard explained that there is a large amount of water damage to the home, as it is present that the roof and floor is sagging. To include, there are many other code concerns and deficiencies. Mr. Beard noted staff had received returned receipts from the notices sent to the responsible property owner but have not been contacted by anyone in person or over the phone in reference to the property.

Chairman Robison asked if there was anyone present who wanted to present this matter. There was no one present.

Chairman Robison then asked if there was a motion to Find/Do Not Find the manufactured home on property described as: 11.120 acres of land more or less out of the H. R. Morrell Survey, Abstract No. 579, in Bell County, Texas, Executed by Charles E. Hilliard aka Charlie Hilliard, a single person to Nolanville Properties, LTD, a Texas limited partnership in Volume 4314, Page 169, and corrected in Volume 4364, Page 524, Official Public Records of Real Property of Bell County, Texas, generally located at 2919 Cedar Knob Road, Unit 9, Harker Heights, Bell County, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Commissioner Carey made a motion to find the manufactured home on property 2919 Cedar Knob Road, Unit 9 as an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances. Vice Chairman Robinson seconded the motion. **The motion unanimously passed (9-0).**

Chairman Robison asked if there was an **Order** that the owner, mortgagee or lienholder immediately **Repair, Vacate and Secure, OR Demolish and Remove** the structure with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Commissioner Taylor made a motion to **Demolish and Remove** the property within sixty (60) days and Secretary Parker seconded the motion. **The motion passed unanimously (9-0).**

Agenda Item VI: Chair Robison asked if there were any citizens to be heard. There was no one presented who wished to speak.

Agenda Item VII: Staff Comments: None.

Agenda Item VIII: Adjournment: Chairman Robison adjourned the meeting at 8:36 P.M.

Larry Robison, Chairman

ATTEST:

Adam Parker, Secretary

- October 12, 2020 – Administrative Search Warrant obtained (Exhibit #2)
- October 15, 2020 – Visual Inspection of the property by Mr. Michael Beard, the City of Harker Heights Building Inspector.
- Building Inspection Report is compiled, and Mr. Michael Beard, the City of Harker Heights Building Official, determined the structure to be unsafe, substandard, and a dangerous structure per §160.04 of the City of Harker Heights Code of Ordinances (Exhibit #3)
- October 23, 2020 – City Staff requested title sheet documents to determine all owners associated with 121 E. Valley Road.
- December 13, 2020 – Notice of Substandard Structure and Notice to Vacate Property delivered to all identifiable property owners via certified mail.
- Michael Beard, City Building Official spoke with Bruce Palo several times throughout the month of November and December.
- January 12, 2021 – Notice of Public Hearing was mailed, return receipt requested to the owner of record of the property.
- January 13, 2021 – Michael Beard, City Building Official spoke with Mr. Palo who stated he has contacted a contractor and will be submitting for a permit for demolition.
- January 16, 2021 – Notice of Public Hearing posted on all structures on the property.
- January 16, 2021 – Notice of Public Hearing published in the Killeen Daily Herald, the newspaper of general circulation.
- January 16, 2021 – Notice of Public Hearing filed with Bell County.
- January 27, 2021 – BSC Public Hearing

RECOMMENDATIONS:

Based upon the inspection performed on October 15, 2020, the Building Official recommends that the Building and Standards Commission:

1. FIND that a Manufactured home located on property at 121 E. Valley Road, Harker Heights, Texas, described as: Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as 121 East Valley Road, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances, and;

ACTION BY THE BUILDING AND STANDARDS COMMISSION:

1. FIND/DO NOT FIND, by a majority vote, that a manufactured home located on property at 121 E. Valley Road, Harker Heights, Bell County, Texas, described as: Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as 121 East Valley Road, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.



BUILDING AND STANDARDS COMMISSION MEMORANDUM

AGENDA ITEM VII-1

FROM: THE OFFICE OF THE BUILDING OFFICIAL
DATE: JANUARY 27, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER THE EVIDENCE PROVIDED BY THE CITY OF HARKER HEIGHTS BUILDING OFFICIAL THAT A MANUFACTURED HOME ON PROPERTY DESCRIBED AS: LOT ELEVEN (11), BLOCK TWO (2), OF THE VALLEY VIEW ADDITION, TO THE CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, ACCORDING TO PLAT RECORDS OF BELL COUNTY, TEXAS, ALSO COMMONLY KNOWN AS 121 EAST VALLEY ROAD, HARKER HEIGHTS, TEXAS, IS AN UNSAFE, SUBSTANDARD, AND DANGEROUS STRUCTURE PER STANDARDS SET OUT IN §160.04 OF CHAPTER 160 OF THE CITY OF HARKER HEIGHTS CODE OF ORDINANCES.

BACKGROUND:

Subject Property: Manufactured Home
Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as 121 East Valley Road, Harker Heights, Texas.

Property Owner: Bruce Palo
123 E. Valley Road
Harker Heights, TX 76548

EXPLANATION:

On September 23, 2020 a visual inspection was made from the right-of-way by Michael Beard, City of Harker Heights Building Official. This inspection was to identify the property as a possible substandard structure. An administrative search warrant was obtained and served on October 15, 2020 to inspect the property to determine if the structure met the requirements for a substandard structure set out in §160.04

Based on the inspection performed by Michael Beard, Building Official on October 15, 2020 the structure does meet the requirements set in §160.04 as evidenced by photos.

TIMELINE OF EVENTS:

- September 23, 2020– Identified structure as substandard.

- October 12, 2020 – Administrative Search Warrant obtained (Exhibit #2)
- October 15, 2020 – Visual Inspection of the property by Mr. Michael Beard, the City of Harker Heights Building Inspector.
- Building Inspection Report is compiled, and Mr. Michael Beard, the City of Harker Heights Building Official, determined the structure to be unsafe, substandard, and a dangerous structure per §160.04 of the City of Harker Heights Code of Ordinances (Exhibit #3)
- October 23, 2020 – City Staff requested title sheet documents to determine all owners associated with 121 E. Valley Road.
- December 13, 2020 – Notice of Substandard Structure and Notice to Vacate Property delivered to all identifiable property owners via certified mail.
- Michael Beard, City Building Official spoke with Bruce Palo several times throughout the month of November and December.
- January 12, 2021 – Notice of Public Hearing was mailed, return receipt requested to the owner of record of the property.
- January 13, 2021 – Michael Beard, City Building Official spoke with Mr. Palo who stated he has contacted a contractor and will be submitting for a permit for demolition.
- January 16, 2021 – Notice of Public Hearing posted on all structures on the property.
- January 16, 2021 – Notice of Public Hearing published in the Killeen Daily Herald, the newspaper of general circulation.
- January 16, 2021 – Notice of Public Hearing filed with Bell County.
- January 20, 2021 – Mr. Palo submitted application for demolition.
- January 27, 2021 – BSC Public Hearing

RECOMMENDATIONS:

Based upon the inspection performed on October 15, 2020, the Building Official recommends that the Building and Standards Commission:

1. FIND that a Manufactured home located on property at 121 E. Valley Road, Harker Heights, Texas, described as: Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as 121 East Valley Road, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances, and;

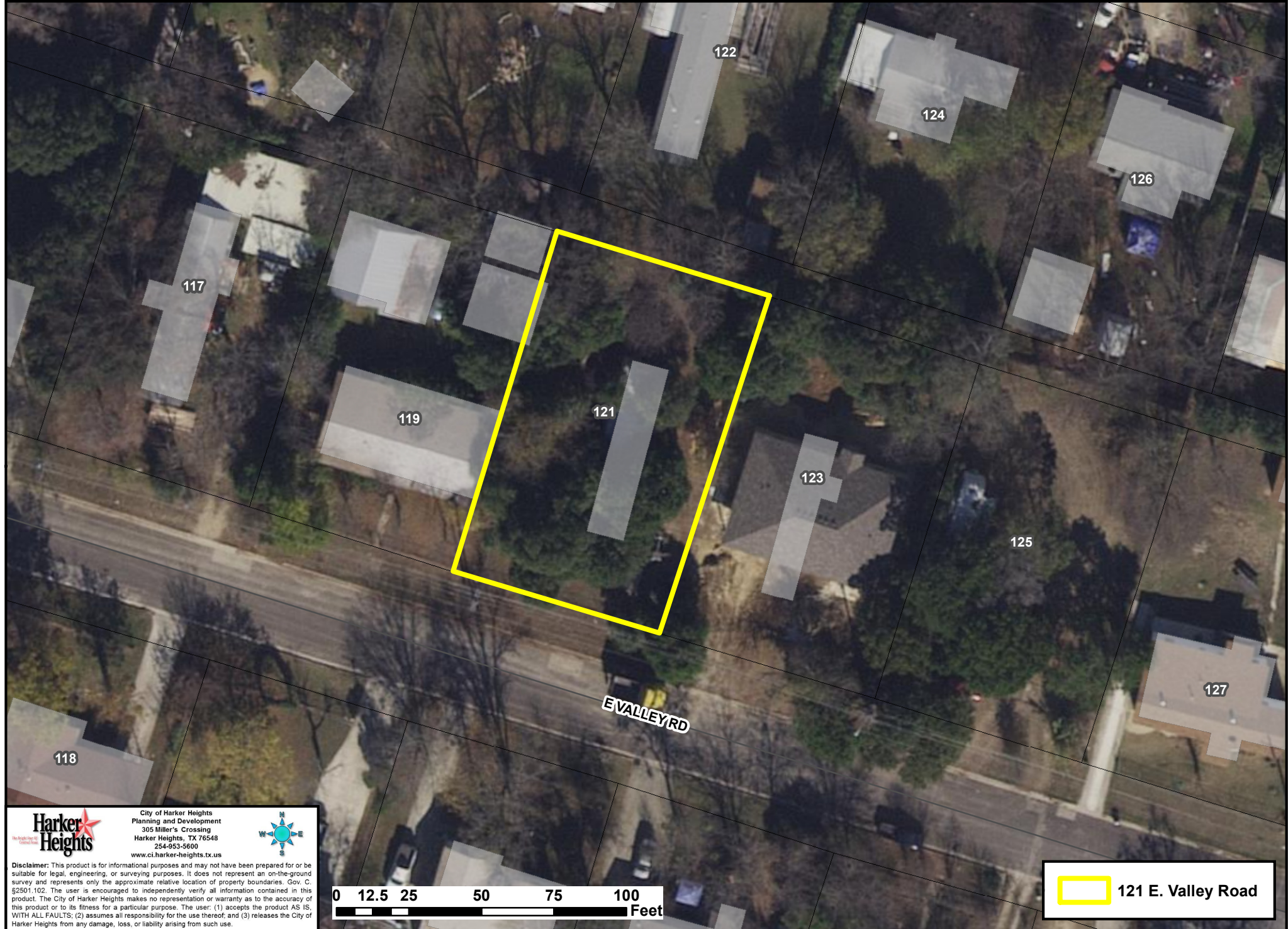
ACTION BY THE BUILDING AND STANDARDS COMMISSION:

1. FIND/DO NOT FIND, by a majority vote, that a manufactured home located on property at 121 E. Valley Road, Harker Heights, Bell County, Texas, described as: Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as 121 East Valley Road, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

2. ORDER that the owner, mortgagee or lienholder Rehabilitate, Remove, OR Demolish the structure with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances within a certain time period following the order.
 - **Repair.** If the owner, lienholder or mortgagee demonstrates that the building can be feasibly repaired within the time allowed by this section, it shall be ordered remedied or repaired. Repairs shall be deemed feasible only if less than 50% of the structure of the building must be repaired or replaced, or the value of the structure is reduced by less than 50% because of the violations.
 - **Vacate and Secure.** If the building is in such a condition as to make it hazardous to the health, safety or general welfare of its occupants or the public, it may be ordered vacated and secured, and the order may also require the occupants to be relocated.
 - **Demolish or Remove.** In any case where the owner, lienholder or mortgagee fails to demonstrate that the building can be feasibly repaired within the time allowed by this section, the Commission may order that the building be demolished with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances.
3. Any other action desired.

EXHIBITS:

1. Location Map
2. Administrative Search Warrant
3. Building Inspection Report
4. Notice of Substandard Structure and Notice to Vacate (mailed certified December 14, 2020)
5. Notice of Public Hearing (mailed certified January 12, 2021)
6. Legal Ad of Public Hearing (ran in Killeen Daily Herald January 16, 2021)
7. Demolition Permit Application (January 20, 2021)
8. Site Photographs
9. Chapter 160



AFFIDAVIT FOR ADMINISTRATIVE SEARCH WARRANT

THE STATE OF TEXAS § A SINGLE FAMILY RESIDENCE LOCATED AT:
 § 121 EAST VALLEY
COUNTY OF BELL § HARKER HEIGHTS, BELL COUNTY, TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared Michael Beard, who after first being by me duly sworn upon oath, made the following statements and accusations:

1. I am over the age of 18 years. I have personal knowledge of the facts stated herein, I am competent to testify under oath to those facts, and they are all true and correct.

2. I am the Building official for the City of Harker Heights, Bell County, Texas ("City"), and have held that position for over a year. Prior to that, I served as the primary building inspector for the City of Harker Heights for over 6 years, during which time I received several hundred hours of training in building and structural integrity as well as ordinances and investigations. I have been involved in public safety regulations and enforcement for over 12 years and have performed several thousand inspections. I have the authority to exercise the powers of the Building Official as set forth in §160.03(A) of the Code of Harker Heights ("Code") and elsewhere.

3. There is in incorporated city limits of the City a building ("Building") located as follows ("Premises"):

121 East Valley Harker Heights, Bell County, Texas 76548

4. The record owner of the Premises is PALO, BRUCE, 123 E VALLEY RD, Harker Heights, Texas 76548

5. The Building is a residential structure. It is currently unoccupied.

6. On September 23, 2020 I personally conducted a physical inspection of the Premises. Because I did not have consent to enter the Building, the inspection was limited to the exterior view from the right-of-way. From the exterior I was able to observe the following violations of Sections 160.04 and 93.02 of the Code: The building is unsecured and damaged to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage; general dilapidation or improper maintenance indicating abandonment.

7. I took photographs of the Premises during my inspection of the exterior; and true and correct copies are attached hereto and incorporated as Exhibit(s) 1 and 2 by reference. Within the limitations of the technology the photographs accurately depict the conditions that existed at that time and place. I observed extensive roof and siding damage, broken windows, trash and debris.

8. The substandard conditions described above have not been abated, thus creating a fire or health hazard or unsafe building condition in violation of the minimum building standards set forth in the Code, including without limitation §160.04 thereof. Based on my training and

experience, as well as the conditions described above, I have probable cause to believe and do believe and allege that the interior of the Building is likely in a similar state of disrepair, and that additional fire or health hazards or unsafe building conditions exist inside. As a result the Building represents a concern for public safety and the welfare of those in the neighborhood and those who might respond to emergencies involving the Premises. A search warrant is necessary in order to conduct a thorough inspection to verify whether and to what extent unsafe conditions are present.

9. WHEREFORE, I request the issuance of an administrative search warrant that will authorize entry into the Premises and Building to conduct a thorough inspection for the presence of unsafe building conditions, and/or violations of any fire, health, or building statutes, regulations or ordinances, and specifically for violations of the minimum standards established by §160.04 of the Code, in order to commence abatement proceedings before the City's Building and Standards Commission.




Affiant

SUBSCRIBED AND SWORN TO before me by the said Michael Beard, Affiant, on

Oct. 12, 2020 _____.





Notary Public, State of Texas

Exhibit 1



Exhibit 2



ADMINISTRATIVE SEARCH WARRANT

STATE OF TEXAS §

COUNTY OF BELL §

TO: Any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Bell County, Texas:

WHEREAS, Michael Beard ("Affiant"), the building inspector of the City of Harker Heights, Bell County, Texas, and a credible person that has presented a written affidavit ("Affidavit") to me, which Affidavit was attached to this warrant when it was presented and signed and is by this reference incorporated into this warrant for all purposes;

AND WHEREAS, I find that the verified facts stated by Affiant in the Affidavit show that there is probable cause that there is a public nuisance, or a violation of a fire, health, or building regulation, state, statute of the Code of Harker Heights ("Code") at the premises ("Premises") described and located as follows:

121 East Valley, Harker Heights, Bell County, Texas 76548

AND WHEREAS, the Affidavit presents the necessary evidence establishing the existence of proper grounds for the issuance of this Administrative Search Warrant pursuant to Article 18.05 of the Texas Code of Criminal Procedure;

NOW, THEREFORE, I do hereby ORDER that any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Texas, execute this Warrant and enter the Premises to inspect and determine if evidence exists that said Premises are substandard or dangerous in violation of the Code. A video and or photographic record of the evidence shall be permitted.

Herein fail not, but have execution with your return thereon, showing how you have executed the same.

ISSUED AT 2:05 o'clock P.M., on this the 12TH day of OCT, 2020, to certify which witness my hand this day.





COURT MAGISTRATE

RETURN

STATE OF TEXAS §
 §
COUNTY OF BELL §

The undersigned Affidavit, being a Code Enforcement Officer of the City of Harker Heights, Texas, and being duly sworn, on oath, certifies that the foregoing Warrant came on hand on the day it was issued and that it was executed on 10/15/2020, by making the inspection directed therein.

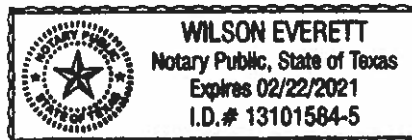


Affiant

SUBSCRIBED AND SWORN TO before me, authority, by said Affiant on October 15, 2020.



Notary Public, State of Texas



Building Inspection Report

City of Harker Heights
305 Miller's Crossing Harker Heights, Texas 76548
Telephone (Main) 254-953-5600
Fax: 254-953-5666

Date: 10/15/2020

Time: 12:19 PM

Address: 121 E. Valley, Harker Heights TX 76548

Legal Description: Lot 11, Blk 2, Valley View Addition

Property Owner: Bruce Palo **Lien Holder(s):** _____

Property Occupant(s): None

Inspector: Michael Beard, Building Official

Substandard Buildings Declared and Minimum Buildings Standards Contained in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances

(A) *The above reference buildings, regardless of the date of its construction, is deemed and hereby declared to be Substandard and a nuisance because it has the conditions of defects hereinafter described:*

- (1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.
- (2) Whenever any building, regardless of its structural condition, is unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage, or by children for any purpose
- (3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:
 - (a) The building constitutes a danger to the public even though secured from entry; or
 - (b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (A)(2) of this section
- (4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence
- (5) Whenever any portion of a building remains on a site after the demolition or destruction of the building
- (6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public

- (7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:
- (a) Lack of, or improper lavatory
 - (b) Lack of improper bathtub or shower in a dwelling unit or lodging house
 - (c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel
 - (d) Lack of, or improper kitchen sink in a dwelling unit
 - (e) Lack of hot and cold running water to plumbing fixtures
 - (f) Lack of, or improper operation of adequate heating facilities
 - (g) Lack or, or improper operation of required ventilation equipment
 - (h) Lack of minimum amount of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city
 - (i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation by the city
 - (j) Lack of required electrical lighting
 - (k) Excessive dampness or mold in habitable rooms
 - (l) Infestation or insects, vermin, or rodents
 - (m) General dilapidation or improper maintenance
 - (n) Lack of connection to required sewage disposal system
 - (o) Lack of adequate garbage and rubbish storage and removal facilities
- (8) Whenever any building contains structural hazards, including but not limited to the following:
- (a) Deteriorated or inadequate foundation
 - (b) Defective or deteriorated flooring or floor support
 - (c) Flooring or floor supports are insufficient to carry imposed loads with safety
 - (d) Members or walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration
 - (e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety
 - (f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration
 - (g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety
 - (h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration
 - (i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety

- (9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of building

(B) *The above referenced building, for the purpose of §160.04 of Chapter 160 of the City of Harker Heights, Texas, Code of Ordinances shall be deemed and hereby declared to be a dangerous and substandard building, and nuisance, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:*

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic
- (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic
- (3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1" times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location
- (5) Whenever any portion 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
- (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings
- (7) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction
- (8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause
- (9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used
- (10) 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
- (11) Whenever the building, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 or more percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings
- (12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; or (b) a harbor for vagrants, criminals or illegal activity
- (13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) 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

- (14) Whenever any building or structure, because of obsolescence, dilapidation, deterioration, damage or decay, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard
- (15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered
- (16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the City of Harker Heights, Bell County, Texas



The City of Harker Heights
305 Millers Crossing
Harker Heights, TX 76548
Phone: (254)953-5600
Fax: (254)953-5666

Mayor
Spencer H. Smith

Mayor Pro Tem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
John Reider
Jody Nicholas

DECEMBER 14, 2020

RECORD OWNER:
BRUCE PALO
123 E. VALLEY RD.
HARKER HEIGHTS, TX 76548

RE: NOTICE OF SUBSTANDARD OR DANGEROUS BUILDING(S) AND NOTICE FOR REMOVAL OF PERSONAL PROPERTY AT 121 E. VALLEY ROAD (LOT ELEVEN (11), BLOCK TWO (2), OF THE VALLEY VIEW ADDITION, TO THE CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, ACCORDING TO PLAT RECORDS OF BELL COUNTY, TEXAS, COMMONLY KNOWN AS 121 EAST VALLEY ROAD, HARKER HEIGHTS, TEXAS).

Certified mail return receipt requested # 7016 3560 0000 6480 1863

To Whom It May Concern:

On October 15, 2020, a physical inspection was made of the residential structure (**manufactured home**) located at 121 E. VALLEY ROAD (LOT ELEVEN (11), BLOCK TWO (2), OF THE VALLEY VIEW ADDITION, TO THE CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, ACCORDING TO PLAT RECORDS OF BELL COUNTY, TEXAS, COMMONLY KNOWN AS 121 EAST VALLEY ROAD, HARKER HEIGHTS, TEXAS). Based on that inspection it was determined by Mr. Michael Beard, the Building Official for the City of Harker Heights, that the structure located at 121 E. VALLEY ROAD has been found to be dangerous or substandard under the provisions of §160.04, of the City of Harker Heights Code of Ordinance (see attached **Building Inspection Report**).

Based on this determination, the Building Official for the City of Harker Heights requires that the legal owner of the structure (**manufactured home**) make the necessary repairs to bring the structure up to code under §160.04 or demolish the structure. Until then, the aforementioned structure has been deemed uninhabitable and owners of any personal property within the structure are requested to remove all such items from that structure.

This letter serves as Official Notice requiring **BRUCE PALO or their legal representatives** to contact Mr. Michael Beard, the Building Official for the City of

Harker Heights, at 305 Miller's Crossing, Harker Heights, Texas, within **ten (10) working days** of the receipt of this letter to discuss a schedule for the complete repair or the demolition of the dangerous and substandard residential structures noted above, along with any additional accessory structures located on the property that are found to be in noncompliance with the Code.

This letter also serves as an Official Notice giving **BRUCE PALO or their legal representatives** or any individuals having personal property within the noted structure **ten (10) working days** of the receipt of this letter to remove any and all personal property and/or items from the structure located at **121 E. VALLEY ROAD**.

Any and all personal property and/or items not removed from the structure (**manufactured home**) located at **121 E. VALLEY ROAD** will be considered abandoned or unclaimed property and may be removed following the conclusion of the abatement proceedings depending on the decision of the Building Standards Commission.

WARNING: Failure to timely comply with this Notice may result in filing of criminal charges against you in the Municipal Court, commencement of abatement proceedings before the Building and Standards Commission, or other enforcement action as provided by law.

Respectfully,



Michael Beard
Building Official, City of Harker Heights

Attachments:

- Building Inspection Report for all structures located on property at 121 E. Valley Road, Harker Heights, Texas.
- Harker Heights Code Chapter 160



NOTICE OF PUBLIC HEARING

January 12, 2021

The City of Harker Heights
305 Miller's Crossing
Harker Heights, TX 76548
Phone 254/953-5600
Fax 254/953-5614

Mayor
Spencer H. Smith

Mayor Pro Tem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
John Reider
Jody Nicholas

Record Owner:
BRUCE PALO
123 E. VALLEY ROAD
HARKER HEIGHTS, TX 76548

Property:
121 E. VALLEY (LOT ELEVEN (11), BLOCK TWO (2), OF THE VALLEY VIEW ADDITION, TO THE CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, ACCORDING TO PLAT RECORDS OF BELL COUNTY, TEXAS, COMMONLY KNOWN AS 121 EAST VALLEY ROAD, HARKER HEIGHTS, TEXAS).

Certified mail return receipt requested # 7016 3560 0000 6480 4758

To Whom It May Concern:

According to the real property records of Bell County, you own the real property described in this Notice. If you no longer own the Property, you must execute an affidavit stating that you no longer own the Property and stating the name and last known address of the person who acquired the Property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date this Notice is mailed. If you do not send the affidavit, it will be presumed that you own the Property described in this Notice, even if you do not.

On October 15, 2020, a physical inspection was made of the above-described structure (manufactured home) located on the property at **121 E. Valley Road**. Based on those inspection(s) the Building Official has found the said building(s) are dangerous and/or substandard structure(s) under Chapter 160 of the Code of Harker Heights ("Code"). A brief and concise description of the conditions found to render the building(s) dangerous or substandard under §160.04 of the Code of Harker Heights ("Code") is attached to this Notice and incorporated by reference (Building Inspection Report).

Pursuant to the determination of the Building Official, a Public Hearing will be held before the Building and Standards Commission ("Commission") to determine whether the buildings on the Property comply with the standards set out in §160.04 of the Code.

The Public Hearing will be held on **January 27, 2020, at 6:30 P.M. via virtual teleconference.** **You may join the public meeting with the information below:**

Please join the Building Standards Commission meeting from your computer, tablet, or smartphone.

<https://global.gotomeeting.com/join/806361613>

You can also dial in using your phone.
United States (Toll Free): 1 (866) 899-4679
United States: +1 (571) 317-3116
Access Code: 806-361-613

At the Public Hearing the Property owner and all other interested persons may make their appearance virtually or in person by property owner and/or by attorney, and shall have a reasonable opportunity to be heard. Anyone requiring assistive listening devices or other special accommodation is strongly encouraged to contact the City Secretary at least 48 hours prior to the Public Hearing to make the necessary arrangements.

At the Public Hearing each owner, lienholder, or mortgagee of the Property will be required to submit proof of the scope of any work that may be required to comply with Chapter 160 of the Code, and the time that it will take to reasonably perform the work. By law the burden of proof will be upon such owner, lienholder or mortgagee.

If any of the buildings located on the Property are found to be in violation of Chapter 160 of the Code the Commission may order that the buildings be vacated, secured, repaired, removed or demolished within a reasonable time. In addition, the Commission may order that any occupants be relocated by the owner, lienholder or mortgagee of the Property. If the Commission's order is violated the City may perform the actions necessary to comply with the order. The resulting expenses incurred by the City shall be the personal obligation of the Property owner, and the City shall have a priority lien upon the Property to secure payment thereof.

You may contact the City of Harker Heights Building Official by telephone at (254)-953-5667, or by email at mbeard@harkerheights.gov, or you may write to the Building Official at 305 Millers Crossing, Harker Heights, Bell County, Texas 76548.

Respectfully,



Michael Beard
Building Official, City of Harker Heights

Attachments:

1. Building Inspection Report for all structures located on property at 121 E. Valley Road
2. Harker Heights Code Chapter 160

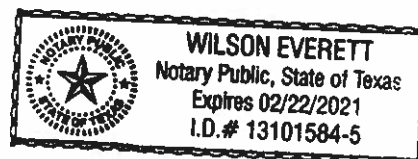
BRUCE PALO
123 E. VALLEY ROAD
HARKER HEIGHTS, TX 76548

STATE OF TEXAS
COUNTY OF BELL

This instrument acknowledged before me by Michael Beard on January 12, 2021



Notary Public, State of Texas



On January 27, 2021 at 6:30 P.M., the Building Standards Commission in its regular meeting, will hold a public hearing on the items listed below. The Building Standards Commission will conduct a telephonic meeting to contain the spread of COVID-19 in accordance with Governor Abbott's declaration of the COVID-19 public health threat and action to temporarily suspend certain provisions of the Texas Open Meetings Act issued on March 16, 2020. A full copy of the proceedings can be obtained Monday through Friday from 8 A.M. to 5 P.M. from the Harker Heights Planning and Development Department located at 305 Millers Crossing.

The public may participate remotely in this meeting by dialing-in using the toll-free number:

United States (Toll Free): 1 (866) 899-4679
Access Code: 806-361-613

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home on property described as: Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as 121 East Valley Road, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: Lot Five (5), Block One (1), Kern Terrace Addition Third Extension, an addition to the City of Harker Heights in Bell County, Texas, according to the plat of record in Volume Two, Page 103-C, of the Plat Records of Bell County, Texas, also commonly known as 206 Cynthia Drive, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home and accessory structures on property described as: Lots Six (6), and Seven (7), Block Twenty-Two (22), Comanche Land, Second Unit, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat of record in Cabinet A, Slide 184-A, Plat Records of Bell County, Texas, also commonly known as 1508 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that one accessory structure and an accessory structure/accessory dwelling unit on property described as: Tract H.B. Littlefield No.511, AKA Lot Ten (10), and Eleven (11), Block Thirty-Seven (37), Comanche Land Life Estates, also commonly known as 1701 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: 0.5 acres, more or less, out of Abstract No. 401 of the U. Hunt Survey, City of Harker Heights, Bell County, Texas, also commonly known as 13902 East Farm-to-Market 2410, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

(Legal notice published in the Killeen Daily Herald on January 16, 2021.)



City of Harker Heights
 Building Department
 305 Millers Crossing
 Harker Heights, TX 76548
 Phone: (254) 953-5648

Building Permit Application

PERMITS CAN BE APPLIED FOR ON MYGOVERNMENTONLINE.ORG
Help Desk # (866) 957-3764

PLEASE NOTE THE FOLLOWING BEFORE PROCEEDING:

- If commercial remodeling, you must attach an Asbestos Inspection report with this application (as of Jan.1, 2002).
- Separate Erosion and Sediment Control Permit is required for all land disturbing activities.
- A Site Plan or Plot Plan (to scale) of the property and the proposed location must be included.
- If the address is on Septic you must provide approval from Bell County Health District with this application.

Please select if the project is: Residential Commercial Date: _____

Project Address: 119 E. VALLEY RD. HARKER HEIGHTS, TX. 76548

Property Owner: BRUCE C. PALO Phone: _____

Owner Address (if different from above): 123 E. VALLEY RD. H.H. TX. 76548

Contractor Information

General Contractor: _____ Phone: _____

Address: _____ E-Mail: _____

| | License No. | Address | Phone | E-mail |
|-----------------------|-------------|---------|-------|--------|
| Electrical Contractor | | | | |
| Plumbing Contractor | | | | |
| Mechanical Contractor | | | | |
| Irrigation Contractor | | | | |

Select Project Type & Provide Description of Work Below

- Backflow
- Demolition
- Electric
- Gas Test/Permit
- Irrigation
- Mechanical
- Plumbing
- Porch/Deck
- Roof
- Skirting
- Water Heater
- Water/Sewer Line
- Water Softener

---Other Project Types on Back Page---

DESCRIPTION OF WORK TO BE DONE:

DEMOLISH MOBILE HOME.

Accessory Structure

- Large (over 144 square feet) Height: _____
 - Provide Site Plan reflecting setbacks (Google aerial view or survey)
 - Must be on a Permanent Foundation
 - Setbacks: 10' from rear property line, 6' from side property line.

- Small (144 square feet or less) Height: _____
 - Provide Site Plan reflecting setbacks (Google aerial view or survey)
 - Cannot exceed 12' in Height
 - Setbacks: 5' from rear property line, 6' from side property line.

Alteration/Remodel

- Fill out description of work to be done on Page 1.
- Provide Electrician, Plumber, or Mechanical contractor if applicable.

Fence

- Provide Site Plan (Google aerial view or survey) Height: BRUCE C. PALO
- Fill out description of work to be done on Page 1.

Flatwork

- Provide Site Plan (Google aerial view or survey)

Pool/Spa - Above Ground

- Provide Site Plan reflecting setbacks (Google aerial view or survey)
- Setbacks: 10' from rear property line, 6' from side property line. Text

Pool in Ground

- Provide Site Plan reflecting setbacks (Google aerial view or survey)
- Setbacks: 10' from rear property line, 6' from side property line, 1' away from house per 1' depth of pool.

Retaining Wall

- Provide Site Plan reflecting setbacks (Google aerial view or survey)
- If 24 inches or taller - MUST be engineered.

Sign

- Fill out description of work to be done on Page 1.
- Provide depiction of sign with dimensions.

Total Valuation: \$5,000.⁰⁰

(Cost of Labor + Cost of Materials = Total Valuation)

BRUCE C. PALO
Owner/Contractor (Print)

Bruce C. Palo
Owner/Contractor (Signature)

20 Jan. '21
Date:

COMMENTS (FOR OFFICE USE ONLY)

1/21/2021 - Spoke with Mr. Palo on phone. Informed him of wrong address. He will change initial permit where changed.

Received By: _____

STAFF ONLY -- DO NOT FILL OUT

Reviewed By: _____

Rev. 5/20

[Signature]
Building Official Signature

1/20/2021
Date Approved



2020. 9.23 16:11

DANGER

THIS BUILDING IS DEEMED UNSAFE
FOR HUMAN OCCUPANCY

UNDER SECTION 160.03 OF THE BUILDING CODE OF THE
CITY OF HARKER HEIGHTS

IT IS UNLAWFUL FOR ANY PERSON TO OCCUPY
OR RESIDE IN THIS BUILDING

121 E. VALLEY


Building Official

ANY UNAUTHORIZED PERSON REMOVING THIS SIGN MAY BE PROSECUTED

DATE 10/15/2020 Refer to Sec. 104 of Building Code

HHBD-22 (12/50)

AFFIDAVIT FOR ADMINISTRATIVE SEARCH WARRANT

THE STATE OF TEXAS § A SINGLE FAMILY RESIDENCE LOCATED AT:
§ 121 EAST VALLEY
COUNTY OF BELL § HARKER HEIGHTS, BELL COUNTY, TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared Michael Beard, who after first being by me duly sworn upon oath, made the following statements and accusations:

1. I am over the age of 18 years. I have personal knowledge of the facts stated herein, I am competent to testify under oath to those facts, and they are all true and correct.

2. I am the Building official for the City of Harker Heights, Bell County, Texas ("City"), and have held that position for over a year. Prior to that, I served as the primary building inspector for the City of Harker Heights for over 6 years, during which time I received several hundred hours of training in building and structural integrity as well as ordinances and investigations. I have been involved in public safety regulations and enforcement for over 12 years and have performed several thousand inspections. I have the authority to exercise the powers of the Building Official as set forth in §160.03(A) of the Code of Harker Heights ("Code") and elsewhere.

3. There is in incorporated city limits of the City a building ("Building") located as follows ("Premises"):

121 East Valley Harker Heights, Bell County, Texas 76548

4. The record owner of the Premises is PALO, BRUCE, 123 E VALLEY RD, Harker Heights, Texas 76548

5. The Building is a residential structure. It is currently unoccupied.

6. On September 23, 2020 I personally conducted a physical inspection of the Premises. Because I did not have consent to enter the Building, the inspection was limited to the exterior view from the right-of-way. From the exterior I was able to observe the following violations of Sections 160.04 and 93.02 of the Code: The building is unsecured and damaged to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage; general dilapidation or improper maintenance indicating abandonment.

7. I took photographs of the Premises during my inspection of the exterior; and true and correct copies are attached hereto and incorporated as Exhibit(s) 1 and 2 by reference. Within the limitations of the technology the photographs accurately depict the conditions that existed at that time and place. I observed extensive roof and siding damage, broken windows, trash and debris.

8. The substandard conditions described above have not been abated, thus creating a fire or health hazard or unsafe building condition in violation of the minimum building standards set forth in the Code, including without limitation §160.04 thereof. Based on my training and

2020.10.15 12:19



2020.10.15 12:19



2020.10.15 12:20

DANGER
THIS BUILDING IS DEEMED UNSAFE
FOR HUMAN OCCUPANCY
UNITS SECTION 160.63 OF THE BUILDING CODE OF THE
CITY OF HOUSTON
IS UNLAWFUL FOR ANY PERSON TO OCCUPY
OR RESIDE IN THIS BUILDING
121 E. Vining
1/9/2021 104

NOTICE OF PUBLIC HEARING
The City of Houston is holding a public hearing on the proposed amendments to the City Code of Ordinances, Chapter 160, Subchapter 63, relating to the building code. The public hearing will be held on January 15, 2021, at 4:00 p.m. at the City of Houston, 1001 Fannin Street, Houston, Texas 77002. The public hearing will be held in person and will be open to the public. The public hearing will be held in person and will be open to the public. The public hearing will be held in person and will be open to the public.

NOTICE OF THE PUBLIC HEARING
The City of Houston is holding a public hearing on the proposed amendments to the City Code of Ordinances, Chapter 160, Subchapter 63, relating to the building code. The public hearing will be held on January 15, 2021, at 4:00 p.m. at the City of Houston, 1001 Fannin Street, Houston, Texas 77002. The public hearing will be held in person and will be open to the public. The public hearing will be held in person and will be open to the public. The public hearing will be held in person and will be open to the public.

2021. 1.15 16:21

**City of Harker Heights, Texas
Code of Ordinances**

2019 S-232 Supplement contains:
Local legislation current through Ord. 2019-20, passed 7-23-19

Published by:
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One West Fourth Street, Third Floor
Cincinnati, Ohio 45202
Tel: (800) 445-5588
Fax: (513) 763-3562
Internet: www.amlegal.com

CHAPTER 160: UNSAFE, SUBSTANDARD AND DANGEROUS STRUCTURES

Section

- 160.01 Findings and purpose
- 160.02 Definitions
- 160.03 Generally
- 160.04 Minimum standards; substandard buildings declared
- 160.05 Determination by building official
- 160.06 Public hearing for abatement of substandard buildings
- 160.07 Order of Commission regarding substandard buildings
- 160.08 Notice of order of the Commission
- 160.09 Enforcement of the order of the Commission
- 160.10 Performance of work by the city
- 160.11 Recovery of cost of securing, repair, removal or demolition
- 160.12 Additional authority to secure certain substandard buildings prior to public hearing and secure, demolish, repair or remove certain dangerous buildings
- 160.13 Violations
- 160.14 Civil penalty
- 160.15 Authority not limited
- 160.16 Authority of City Attorney

§ 160.01 FINDINGS AND PURPOSE.

The facts and recitations contained in the preamble of the ordinance that is the basis for this chapter are found and declared to be true and correct.

(Ord. 2011-07, passed 4-12-11)

§ 160.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings as ascribed to them in this section, except where the context clearly indicated a different meaning.

BUILDING. Includes any building, fence, retaining wall, awning, canopy, sign, shed, garage, house, tent or other structure whatsoever, or any portion thereof, and the enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the sense and meaning of the provisions hereof in context reasonably have application.

BUILDING OFFICIAL. The person designated by the City Council to enforce this chapter.

COMMISSION. The Building and Standards Commission established pursuant to § 33.80.

STANDARD CODES. The codes adopted and amended by § 150.02.

(Ord. 2011-07, passed 4-12-11)

§ 160.03 GENERALLY.

(A) *Powers of the building official.*

(1) *Administration.* The building official is hereby authorized to enforce the provisions of this chapter. The building official shall have the power to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.

(2) *Inspections.* All buildings within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official. The building official, fire marshal and their designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

(3) *Right of entry.* When it is necessary to make an inspection to enforce the provisions of this chapter, or when the building official or his designee has a reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter which makes the building or premises unsafe, dangerous, or hazardous, the building official or his designee may enter the building or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official or his designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(B) *Abatement of dangerous or substandard buildings.* All buildings or portions thereof which are determined after inspection by the building official to be dangerous or substandard as defined by this chapter are hereby declared to be public nuisances and shall be abated by repair, vacation, demolition, removal or securing in accordance with the procedures specified in this chapter.

(C) *Notice.* When notice is given in accordance with this chapter to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered. On receipt of a notice under this chapter, a manager of the affected property shall notify the owner of the notice within 10 days.

(Ord. 2011-07, passed 4-12-11)

§ 160.04 MINIMUM STANDARDS; SUBSTANDARD BUILDINGS DECLARED.

(A) *Substandard building.* For the purposes of this chapter any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described shall be deemed to be a substandard building, and a nuisance:

(1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.

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

(3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:

(a) The building constitutes a danger to the public even though secured from entry; or

(b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by division (A)(2) of this section.

(4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence.

(5) Whenever any portion of a building remains on a site after the demolition or destruction of the building.

(6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public.

(7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:

(a) Lack of, or improper lavatory.

(b) Lack of, or improper bathtub or shower in a dwelling unit or lodging house.

(c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel.

(d) Lack of, or improper kitchen sink in a dwelling unit.

(e) Lack of hot and cold running water to plumbing fixtures.

(f) Lack of, or improper operation of, adequate heating facilities.

(g) Lack of, or improper operation of, required ventilating equipment.

(h) Lack of minimum amounts of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city.

(i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation of the city.

(j) Lack of required electrical lighting.

(k) Excessive dampness or mold in habitable rooms.

(l) Infestation of insects, vermin or rodents.

(m) General dilapidation or improper maintenance.

(n) Lack of connection to required sewage disposal system.

(o) Lack of adequate garbage and rubbish storage and removal facilities.

(8) Whenever any building contains structural hazards, including but not limited to the following:

(a) Deteriorated or inadequate foundation.

(b) Defective or deteriorated flooring or floor supports.

(c) Flooring or floor supports are insufficient to carry imposed loads with safety.

(d) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.

(e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety.

(f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to

defective material or deterioration.

(g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety.

(h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration.

(i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety.

(9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

(B) *Dangerous and substandard building.* For the purposes of this chapter, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:

(1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

(3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1" times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location.

(4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location.

(5) Whenever any portion 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.

(6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings.

(7) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause.

(9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(10) 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.

(11) Whenever the building, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; or (b) a harbor for vagrants, criminals or illegal activity.

(13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) 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.

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

(15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered.

(16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.05 DETERMINATION BY BUILDING OFFICIAL.

When the building official has inspected or caused to be inspected any building and has found and determined that the building is substandard, the building official may take any or all of the following actions, as he or she deems appropriate:

- (A) Issue notice to the record owner that the building is substandard and must be repaired or demolished;
- (B) Issue a citation for each violation of this chapter;
- (C) Secure the building if permitted by this chapter; or
- (D) Commence abatement proceedings before the Commission pursuant to § 160.06.

(Ord. 2011-07, passed 4-12-11)

§ 160.06 PUBLIC HEARING FOR ABATEMENT OF SUBSTANDARD BUILDINGS.

(A) *Commencement of proceedings.* When the building official has found and determined that a building is a substandard building, the building official may commence proceedings to cause the repair, vacation, relocation of occupants, removal, demolition or securing of the building.

(B) *Public hearing to be held.* Except when the Commission finds that a building is likely to immediately endanger persons or property, a public hearing shall be held before the Commission to determine whether a building complies with the standards set out in § 160.04. If the Commission determines that the building constitutes an immediate danger, the procedures set forth in § 160.12(B) and following shall be followed.

(C) *Notice.* Not less than ten days prior to the date on which the hearing is set, the building official shall issue a notice of the public hearing directed to the record owner of the building, and to all mortgagees and lienholders. The city shall use diligent efforts to determine the identity and address of any owner, lienholder or mortgagee of the building through searching the Bell County real property records, the records of the Bell County Tax Appraisal District, records of the Secretary of State, Bell County assumed name records, tax records of the city, and utility records of the city. The notice shall contain:

- (1) The name and address of the record owner;
- (2) The street address or legal description sufficient for identification of the premises upon which the building is located;
- (3) A statement that the building official has found the building to be substandard or dangerous, with a brief and concise description of the conditions found to render the building dangerous or substandard under the provisions of § 160.04;
- (4) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the chapter, and the time it will take to reasonably perform the work;
- (5) Notice of the time and place of the public hearing; and
- (6) A statement that if the building is found to be in violation of this chapter, the Commission may order that the building be vacated, secured, repaired, removed or demolished within a reasonable time.

(D) *Additional notice of public hearing.* Prior to the public hearing; the city may file a copy of the notice mailed pursuant to this section in the official public records of real property in Bell County. If such notice is not filed of record, each identified mortgagee and lienholder must be notified of any abatement order issued by the Commission at the public hearing, prior to any remedial action by the city. The city shall also post a copy of the notice mailed pursuant to this section on the front door of each improvement situated on the affected property, or as close thereto as practicable, or if there is no front door then at a conspicuous location on the property. In addition, the notice must be published in a newspaper of general circulation in the city on one occasion on or before the tenth day before the date fixed for the hearing.

(E) *Burden of proof.* At the public hearing, the owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this chapter, and the time it will take to reasonably perform the work.

(F) *Conduct of public hearing.* All cases to be heard by the Commission must be heard by a panel of at least five members and/or alternate members, and a majority vote of the members voting on a matter is necessary to take action thereon. At the public hearing, the owner of the building, and all other interested persons may make their appearance in person or by attorney, and shall have a reasonable opportunity to be heard. Any relevant evidence may be received and considered by the Commission, and for this purpose the chairperson or acting chairperson shall have the authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents. The hearing may be adjourned from day to day or continued upon a majority vote of the Commission, in compliance with the Open Meetings Act.

(Ord. 2011-07, passed 4-12-11)

§ 160.07 ORDER OF COMMISSION REGARDING SUBSTANDARD BUILDING.

(A) *Findings and order of the Commission.* If the Commission, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of the standards set out in § 160.04, the Commission may order the owner, mortgagee or lienholder to take action as required by this section.

(1) *Repair.* If the owner, lienholder or mortgagee demonstrates that the building can be feasibly brought into compliance with all applicable codes within the time allowed by this section, it shall be ordered remedied or repaired to comply with such codes. Repair shall be deemed feasible only if less than 50% of the structure must be repaired or replaced to comply with all applicable codes, or if the value of the structure is reduced by less than 50% because of the violations.

(2) *Vacate and secure.* If the building is in such a condition as to make it hazardous to the health, safety or general welfare of its occupants or the public, it may be ordered vacated and secured, and the order may also require the occupants to be relocated.

(3) *Demolish or remove.* In any case where the owner, lienholder or mortgagee fails to demonstrate that the building can be feasibly brought into compliance with all applicable codes within the time allowed by this section, the Commission may order that the building be demolished or removed.

(B) *Time allowed to complete work.*

(1) The order must require the owner, lienholder or mortgagee of the building to within 30 days:

(a) Secure the building from unauthorized entry; and/or

(b) Repair, remove or demolish the building unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(2) If the Commission allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the Commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Commission.

(3) The Commission may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner lienholder or mortgagee:

(a) Submits a detailed plan and time schedule for the work at the hearing; and

(b) Establishes at the hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work.

(4) If the Commission allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the Commission shall require the owner, lienholder or mortgagee to regularly submit progress reports to the building official to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the Commission or the building official to demonstrate compliance with the time schedules.

(C) *Contents of order.* The order of the Commission must contain at minimum:

(1) An identification (which is not required to be a legal description) of the building and the property on which it is located; and

(2) A description of the violation of minimum standards present in the building; and

(3) A description of the ordered actions, including a statement that the owner may repair, if feasible, or demolish or remove at his option; and

(4) A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the cost to the property; and

(5) If the Commission has determined that the building will endanger persons or property and that the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the property if the ordered action is not taken within the time allowed.

(Ord. 2011-07, passed 4-12-11; Am. Ord. 2017-10, passed 5-23-17)

§ 160.08 NOTICE OF ORDER OF THE COMMISSION.

(A) *Order shall be mailed.* After the public hearing, the building official shall promptly mail, by certified mail, return receipt requested, a copy of the order to the record owner of the building, and each identified lienholder and mortgagee of the building.

(B) *Order shall be filed with City Secretary.* Within ten days after the date that the order is issued by the Commission, the building official shall file a copy of the order in the office of the City Secretary.

(C) *Order shall be published.* Within ten days after the date the order is issued by the Commission, the building official shall publish in a newspaper of general circulation within the city a notice containing:

(1) The street address or legal description of the property;

(2) The date the hearing was held;

(3) A brief statement indicating the results of the order; and

(4) Instructions stating where a complete copy of the order may be obtained.

(D) *Filing of order or abstract.* The order may be filed in the official public records of real property in Bell County. An abstract or judgment shall be ordered against all parties found to be the owners of the subject property or in possession of that property.

(Ord. 2011-07, passed 4-12-11)

§ 160.09 ENFORCEMENT OF THE ORDER OF THE COMMISSION.

(A) *Compliance.* If an order of the Commission under this chapter is not complied with, the city may take action. If the building is not vacated, secured, repaired, removed or demolished within the time specified by the order, the city may vacate, secure, repair, remove or demolish the building or relocate the occupants at its own expense, provided however:

(1) The city may not act to remove or demolish a building until after the Commission has found:

(a) That such defects or conditions exist to the extent that the life, health, property or safety of the public or the occupants of the building are endangered; and

(b) The building is infeasible of repair, or there is no reasonable probability that the building will be repaired within a

reasonable period of time if additional time is given.

(2) The city may only repair a building as provided herein to the extent necessary to correct the conditions which render the building dangerous, and may not act to repair a building unless:

- (a) The Commission has made a determination that the building is likely to endanger person or property; and
- (b) The building is a residential dwelling with ten or fewer dwelling units.

(3) In the event there are mortgagors or lienholders, the city may only repair, remove or demolish the building after allowing the lienholder or mortgagee an additional 30 days after the time prescribed in the order has expired to complete the required work.

(4) Unless specifically authorized by a court order or by a written agreement signed by all record owners, mortgagees and lienholders, the city may not act to remove or demolish a building during the pendency of any appeal to a court of competent jurisdiction of the Commission's order.

(B) *Posting of notice to vacate building.* If the order requires vacation or if compliance is not had within the time specified therein, the building official is authorized to require that the building be vacated. Notice to vacate shall be mailed by certified mail, return receipt requested to the occupant of the building and shall be posted at or upon each entrance to the building. The notice shall be in substantially the following form:

"SUBSTANDARD BUILDING

DO NOT ENTER

UNSAFE TO OCCUPY

It is unlawful to occupy this building or to remove or deface this notice.

The Harker Heights Building and Standards Commission has declared this building to be substandard. To obtain a copy of this order, contact the City Secretary at 305 Miller's Crossing, Harker Heights, Texas, (254) 953-5600.

Building Official

City of Harker Heights"

(C) *Remedial action by city.* Any repair or demolition work, or securing of the building shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided. Any surplus realized from the sale of such building, or from the demolition thereof, over and above the cost of demolition and cleaning of the lot, shall be paid over to the person or persons lawfully entitled thereto.

(D) *Permit required.* Any work of closure, repair, removal or demolition by the property owner or any lienholder or mortgagee or their agents must be performed pursuant to valid unexpired permits issued by the city. All permits issued pursuant to an order of the Commission shall expire upon expiration of the time for compliance set forth in the order.

(Ord. 2011-07, passed 4-12-11; Am. Ord. 2012-02, passed 2-14-12)

§ 160.10 PERFORMANCE OF WORK BY THE CITY.

(A) *Procedure.* When any work of repair, removal, demolition or securing is to be performed by the city, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.

(B) *Costs.* The cost of such work shall be paid from city funds and shall constitute a special assessment and a lien against such property to secure payment thereof together with 10% interest on such amount from the date on which the work is performed.

(C) *Repair to minimum standards only.* The city may repair the building at its own expense and assess the expenses on the land on which the building stands or is attached to only to the extent necessary to bring the building into compliance with the minimum standards set forth in § 160.04.

(Ord. 2011-07, passed 4-12-11)

§ 160.11 RECOVERY OF COST OF SECURING, REPAIR, REMOVAL OR DEMOLITION.

(A) *Itemized account and notice of lien.* The building official shall keep an itemized account of the expenses incurred by the city in the securing, repair, removal or demolition of any building pursuant to this chapter. Upon completion of the work, the building official shall prepare and file with the City Secretary a sworn account and notice of lien containing the following information:

- (1) The name and address of the owner if that information can be determined with a reasonable effort;
- (2) A legal description of the real property on which the building is or was located;
- (3) The type of work performed; and
- (4) The amount of expenses incurred by the city in performing the work and the balance due.

(B) *Notice filed in county records.* The City Secretary shall file the notice of lien along with a copy of the order of abatement issued by the Commission in the official public records of Bell County.

(C) *Personal obligation of property owner.* The expenses incurred by the city as set forth in the sworn account of the building official shall be a personal obligation of the property owner in addition to a priority lien upon the property.

(D) *Lien shall be valid and privileged.* Upon filing of the notice of lien in the official public records of Bell County, Texas, the lien shall be valid against the property so assessed. The lien shall be privileged and subordinate only to tax liens and existing special assessment liens, and shall be paramount to all other liens. The lien shall continue until the assessment and all interest due and payable thereon has been paid.

(E) *Assessment must be paid.* No utility service, building permit or certificate of occupancy shall be allowed on any such property until the assessment is paid and such lien is released by the city.

(F) *Release of lien.* After the expenses incurred by the city, as set forth in the sworn account of the building official, have been fully paid with interest of 10% per annum from the date the work was performed, the building official shall execute a release of lien which shall be filed in the official public records of Bell County.

(Ord. 2011-07, passed 4-12-11)

§ 160.12 ADDITIONAL AUTHORITY TO SECURE CERTAIN SUBSTANDARD BUILDINGS PRIOR TO PUBLIC HEARING AND SECURE, DEMOLISH, REPAIR OR REMOVE CERTAIN DANGEROUS BUILDINGS.

(A) *Securing of unoccupied, substandard building.* Notwithstanding any other provisions of this chapter the city may secure a building if the building official determines that the building:

- (1) Violates the minimum standards set forth in § 160.04; and
- (2) Is unoccupied or is occupied only by persons who do not have the right of possession to the building.

(B) *If building creates immediate danger.* Notwithstanding any other provisions of this chapter, if the Commission finds that a building is likely to immediately endanger persons or property the Commission may:

(1) Order the owner of the building, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the dangerous part of the structure, within a specified time; or

(2) Repair, remove, or demolish the structure, or the dangerous part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(C) *Notice to owner.* Before the eleventh day after the date the building is secured pursuant to division (A) above, or action is ordered pursuant to division (B)(1) above, or the building is repaired, removed or demolished pursuant to division (B)(2) above, the building official shall give notice to the owner by:

- (1) Personally serving the owner with written notice;

(2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;

(3) Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county in which the building is located, if personal service cannot be obtained and the owner's post office address is unknown; or

(4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown; and

(5) In addition to the above, depositing notice in the United States mail to all lienholders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the County Clerk.

(D) *Contents of notice.* The notice must contain:

(1) An identification (which is not required to be a legal description) of the building and the property on which it is located;

(2) A description of the violation of the minimum standards present in the building;

(3) A statement that the city will secure or has secured, as the case may be, the building, or that the city has taken or will take the action ordered pursuant to division (B); and

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing, removing, demolishing or repairing of the building.

(E) *Hearing.* The Commission shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing, repairing, removing or demolishing of the building, if, within 30 days after the date the city has taken action pursuant to divisions (B)(1) or (B)(2) of this section, the owner files with the city a written request for the hearing. The hearing shall be conducted within 20 days after the date the request is filed.

(F) *Expenses.* If the city incurs expenses under this section, such expenses incurred shall be a personal obligation of the property owner in addition to a priority lien upon the property, and costs shall be recovered as provided by § 160.10 and § 160.11.

(Ord. 2011-07, passed 4-12-11)

§ 160.13 VIOLATIONS.

(A) *Generally.* Except with the valid written permission of the building official, it shall be unlawful for any person to:

(1) Erect, construct or maintain any building that is deemed herein to be a nuisance;

(2) Use, occupy, enter, or remain in any building that is posted with a notice to vacate;

(3) Remove, damage or deface a notice to vacate posted under this chapter; or

(4) Cause or permit any act to be done in violation of any provision of this chapter.

(B) *Compliance with order.* It shall be unlawful for any person to whom an order of the Commission is directed to fail to comply with such order.

(C) *Interference prohibited.* It shall be unlawful for any person to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in the building which has been ordered repaired, vacated, demolished, removed or secured under the provisions of this chapter; or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing, removing or securing any such building pursuant to the provision of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.

(D) *Transfer of ownership.* No person may sell, transfer, mortgage, lease or otherwise dispose of a building or property that is the subject of a notice of substandard building, a citation, or an order of the Commission under this chapter until:

(1) The deficiencies noted in the notice, citation or order have been corrected and a new certificate of occupancy has been issued by the city; or

(2) The building official receives a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the notice, citation or order, and unconditionally accepting the responsibility for timely correcting the deficiencies noted therein.

(E) *Separate violations.* Each building or property which is in violation of any part of this chapter is a separate offense. Each violation in any building or property is a separate offense. Each and every day's violation shall constitute a separate and distinct offense.

(F) *Municipal court.* Proceedings under the jurisdiction of the municipal court are not affected by proceedings of the Commission or civil penalties under this chapter.

(Ord. 2011-07, passed 4-12-11)

§ 160.14 CIVIL PENALTY.

(A) *Civil penalty authorized.* In addition to any other enforcement authority provided for by law, and without regard to any criminal prosecution or conviction under this chapter, the Commission may at an administrative hearing assess a civil penalty by order against a property owner for failure to comply with an order issued by the Commission pursuant to this chapter.

(B) *Showing required.* The civil penalty may be assessed if it is shown at the administrative hearing that:

(1) The property owner was notified of the contents of the order issued pursuant to § 160.07; and

(2) The property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order.

(C) *Amount of penalty.* The civil penalty may be assessed in an amount not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 a day for each violation.

(D) *Notice of administrative hearing.* Not less than ten days prior to the date on which the administrative hearing is set, the property owner shall be sent a notice of the hearing by certified mail, return receipt requested. The notice shall contain:

(1) A copy of the order issued by the Commission pursuant to § 160.07;

(2) A statement that the building official has determined that the property owner committed an act in violation of that order, or failed to take an action necessary for compliance with that order;

(3) A statement that at the administrative hearing the Commission may assess a civil penalty not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owners' lawful homestead, in an amount not to exceed \$10 a day for each violation; and

(4) Notice of the time and place of the hearing.

(E) *Copy of order filed with district clerk.* After the civil penalty is assessed, the City Secretary shall file with the Bell County District Clerk a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty.

(F) *Enforcement.* The civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this division is final and binding and constitutes prima facie evidence of the penalty in any suit.

(Ord. 2011-07, passed 4-12-11)

§ 160.15 AUTHORITY NOT LIMITED.

Notwithstanding all other provisions of this chapter, nothing herein shall be deemed a limitation on the duty of the city to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of such building or structure is necessary to the protection of life, property or general welfare of the people in the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.16 AUTHORITY OF CITY ATTORNEY.

The City Attorney may without further authorization of the City Council undertake the enforcement of this chapter by all legal means appropriate or necessary, including but not limited to: enforcement in municipal court; filing a notice of *lis pendens* in the official public records of Bell County; filing of appropriate civil actions in courts of appropriate jurisdiction to seek compliance with an order made under this chapter, to collect a civil penalty, or recover costs as provided by this chapter; to appointment of a receiver as provided by Local Government Code Chapter 214; and to defend the city from suit if suit is taken to appeal any action of the city.

(Ord. 2011-07, passed 4-12-11)



BUILDING AND STANDARDS COMMISSION MEMORANDUM

AGENDA ITEM VII-2

FROM: THE OFFICE THE BUILDING OFFICIAL
DATE: JANUARY 27, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER THE EVIDENCE PROVIDED BY THE CITY OF HARKER HEIGHTS BUILDING OFFICIAL THAT A SITE BUILT STRUCTURE ON PROPERTY DESCRIBED AS: LOT FIVE (5), BLOCK ONE (1), KERN TERRACE ADDITION THIRD EXTENSION, AN ADDITION TO THE CITY OF HARKER HEIGHTS IN BELL COUNTY, TEXAS, ACCORDING TO THE PLAT OF RECORD IN VOLUME TWO, PAGE 103-C, OF THE PLAT RECORDS OF BELL COUNTY, TEXAS, ALSO COMMONLY KNOWN AS 206 CYNTHIA DRIVE, HARKER HEIGHTS, TEXAS, IS AN UNSAFE, SUBSTANDARD, AND DANGEROUS STRUCTURE PER STANDARDS SET OUT IN §160.04 OF CHAPTER 160 OF THE CITY OF HARKER HEIGHTS CODE OF ORDINANCES.

BACKGROUND:

Subject Property: Site Built Home
Lot Five (5), Block One (1), Kern Terrace Addition Third Extension, an addition to the City of Harker Heights in Bell County, Texas, according to the plat of record in Volume Two, Page 103-C, of the Plat Records of Bell County, Texas, also commonly known as 206 Cynthia Drive, Harker Heights, Texas.

Property Owner: Willie Mae Tinsley
2002 Ruiz Drive
Killeen, TX 76543

EXPLANATION:

On September 23, 2020 a visual inspection was made from the right-of-way by Michael Beard, City of Harker Heights Building Official. This inspection was to identify the property as a possible substandard structure. An administrative search warrant was obtained and served on October 14, 2020 to inspect the property to determine if the structure met the requirements for a substandard structure set out in §160.04

Based on the inspection performed by Michael Beard, Building Official on October 14, 2020 the structure does meet the requirements set in §160.04 as evidenced by photos.

IMELINE OF EVENTS:

- September 23, 2020 – Identified structure as substandard.
- October 12, 2020 – Administrative Search Warrant obtained (Exhibit #2)
- October 14, 2020 – Visual Inspection of the property by Mr. Michael Beard, the City of Harker Heights Building Inspector.
- Building Inspection Report is compiled, and Mr. Michael Beard, the City of Harker Heights Building Official, determined the structure to be unsafe, substandard, and a dangerous structure per §160.04 of the City of Harker Heights Code of Ordinances (Exhibit #3)
- October 23, 2020 – City Staff requested title sheet documents to determine all owners associated with 206 Cynthia Drive.
- December 13, 2020 – Notice of Substandard Structure and Notice to Vacate Property delivered to all identifiable property owners via certified mail.
- January 12, 2021 – Notice of Public Hearing was mailed, return receipt requested to the owner of record of the property.
- January 16, 2021 – Notice of Public Hearing posted on all structures on the property.
- January 16, 2021 – Notice of Public Hearing published in the Killeen Daily Herald, the newspaper of general circulation.
- January 16, 2021 – Notice of Public Hearing filed with Bell County.
- January 27, 2021 – BSC Public Hearing

RECOMMENDATIONS:

Based upon the inspection performed on October 14, 2020, the Building Official recommends that the Building and Standards Commission:

1. FIND that a manufactured home located on property at 206 Cynthia Drive, Harker Heights, Texas, described as: Lot Five (5), Block One (1), Kern Terrace Addition Third Extension, an addition to the City of Harker Heights in Bell County, Texas, according to the plat of record in Volume Two, Page 103-C, of the Plat Records of Bell County, Texas, also commonly known as 206 Cynthia Drive, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances, and;

ACTION BY THE BUILDING AND STANDARDS COMMISSION:

1. FIND/DO NOT FIND, by a majority vote, that a manufactured home located on property at 206 Cynthia Drive, Harker Heights, Bell County, Texas, described as: Lot Five (5), Block One (1), Kern Terrace Addition Third Extension, an addition to the City of Harker Heights in Bell County, Texas, according to the plat of record in Volume Two, Page 103-C, of the Plat Records of Bell County, Texas, also commonly known as 206 Cynthia Drive, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

2. ORDER that the owner, mortgagee or lienholder Rehabilitate, Remove, OR Demolish the structure with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances within a certain time period following the order.
 - **Repair.** If the owner, lienholder or mortgagee demonstrates that the building can be feasibly repaired within the time allowed by this section, it shall be ordered remedied or repaired. Repairs shall be deemed feasible only if less than 50% of the structure of the building must be repaired or replaced, or the value of the structure is reduced by less than 50% because of the violations.
 - **Vacate and Secure.** If the building is in such a condition as to make it hazardous to the health, safety or general welfare of its occupants or the public, it may be ordered vacated and secured, and the order may also require the occupants to be relocated.
 - **Demolish or Remove.** In any case where the owner, lienholder or mortgagee fails to demonstrate that the building can be feasibly repaired within the time allowed by this section, the Commission may order that the building be demolished with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances.

3. Any other action desired.

EXHIBITS:

1. Location Map
2. Administrative Search Warrant
3. Building Inspection Report
4. Notice of Substandard Structure and Notice to Vacate (mailed certified December 14, 2020)
5. Notice of Public Hearing (mailed certified January 12, 2021)
6. Legal Ad of Public Hearing (ran in Killeen Daily Herald January 16, 2021)
7. Site Photographs
8. Chapter 160

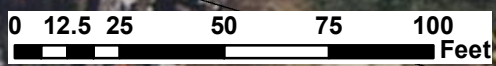
206 Cynthia Dr.

Location



Harker Heights
City of Harker Heights
Planning and Development
305 Miller's Crossing
Harker Heights, TX 76548
254-953-5600
www.ci.harker-heights.tx.us

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2501.102. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.



 206 Cynthia Dr.

AFFIDAVIT FOR ADMINISTRATIVE SEARCH WARRANT

THE STATE OF TEXAS § A SINGLE FAMILY RESIDENCE LOCATED AT:
 § 206 CYNTHIA DRIVE
COUNTY OF BELL § HARKER HEIGHTS, BELL COUNTY, TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared Michael Beard, who after first being by me duly sworn upon oath, made the following statements and accusations:

1. I am over the age of 18 years. I have personal knowledge of the facts stated herein, I am competent to testify under oath to those facts, and they are all true and correct.

2. I am the Building official for the City of Harker Heights, Bell County, Texas ("City"), and have held that position for over a year. Prior to that, I served as the primary building inspector for the City of Harker Heights for over 6 years, during which time I received several hundred hours of training in building and structural integrity as well as ordinances and investigations. I have been involved in public safety regulations and enforcement for over 12 years and have performed several thousand inspections. I have the authority to exercise the powers of the Building Official as set forth in §160.03(A) of the Code of Harker Heights ("Code") and elsewhere.

3. There is in incorporated city limits of the City a building ("Building") located as follows ("Premises"):

206 Cynthia Drive, Harker Heights, Bell County, Texas 76548

4. The record owner of the Premises is TINSLEY, WILLIE MAE, 2002 RUIZ DR, Killeen, Texas 76543

5. The Building is a residential structure. It is currently unoccupied.

6. On September 23, 2020 I personally conducted a physical inspection of the Premises. Because I did not have consent to enter the Building, the inspection was limited to the exterior. From the exterior I was able to observe the following violations of Sections 160.04 and 93.02 of the Code: The building is unsecured and damaged to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage; general dilapidation or improper maintenance indicating abandonment.

7. I took photographs of the Premises during my inspection of the exterior; and true and correct copies are attached hereto and incorporated as Exhibit(s) 1, 2, and 3 by reference. Within the limitations of the technology the photographs accurately depict the conditions that existed at that time and place. I observed exposed wiring, extensive roof and siding damage, broken windows, unsafe/incorrect electric service, exposed framing members and trash and debris.

8. The substandard conditions described above have not been abated, thus creating a fire or health hazard or unsafe building condition in violation of the minimum building standards set

forth in the Code, including without limitation §160.04 thereof. Based on my training and experience, as well as the conditions described above, I have probable cause to believe and do believe and allege that the interior of the Building is likely in a similar state of disrepair, and that additional fire or health hazards or unsafe building conditions exist inside. As a result the Building represents a concern for public safety and the welfare of those in the neighborhood and those who might respond to emergencies involving the Premises. A search warrant is necessary in order to conduct a thorough inspection to verify whether and to what extent unsafe conditions are present.

9. WHEREFORE, I request the issuance of an administrative search warrant that will authorize entry into the Premises and Building to conduct a thorough inspection for the presence of unsafe building conditions, and/or violations of any fire, health, or building statutes, regulations or ordinances, and specifically for violations of the minimum standards established by §160.04 of the Code, in order to commence abatement proceedings before the City's Building and Standards Commission.



Affiant

SUBSCRIBED AND SWORN TO before me by the said Michael Beard, Affiant, on

OCT. 12, 2020



Notary Public, State of Texas



Exhibit 1



Exhibit 2



Exhibit 3



ADMINISTRATIVE SEARCH WARRANT

STATE OF TEXAS §

COUNTY OF BELL §

TO: Any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Bell County, Texas:

WHEREAS, Michael Beard ("Affiant"), the building inspector of the City of Harker Heights, Bell County, Texas, and a credible person that has presented a written affidavit ("Affidavit") to me, which Affidavit was attached to this warrant when it was presented and signed and is by this reference incorporated into this warrant for all purposes;

AND WHEREAS, I find that the verified facts stated by Affiant in the Affidavit show that there is probable cause that there is a public nuisance, or a violation of a fire, health, or building regulation, state, statute of the Code of Harker Heights ("Code") at the premises ("Premises") described and located as follows:

206 CYNTHIA DRIVE, Harker Heights, Bell County, Texas 76548

AND WHEREAS, the Affidavit presents the necessary evidence establishing the existence of proper grounds for the issuance of this Administrative Search Warrant pursuant to Article 18.05 of the Texas Code of Criminal Procedure;

NOW, THEREFORE, I do hereby ORDER that any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Texas, execute this Warrant and enter the Premises to inspect and determine if evidence exists that said Premises are substandard or dangerous in violation of the Code. A video and or photographic record of the evidence shall be permitted.

Herein fail not, but have execution with your return thereon, showing how you have executed the same.

ISSUED AT 2:04 o'clock P.M., on this the 12TH day of OCT, 2020, to certify which witness my hand this day.



[Signature]
COURT MAGISTRATE

RETURN

STATE OF TEXAS §
 §
COUNTY OF BELL §

The undersigned Affidavit, being a Code Enforcement Officer of the City of Harker Heights, Texas, and being duly sworn, on oath, certifies that the foregoing Warrant came on hand on the day it was issued and that it was executed on 10/15/2020, by making the inspection directed therein.

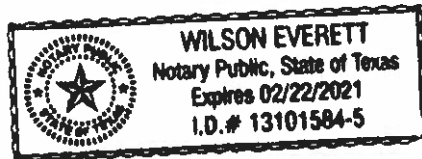


Affiant

SUBSCRIBED AND SWORN TO before me, authority, by said Affiant on October 15, 2020.



Notary Public, State of Texas



Building Inspection Report

City of Harker Heights
305 Miller's Crossing Harker Heights, Texas 76548
Telephone (Main) 254-953-5600
Fax: 254-953-5666

Date: 10/14/2020

Time: 3:56 PM

Address: 206 Cynthia

Legal Description: Lot 5, Blk 1, Kern Terrace Addition 3rd Ext

Property Owner: Willie Mae Tinsley **Lien Holder(s):** _____

Property Occupant(s): None

Inspector: Michael Beard, Building Official

Substandard Buildings Declared and Minimum Buildings Standards Contained in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances

(A) *The above reference buildings, regardless of the date of its construction, is deemed and hereby declared to be Substandard and a nuisance because it has the conditions of defects hereinafter described:*

- (1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.
- (2) Whenever any building, regardless of its structural condition, is unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage, or by children for any purpose
- (3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:
 - (a) The building constitutes a danger to the public even though secured from entry; or
 - (b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (A)(2) of this section
- (4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence
- (5) Whenever any portion of a building remains on a site after the demolition or destruction of the building
- (6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public

- (7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:
- (a) Lack of, or improper lavatory
 - (b) Lack of improper bathtub or shower in a dwelling unit or lodging house
 - (c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel
 - (d) Lack of, or improper kitchen sink in a dwelling unit
 - (e) Lack of hot and cold running water to plumbing fixtures
 - (f) Lack of, or improper operation of adequate heating facilities
 - (g) Lack or, or improper operation of required ventilation equipment
 - (h) Lack of minimum amount of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city
 - (i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation by the city
 - (j) Lack of required electrical lighting
 - (k) Excessive dampness or mold in habitable rooms
 - (l) Infestation or insects, vermin, or rodents
 - (m) General dilapidation or improper maintenance
 - (n) Lack of connection to required sewage disposal system
 - (o) Lack of adequate garbage and rubbish storage and removal facilities
- (8) Whenever any building contains structural hazards, including but not limited to the following:
- (a) Deteriorated or inadequate foundation
 - (b) Defective or deteriorated flooring or floor support
 - (c) Flooring or floor supports are insufficient to carry imposed loads with safety
 - (d) Members or walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration
 - (e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety
 - (f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration
 - (g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety
 - (h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration
 - (i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety

- (9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of building

(B) *The above referenced building, for the purpose of §160.04 of Chapter 160 of the City of Harker Heights, Texas, Code of Ordinances shall be deemed and hereby declared to be a dangerous and substandard building, and nuisance, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:*

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic
- (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic
- (3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1" times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location
- (5) Whenever any portion 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
- (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings
- (7) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction
- (8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause
- (9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used
- (10) 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
- (11) Whenever the building, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 or more percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings
- (12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; or (b) a harbor for vagrants, criminals or illegal activity
- (13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) 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

- (14) Whenever any building or structure, because of obsolescence, dilapidation, deterioration, damage or decay, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard
- (15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered
- (16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the City of Harker Heights, Bell County, Texas



The City of Harker Heights
305 Millers Crossing
Harker Heights, TX 76548
Phone: (254)953-5600
Fax: (254)953-5666

Mayor
Spencer H. Smith

Mayor Pro Tem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
John Reider
Jody Nicholas

DECEMBER 14, 2020

RECORD OWNER:
WILLIE MAE TINSLEY
2002 RUIZ DRIVE
KILLEEN, TX 76543

RE: NOTICE OF SUBSTANDARD OR DANGEROUS BUILDING(S) AND NOTICE FOR REMOVAL OF PERSONAL PROPERTY AT 206 CYNTHYA DRIVE (LOT FIVE (5), BLOCK ONE (1), KERN TERRACE ADDITION THIRD EXTENSION, AN ADDITION TO THE CITY OF HARKER HEIGHTS IN BELL COUNTY, TEXAS, ACCORDING TO THE PLAT OF RECORD IN VOLUME TWO, PAGE 103-C, OF THE PLAT RECORDS OF BELL COUNTY, TEXAS, ALSO COMMONLY KNOWN AS 206 CYNTHYA DRIVE, HARKER HEIGHTS, TEXAS).

Certified mail return receipt requested # 7016 3560 0000 6480 1870

To Whom It May Concern:

On October 14, 2020, a physical inspection was made of the residential structure (site built structure) located at 206 CYNTHYA DRIVE (LOT FIVE (5), BLOCK ONE (1), KERN TERRACE ADDITION THIRD EXTENSION, AN ADDITION TO THE CITY OF HARKER HEIGHTS IN BELL COUNTY, TEXAS, ACCORDING TO THE PLAT OF RECORD IN VOLUME TWO, PAGE 103-C, OF THE PLAT RECORDS OF BELL COUNTY, TEXAS, ALSO COMMONLY KNOWN AS 206 CYNTHYA DRIVE, HARKER HEIGHTS, TEXAS). Based on that inspection it was determined by Mr. Michael Beard, the Building Official for the City of Harker Heights, that the structure located at 206 CYNTHYA DRIVE has been found to be dangerous or substandard under the provisions of §160.04, of the City of Harker Heights Code of Ordinance (see attached **Building Inspection Report**).

Based on this determination, the Building Official for the City of Harker Heights requires that the legal owner of the structure (site built structure) make the necessary repairs to bring the structure up to code under §160.04 or demolish the structure. Until then, the aforementioned structure has been deemed uninhabitable and owners of any personal property within the structure are requested to remove all such items from that structure.

This letter serves as Official Notice requiring **WILLIE MAE TINSLEY or their legal representatives** to contact Mr. Michael Beard, the Building Official for the City of Harker Heights, at 305 Miller's Crossing, Harker Heights, Texas, within **ten (10) working days** of the receipt of this letter to discuss a schedule for the complete repair or the demolition of the dangerous and substandard residential structures noted above, along with any additional accessory structures located on the property that are found to be in noncompliance with the Code.

This letter also serves as an Official Notice giving **WILLIE MAE TINSLEY or their legal representatives** or any individuals having personal property within the noted structure **ten (10) working days** of the receipt of this letter to remove any and all personal property and/or items from the structure located at **206 CYNTHYA DRIVE**.

Any and all personal property and/or items not removed from the structure (**site built structure**) located at **206 CYNTHYA DRIVE** will be considered abandoned or unclaimed property and may be removed following the conclusion of the abatement proceedings depending on the decision of the Building Standards Commission.

WARNING: Failure to timely comply with this Notice may result in filing of criminal charges against you in the Municipal Court, commencement of abatement proceedings before the Building and Standards Commission, or other enforcement action as provided by law.

Respectfully,



Michael Beard
Building Official, City of Harker Heights

Attachments:

- Building Inspection Report for all structures located on property at 206 Cynthia Drive, Harker Heights, Texas.
- Harker Heights Code Chapter 160



NOTICE OF PUBLIC HEARING
January 12, 2021

The City of Harker Heights
305 Miller's Crossing
Harker Heights, TX 76548
Phone 254/953-5600
Fax 254/953-5614

Mayor
Spencer H. Smith

Mayor Pro Tem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
John Reider
Jody Nicholas

Record Owner:
WILLIA MAE TINSLEY
2002 RUIZ DRIVE
KILLEEN, TX 76543

Property:
206 CYNTHYA DRIVE (LOT FIVE (5), BLOCK ONE (1), KERN TERRACE ADDITION THIRD EXTENSION, AN ADDITION TO THE CITY OF HARKER HEIGHTS IN BELL COUNTY, TEXAS, ACCORDING TO THE PLAT OF RECORD IN VOLUME TWO, PAGE 103-C, OF THE PLAT RECORDS OF BELL COUNTY, TEXAS, ALSO COMMONLY KNOWN AS 206 CYNTHYA DRIVE, HARKER HEIGHTS, TEXAS).

Certified mail return receipt requested # 7016 3560 0000 6480 4765

To Whom It May Concern:

According to the real property records of Bell County, you own the real property described in this Notice. If you no longer own the Property, you must execute an affidavit stating that you no longer own the Property and stating the name and last known address of the person who acquired the Property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date this Notice is mailed. If you do not send the affidavit, it will be presumed that you own the Property described in this Notice, even if you do not.

On October 15, 2020, a physical inspection was made of the above-described structure (site built structure) located on the property at **206 CYNTHYA DRIVE**. Based on those inspection(s) the Building Official has found the said building(s) are dangerous and/or substandard structure(s) under Chapter 160 of the Code of Harker Heights ("Code"). A brief and concise description of the conditions found to render the building(s) dangerous or substandard under §160.04 of the Code of Harker Heights ("Code") is attached to this Notice and incorporated by reference (Building Inspection Report).

Pursuant to the determination of the Building Official, a Public Hearing will be held before the Building and Standards Commission ("Commission") to determine whether the buildings on the Property comply with the standards set out in §160.04 of the Code.

The Public Hearing will be held on January 27, 2021, at 6:30 P.M. via virtual teleconference. You may join the public meeting with the information below:
Please join the Building Standards Commission meeting from your computer, tablet, or smartphone.
<https://global.gotomeeting.com/join/806361613>

You can also dial in using your phone.
United States (Toll Free): 1 (866) 899 4679
United States: +1 (571) 317-3116
Access Code: 806-361-613

At the Public Hearing the Property owner and all other interested persons may make their appearance virtually or in person by property owner and/or by attorney, and shall have a reasonable opportunity to be heard. Anyone requiring assistive listening devices or other special accommodation is strongly encouraged to contact the City Secretary at least 48 hours prior to the Public Hearing to make the necessary arrangements.

At the Public Hearing each owner, lienholder, or mortgagee of the Property will be required to submit proof of the scope of any work that may be required to comply with Chapter 160 of the Code, and the time that it will take to reasonably perform the work. By law the burden of proof will be upon such owner, lienholder or mortgagee.

If any of the buildings located on the Property are found to be in violation of Chapter 160 of the Code the Commission may order that the buildings be vacated, secured, repaired, removed or demolished within a reasonable time. In addition, the Commission may order that any occupants be relocated by the owner, lienholder or mortgagee of the Property. If the Commission's order is violated the City may perform the actions necessary to comply with the order. The resulting expenses incurred by the City shall be the personal obligation of the Property owner, and the City shall have a priority lien upon the Property to secure payment thereof.

You may contact the City of Harker Heights Building Official by telephone at (254)-953-5667, or by email at mbeard@harkerheights.gov, or you may write to the Building Official at 305 Millers Crossing, Harker Heights, Bell County, Texas 76548.

Respectfully,

Michael Beard
Building Official, City of Harker Heights

Attachments:

1. Building Inspection Report for all structures located on property at 206 Cynthia Drive
2. Harker Heights Code Chapter 160

WILLIE MAE TINSLEY
2002 RUIZ DRIVE
KILLEEN, TX 76543

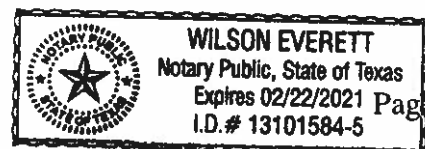
STATE OF TEXAS
COUNTY OF BELL

This instrument acknowledged before me by Michael Beard on

January 12, 2021

Wilson Everett

Notary Public, State of Texas



On January 27, 2021 at 6:30 P.M., the Building Standards Commission in its regular meeting, will hold a public hearing on the items listed below. The Building Standards Commission will conduct a telephonic meeting to contain the spread of COVID-19 in accordance with Governor Abbott's declaration of the COVID-19 public health threat and action to temporarily suspend certain provisions of the Texas Open Meetings Act issued on March 16, 2020. A full copy of the proceedings can be obtained Monday through Friday from 8 A.M. to 5 P.M. from the Harker Heights Planning and Development Department located at 305 Millers Crossing.

The public may participate remotely in this meeting by dialing-in using the toll-free number:

United States (Toll Free): 1 (866) 899-4679
Access Code: 806-361-613

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home on property described as: Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as 121 East Valley Road, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: Lot Five (5), Block One (1), Kern Terrace Addition Third Extension, an addition to the City of Harker Heights in Bell County, Texas, according to the plat of record in Volume Two, Page 103-C, of the Plat Records of Bell County, Texas, also commonly known as 206 Cynthia Drive, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home and accessory structures on property described as: Lots Six (6), and Seven (7), Block Twenty-Two (22), Comanche Land, Second Unit, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat of record in Cabinet A, Slide 184-A, Plat Records of Bell County, Texas, also commonly known as 1508 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that one accessory structure and an accessory structure/accessory dwelling unit on property described as: Tract H.B. Littlefield No.511, AKA Lot Ten (10), and Eleven (11), Block Thirty-Seven (37), Comanche Land Life Estates, also commonly known as 1701 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: 0.5 acres, more or less, out of Abstract No. 401 of the U. Hunt Survey, City of Harker Heights, Bell County, Texas, also commonly known as 13902 East Farm-to-Market 2410, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

(Legal notice published in the Killeen Daily Herald on January 16, 2021.)



2020. 9.23 15:57



2020. 9. 23 15:58

DANGER
THIS BUILDING IS DEEMED UNSAFE
FOR HUMAN OCCUPANCY

UNDER SECTION 160.03 OF THE BUILDING CODE OF THE
 CITY OF HARKER HEIGHTS

IT IS UNLAWFUL FOR ANY PERSON TO OCCUPY
OR RESIDE IN THIS BUILDING

206 Cynthia
 Building Official

ANY UNAUTHORIZED PERSON REMOVING THIS SIGN MAY BE PROSECUTED

DATE 10/14/2020 Refer to Sec. 104 of Building Code

AFFIDAVIT FOR ADMINISTRATIVE SEARCH WARRANT

THE STATE OF TEXAS § A SINGLE FAMILY RESIDENCE LOCATED AT:
 COUNTY OF BELL § 206 CYNTHIA DRIVE
 § HARKER HEIGHTS, BELL COUNTY, TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared Michael Beard, who after first being by me duly sworn upon oath, made the following statements and accusations:

1. I am over the age of 18 years, I have personal knowledge of the facts stated herein, I am competent to testify under oath to these facts, and they are all true and correct.
2. I am the Building official for the City of Harker Heights, Bell County, Texas ("City"), and have held that position for over a year. Prior to that, I served as the primary building inspector for the City of Harker Heights for over a year, during which time I received several hundred hours of training in building and structural integrity as well as ordinances and investigations. I have been involved in public safety regulations and enforcement for over 12 years and have performed several thousand inspections. I have the authority to exercise the powers of the Building Official as set forth in §160.03(A) of the Code of Harker Heights ("Code") and elsewhere.
3. There is in incorporated city limits of the City a building ("Building") located as follows ("Premises"):
 206 Cynthia Drive, Harker Heights, Bell County, Texas 76748
4. The record owner of the Premises is TINSLEY, WILLIE MAE, 2002 BELL DR, Kilbuck, Texas 76743
5. The Building is a residential structure, it is currently unoccupied.
6. On September 25, 2020 I personally conducted a physical inspection of the Premises. Because I did not have consent to enter the Building, the inspection was limited to the exterior. From the exterior I was able to observe the following violations of Sections 160.04 and 91.02 of the Code: The building is unsecured and damaged to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage, general dilapidation or improper maintenance indicating abandonment.
7. I took photographs of the Premises during my inspection of the exterior, and true and correct copies are attached hereto and incorporated as Exhibits 1, 2, and 3 by reference. Within the limitations of the technology the photographs accurately depict the conditions that existed at that time and place. I observed exposed wiring, extensive roof and siding damage, broken windows, unsafe (incorrect) electric service, exposed framing members and trash and debris.
8. The substandard conditions described above have not been abated, thus creating a fire or health hazard or unsafe building condition in violation of the minimum building standards set

2020.10.14 15:56



2020.10.14 15:59



2020.10.14 16:01

Print

Harker Heights Code of Ordinances

CHAPTER 160: UNSAFE, SUBSTANDARD AND DANGEROUS STRUCTURES

Section

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§ 160.01 FINDINGS AND PURPOSE.

The facts and recitations contained in the preamble of the ordinance that is the basis for this chapter are found and declared to be true and correct.

(Ord. 2011-07, passed 4-12-11)

§ 160.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning.

BUILDING. Includes any building, fence, retaining wall, awning, canopy, sign, shed, garage, house, tent or other structure whatsoever, or any portion thereof, and the enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the sense and meaning of the provisions hereof in context reasonably have application.

BUILDING OFFICIAL. The person designated by the City Council to enforce this chapter.

COMMISSION. The Building and Standards Commission established pursuant to § 33.80.

STANDARD CODES. The codes adopted and amended by § 150.02.

(Ord. 2011-07, passed 4-12-11)

§ 160.03 GENERALLY.

(A) Powers of the building official.

(1) **Administration.** The building official is hereby authorized to enforce the provisions of this chapter. The building official shall have the power to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.

(2) **Inspections.** All buildings within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official. The building official, fire marshal and their designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

(3) **Right of entry.** When it is necessary to make an inspection to enforce the provisions of this chapter, or when the building official or his designee has a reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter which makes the building or premises unsafe, dangerous, or hazardous, the building official or his designee may enter the building or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official or his designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(B) **Abatement of dangerous or substandard buildings.** All buildings or portions thereof which are determined after inspection by the building official to be dangerous or substandard as defined by this chapter are hereby declared to be public nuisances and shall be abated by repair, vacation, demolition, removal or securing in accordance with the procedures specified in this chapter.

(C) **Notice.** When notice is given in accordance with this chapter to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered. On receipt of a notice under this chapter, a manager of the affected property shall notify the owner of the notice within 10 days.

(Ord. 2011-07, passed 4-12-11)

§ 160.04 MINIMUM STANDARDS; SUBSTANDARD BUILDINGS DECLARED.

(A) **Substandard building.** For the purposes of this chapter any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described shall be deemed to be a substandard building, and a nuisance:

(1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.

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

(3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:

(a) The building constitutes a danger to the public even though secured from entry; or

(b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by division (A)(2) of this section.

(4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence.

(5) Whenever any portion of a building remains on a site after the demolition or destruction of the building.

(6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public.

(7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:

(a) Lack of, or improper lavatory.

(b) Lack of, or improper bathtub or shower in a dwelling unit or lodging house.

(c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel.

(d) Lack of, or improper kitchen sink in a dwelling unit.

(e) Lack of hot and cold running water to plumbing fixtures.

(f) Lack of, or improper operation of, adequate heating facilities.

(g) Lack of, or improper operation of, required ventilating equipment.

(h) Lack of minimum amounts of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city.

(i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation of the city.

(j) Lack of required electrical lighting.

(k) Excessive dampness or mold in habitable rooms.

(l) Infestation of insects, vermin or rodents.

(m) General dilapidation or improper maintenance.

(n) Lack of connection to required sewage disposal system.

(o) Lack of adequate garbage and rubbish storage and removal facilities.

(8) Whenever any building contains structural hazards, including but not limited to the following:

(a) Deteriorated or inadequate foundation.

(b) Defective or deteriorated flooring or floor supports.

(c) Flooring or floor supports are insufficient to carry imposed loads with safety.

(d) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.

(e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety.

(f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration.

(g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety.

(h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration.

(i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety.

(9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

(B) **Dangerous and substandard building.** For the purposes of this chapter, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare

of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1st times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location.
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location.
- (5) Whenever any portion 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.
- (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings.
- (7) Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- (8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause.
- (9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (10) 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.
- (11) Whenever the building, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- (12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children, or (b) a harbor for vagrants, criminals or illegal activity.

(13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) 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.

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

(15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered.

(16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.05 DETERMINATION BY BUILDING OFFICIAL.

When the building official has inspected or caused to be inspected any building and has found and determined that the building is substandard, the building official may take any or all of the following actions, as he or she deems appropriate:

- (A) Issue notice to the record owner that the building is substandard and must be repaired or demolished;
- (B) Issue a citation for each violation of this chapter;
- (C) Secure the building if permitted by this chapter; or
- (D) Commence abatement proceedings before the Commission pursuant to § 160.06.

(Ord. 2011-07, passed 4-12-11)

§ 160.06 PUBLIC HEARING FOR ABATEMENT OF SUBSTANDARD BUILDINGS.

(A) *Commencement of proceedings.* When the building official has found and determined that a building is a substandard building, the building official may commence proceedings to cause the repair, vacation, relocation of occupants, removal, demolition or securing of the building.

(B) *Public hearing to be held.* Except when the Commission finds that a building is likely to immediately endanger persons or property, a public hearing shall be held before the Commission to determine whether a building complies with the standards set out in § 160.04. If the Commission determines that the building constitutes an immediate danger, the procedures set forth in § 160.12(B) and following shall be followed.

(C) *Notice.* Not less than ten days prior to the date on which the hearing is set, the building official shall issue a notice of the public hearing directed to the record owner of the building, and to all mortgagees and lienholders. The city shall use diligent efforts to determine the identity and address of any owner, lienholder or mortgagee of the building through searching the Bell County real property records, the records of the Bell County Tax Appraisal District, records of the Secretary of State, Bell County assumed name records, tax records of the city, and utility records of the city. The notice shall contain:

- (1) The name and address of the record owner;
- (2) The street address or legal description sufficient for identification of the premises upon which the building is located;
- (3) A statement that the building official has found the building to be substandard or dangerous, with a brief and concise description of the conditions found to render the building dangerous or substandard under the provisions of § 160.04;
- (4) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the chapter, and the time it will take to reasonably perform the work;
- (5) Notice of the time and place of the public hearing; and
- (6) A statement that if the building is found to be in violation of this chapter, the Commission may order that the building be vacated, secured, repaired, removed or demolished within a reasonable time.

(D) *Additional notice of public hearing.* Prior to the public hearing, the city may file a copy of the notice mailed pursuant to this section in the official public records of real property in Bell County. If such notice is not filed of record, each identified mortgagee and lienholder must be notified of any abatement order issued by the Commission at the public hearing, prior to any remedial action by the city. The city shall also post a copy of the notice mailed pursuant to this section on the front door of each improvement situated on the affected property, or as close thereto as practicable, or if there is no front door then at a conspicuous location on the property. In addition, the notice must be published in a newspaper of general circulation in the city on one occasion on or before the tenth day before the date fixed for the hearing.

(E) *Burden of proof.* At the public hearing, the owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this chapter, and the time it will take to reasonably perform the work.

(F) *Conduct of public hearing.* All cases to be heard by the Commission must be heard by a panel of at least five members and/or alternate members, and a majority vote of the members voting on a matter is necessary to take action thereon. At the public hearing, the owner of the building, and all other interested persons may make their appearance in person or by attorney, and shall have a reasonable opportunity to be heard. Any relevant evidence may be received and considered by the Commission, and for this purpose the chairperson or acting chairperson shall have the authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents. The hearing may be adjourned from day to day or continued upon a majority vote of the Commission, in compliance with the Open Meetings Act.

(Ord. 2011-07, passed 4-12-11)

§ 160.07 ORDER OF COMMISSION REGARDING SUBSTANDARD BUILDING.

(A) *Findings of the Commission.* If the Commission, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in § 160.04, the Commission may order that the building be repaired, vacated, removed or demolished, secured, or the occupants relocated, by the owner, mortgagee or lienholder within a reasonable time as provided herein.

(B) *Time allowed to complete work.*

- (1) The order must require the owner, lienholder or mortgagee of the building to within 30 days:
 - (a) Secure the building from unauthorized entry; and/or
 - (b) Repair, remove or demolish the building unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.
- (2) If the Commission allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the Commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Commission.
- (3) The Commission may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner lienholder or mortgagee:
 - (a) Submits a detailed plan and time schedule for the work at the hearing; and
 - (b) Establishes at the hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work.
- (4) If the Commission allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the Commission shall require the owner, lienholder or mortgagee to regularly submit progress reports to the building official to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the Commission or the building official to demonstrate compliance with the time schedules.

(C) *Contents of order.* The order of the Commission must contain at minimum:

- (1) An identification (which is not required to be a legal description) of the building and the property on which it is located; and
- (2) A description of the violation of minimum standards present in the building; and
- (3) A description of the ordered actions, including a statement that the owner may repair, if feasible, or demolish or remove at his option; and
- (4) A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the cost to the property; and

(5) If the Commission has determined that the building will endanger persons or property and that the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the property if the ordered action is not taken within the time allowed.

(Ord. 2011-07, passed 4-12-11)

§ 160.08 NOTICE OF ORDER OF THE COMMISSION.

(A) *Order shall be mailed.* After the public hearing, the building official shall promptly mail, by certified mail, return receipt requested, a copy of the order to the record owner of the building, and each identified lienholder and mortgagee of the building.

(B) *Order shall be filed with City Secretary.* Within ten days after the date that the order is issued by the Commission, the building official shall file a copy of the order in the office of the City Secretary.

(C) *Order shall be published.* Within ten days after the date the order is issued by the Commission, the building official shall publish in a newspaper of general circulation within the city a notice containing:

- (1) The street address or legal description of the property;
- (2) The date the hearing was held;
- (3) A brief statement indicating the results of the order; and
- (4) Instructions stating where a complete copy of the order may be obtained.

(D) *Filing of order or abstract.* The order may be filed in the official public records of real property in Bell County. An abstract or judgment shall be ordered against all parties found to be the owners of the subject property or in possession of that property.

(Ord. 2011-07, passed 4-12-11)

§ 160.09 ENFORCEMENT OF THE ORDER OF THE COMMISSION.

(A) *Compliance.* If an order of the Commission under this chapter is not complied with, the city may take action. If the building is not vacated, secured, repaired, removed or demolished within the time specified by the order, the city may vacate, secure, repair, remove or demolish the building or relocate the occupants at its own expense, provided however:

- (1) The city may not act to remove or demolish a building until after the Commission has found:
 - (a) That such defects or conditions exist to the extent that the life, health, property or safety of the public or the occupants of the building are endangered; and
 - (b) The building is infeasible of repair, or there is no reasonable probability that the building will be repaired within a reasonable period of time if additional time is given.

(2) The city may only repair a building as provided herein to the extent necessary to correct the conditions which render the building dangerous, and may not act to repair a building unless:

- (a) The Commission has made a determination that the building is likely to endanger person or property; and
- (b) The building is a residential dwelling with ten or fewer dwelling units.

(3) In the event there are mortgagors or lienholders, the city may only repair, remove or demolish the building after allowing the lienholder or mortgagee an additional 30 days after the time prescribed in the order has expired to complete the required work.

(4) Unless specifically authorized by a court order or by a written agreement signed by all record owners, mortgagees and lienholders, the city may not act to remove or demolish a building during the pendency of any appeal to a court of competent jurisdiction of the Commission's order.

(B) *Posting of notice to vacate building.* If the order requires vacation or if compliance is not had within the time specified therein, the building official is authorized to require that the building be vacated. Notice to vacate shall be mailed by certified mail, return receipt requested to the occupant of the building and shall be posted at or upon each entrance to the building. The notice shall be in substantially the following form:

*SUBSTANDARD BUILDING

DO NOT ENTER

UNSAFE TO OCCUPY

It is unlawful to occupy this building or to remove or deface this notice.

The Harker Heights Building and Standards Commission has declared this building to be substandard. To obtain a copy of this order, contact the City Secretary at 305 Miller's Crossing, Harker Heights, Texas, (254) 953-5600.

Building Official

City of Harker Heights*

(C) *Remedial action by city.* Any repair or demolition work, or securing of the building shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided. Any surplus realized from the sale of such building, or from the demolition thereof, over and above the cost of demolition and cleaning of the lot, shall be paid over to the person or persons lawfully entitled thereto.

(D) *Permit required.* Any work of closure, repair, removal or demolition by the property owner or any lienholder or mortgagee or their agents must be performed pursuant to valid unexpired permits issued by the city. All permits issued pursuant to an order of the Commission shall expire upon expiration of the time for compliance set forth in the order.

(Ord. 2011-07, passed 4-12-11; Am. Ord. 2012-02, passed 2-14-12)

§ 160.10 PERFORMANCE OF WORK BY THE CITY.

(A) *Procedure.* When any work of repair, removal, demolition or securing is to be performed by the city, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.

(B) *Costs.* The cost of such work shall be paid from city funds and shall constitute a special assessment and a lien against such property to secure payment thereof together with 10% interest on such amount from the date on which the work is performed.

(C) *Repair to minimum standards only.* The city may repair the building at its own expense and assess the expenses on the land on which the building stands or is attached to only to the extent necessary to bring the building into compliance with the minimum standards set forth in § 160.04.

(Ord. 2011-07, passed 4-12-11)

§ 160.11 RECOVERY OF COST OF SECURING, REPAIR, REMOVAL OR DEMOLITION.

(A) *Itemized account and notice of lien.* The building official shall keep an itemized account of the expenses incurred by the city in the securing, repair, removal or demolition of any building pursuant to this chapter. Upon completion of the work, the building official shall prepare and file with the City Secretary a sworn account and notice of lien containing the following information:

- (1) The name and address of the owner if that information can be determined with a reasonable effort;
- (2) A legal description of the real property on which the building is or was located;
- (3) The type of work performed; and
- (4) The amount of expenses incurred by the city in performing the work and the balance due.

(B) *Notice filed in county records.* The City Secretary shall file the notice of lien along with a copy of the order of abatement issued by the Commission in the official public records of Bell County.

(C) *Personal obligation of property owner.* The expenses incurred by the city as set forth in the sworn account of the building official shall be a personal obligation of the property owner in addition to a priority lien upon the property.

(D) *Lien shall be valid and privileged.* Upon filing of the notice of lien in the official public records of Bell County, Texas, the lien shall be valid against the property so assessed. The lien shall be privileged and subordinate only to tax liens and existing special assessment liens, and shall be paramount to all other liens. The lien shall continue until the assessment and all interest due and payable thereon has been paid.

(E) *Assessment must be paid.* No utility service, building permit or certificate of occupancy shall be allowed on any such property until the assessment is paid and such lien is released by the city.

(F) *Release of lien.* After the expenses incurred by the city, as set forth in the sworn account of the building official, have been fully paid with interest of 10% per annum from the date the work was performed, the building official shall execute a release of lien which shall be filed in the official public records of Bell County.

(Ord. 2011-07, passed 4-12-11)

§ 160.12 ADDITIONAL AUTHORITY TO SECURE CERTAIN SUBSTANDARD BUILDINGS PRIOR TO PUBLIC HEARING AND SECURE, DEMOLISH, REPAIR OR REMOVE CERTAIN DANGEROUS BUILDINGS.

(A) *Securing of unoccupied, substandard building.* Notwithstanding any other provisions of this chapter the city may secure a building if the building official determines that the building:

- (1) Violates the minimum standards set forth in § 160.04; and
- (2) Is unoccupied or is occupied only by persons who do not have the right of possession to the building.

(B) *If building creates immediate danger.* Notwithstanding any other provisions of this chapter, if the Commission finds that a building is likely to immediately endanger persons or property the Commission may:

- (1) Order the owner of the building, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the dangerous part of the structure, within a specified time; or
- (2) Repair, remove, or demolish the structure, or the dangerous part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(C) *Notice to owner.* Before the eleventh day after the date the building is secured pursuant to division (A) above, or action is ordered pursuant to division (B)(1) above, or the building is repaired, removed or demolished pursuant to division (B)(2) above, the building official shall give notice to the owner by:

- (1) Personally serving the owner with written notice;
- (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- (3) Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county in which the building is located, if personal service cannot be obtained and the owner's post office address is unknown; or
- (4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown; and

(5) In addition to the above, depositing notice in the United States mail to all lienholders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the County Clerk.

(D) *Contents of notice.* The notice must contain:

(1) An identification (which is not required to be a legal description) of the building and the property on which it is located;

(2) A description of the violation of the minimum standards present in the building;

(3) A statement that the city will secure or has secured, as the case may be, the building, or that the city has taken or will take the action ordered pursuant to division (B); and

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing, removing, demolishing or repairing of the building.

(E) *Hearing.* The Commission shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing, repairing, removing or demolishing of the building, if, within 30 days after the date the city has taken action pursuant to divisions (B)(1) or (B)(2) of this section, the owner files with the city a written request for the hearing. The hearing shall be conducted within 20 days after the date the request is filed.

(F) *Expenses.* If the city incurs expenses under this section, such expenses incurred shall be a personal obligation of the property owner in addition to a priority lien upon the property, and costs shall be recovered as provided by § 160.10 and § 160.11.

(Ord. 2011-07, passed 4-12-11)

§ 160.13 VIOLATIONS.

(A) *Generally.* Except with the valid written permission of the building official, it shall be unlawful for any person to:

(1) Erect, construct or maintain any building that is deemed herein to be a nuisance;

(2) Use, occupy, enter, or remain in any building that is posted with a notice to vacate;

(3) Remove, damage or deface a notice to vacate posted under this chapter; or

(4) Cause or permit any act to be done in violation of any provision of this chapter.

(B) *Compliance with order.* It shall be unlawful for any person to whom an order of the Commission is directed to fail to comply with such order.

(C) *Interference prohibited.* It shall be unlawful for any person to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in the building which has been ordered repaired, vacated, demolished, removed or secured under the provisions of this chapter, or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building, or purchaser is engaged in the work of

repairing, vacating and repairing, or demolishing, removing or securing any such building pursuant to the provision of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.

(D) *Transfer of ownership.* No person may sell, transfer, mortgage, lease or otherwise dispose of a building or property that is the subject of a notice of substandard building, a citation, or an order of the Commission under this chapter until:

(1) The deficiencies noted in the notice, citation or order have been corrected and a new certificate of occupancy has been issued by the city; or

(2) The building official receives a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the notice, citation or order, and unconditionally accepting the responsibility for timely correcting the deficiencies noted therein.

(E) *Separate violations.* Each building or property which is in violation of any part of this chapter is a separate offense. Each violation in any building or property is a separate offense. Each and every day's violation shall constitute a separate and distinct offense.

(F) *Municipal court.* Proceedings under the jurisdiction of the municipal court are not affected by proceedings of the Commission or civil penalties under this chapter.

(Ord. 2011-07, passed 4-12-11)

§ 160.14 CIVIL PENALTY.

(A) *Civil penalty authorized.* In addition to any other enforcement authority provided for by law, and without regard to any criminal prosecution or conviction under this chapter, the Commission may at an administrative hearing assess a civil penalty by order against a property owner for failure to comply with an order issued by the Commission pursuant to this chapter.

(B) *Showing required.* The civil penalty may be assessed if it is shown at the administrative hearing that:

(1) The property owner was notified of the contents of the order issued pursuant to § 160.07; and

(2) The property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order.

(C) *Amount of penalty.* The civil penalty may be assessed in an amount not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 a day for each violation.

(D) *Notice of administrative hearing.* Not less than ten days prior to the date on which the administrative hearing is set, the property owner shall be sent a notice of the hearing by certified mail, return receipt requested. The notice shall contain:

(1) A copy of the order issued by the Commission pursuant to § 160.07.

(2) A statement that the building official has determined that the property owner committed an act in violation of that order, or failed to take an action necessary for compliance with that order;

(3) A statement that at the administrative hearing the Commission may assess a civil penalty not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owners' lawful homestead, in an amount not to exceed \$10 a day for each violation; and

(4) Notice of the time and place of the hearing.

(E) *Copy of order filed with district clerk.* After the civil penalty is assessed, the City Secretary shall file with the Bell County District Clerk a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty.

(F) *Enforcement.* The civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this division is final and binding and constitutes prima facie evidence of the penalty in any suit.

(Ord. 2011-07, passed 4-12-11)

§ 160.15 AUTHORITY NOT LIMITED.

Notwithstanding all other provisions of this chapter, nothing herein shall be deemed a limitation on the duty of the city to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of such building or structure is necessary to the protection of life, property or general welfare of the people in the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.16 AUTHORITY OF CITY ATTORNEY.

The City Attorney may without further authorization of the City Council undertake the enforcement of this chapter by all legal means appropriate or necessary, including but not limited to: enforcement in municipal court; filing a notice of *lis pendens* in the official public records of Bell County; filing of appropriate civil actions in courts of appropriate jurisdiction to seek compliance with an order made under this chapter, to collect a civil penalty, or recover costs as provided by this chapter; to appointment of a receiver as provided by Local Government Code Chapter 214; and to defend the city from suit if suit is taken to appeal any action of the city.

(Ord. 2011-07, passed 4-12-11)



BUILDING AND STANDARDS COMMISSION MEMORANDUM

AGENDA ITEM VII-3

FROM: THE OFFICE OF THE BUILDING OFFICIAL
DATE: JANUARY 27, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER THE EVIDENCE PROVIDED BY THE CITY OF HARKER HEIGHTS BUILDING OFFICIAL THAT A MANUFACTURED HOME AND ACCESSORY STRUCTURES ON PROPERTY DESCRIBED AS: LOTS SIX (6), AND SEVEN (7), BLOCK TWENTY-TWO (22), COMANCHE LAND, SECOND UNIT, AN ADDITION TO THE CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF RECORD IN CABINET A, SLIDE 184-A, PLAT RECORDS OF BELL COUNTY, TEXAS, ALSO COMMONLY KNOWN AS 1508 UTE TRAIL, HARKER HEIGHTS, TEXAS, IS AN UNSAFE, SUBSTANDARD, AND DANGEROUS STRUCTURE PER STANDARDS SET OUT IN §160.04 OF CHAPTER 160 OF THE CITY OF HARKER HEIGHTS CODE OF ORDINANCES.

BACKGROUND:

Subject Property: Manufactured Home and Accessory Structures
 1508 Ute Trail, Harker Heights, Texas
 Lots Six (6), and Seven (7), Block Twenty-Two (22), Comanche Land,
 Second Unit, an addition to the City of Harker Heights, Bell County,
 Texas, according to the map or plat of record in Cabinet A, Slide 184-A,
 Plat Records of Bell County, Texas, also commonly known as 1508 Ute
 Trail, Harker Heights, Texas.

Property Owner: Enedina Helms
 P.O. Box 2083
 Harker Heights, Texas 76548

EXPLANATION:

On October 7, 2020 a visual inspection was made by Michael Beard, City of Harker Heights Building Official. This inspection was to identify the property as a possible substandard structure. An administrative search warrant was obtained and was served on October 15, 2020. This was to allow entry to inspect the property in order to determine if the structure met the requirements for a substandard structure set out in §160.04

Based on the inspection performed by Michael Beard, Building Official on October 15, 2020 the structure does meet the requirements set in §160.04 as evidenced by photos.

TIMELINE OF EVENTS:

- October 7, 2020 – Identified structures as substandard.
- October 12, 2020 – Administrative Search Warrant obtained (Exhibit #2)
- October 15, 2020 – On-site visual inspection of the property by Mr. Michael Beard, the City of Harker Heights Building Official.
- October 23, 2020 – City Staff requested title sheet documents to determine all owners associated with 1508 Ute Trail.
- Building Inspection Report is compiled, and Mr. Michael Beard, the City of Harker Heights Building Official, determined the structures to be unsafe, substandard, and a dangerous structure per §160.04 of the City of Harker Heights Code of Ordinances (Exhibit #3)
- December 14, 2020 – Notice of Substandard Structure and Notice to Vacate Property delivered to all identifiable property owners via certified mail.
- December 28, 2020 – Ms. Helms submitted application for remodel and repair of the mobile home.
- January 4, 2021 – Mr. Beard spoke with Ms. Helms about the required documents in order to approve permit.
- January 12, 2021 – Notice of Public Hearing was mailed, return receipt requested to the owner of record of the property.
- January 16, 2021 – Notice of Public Hearing posted on all structures on the property.
- January 16, 2021 – Notice of Public Hearing published in the Killeen Daily Herald, the newspaper of general circulation.
- January 16, 2021 – Notice of Public Hearing filed with Bell County.
- January 27, 2021 – BSC Public Hearing.

RECOMMENDATIONS:

Based upon the inspection performed on October 15, 2020, the Building Official recommends that the Building and Standards Commission:

1. FIND that a Manufactured home and its accessory structures located on property at 1508 Ute Trail, Harker Heights, Texas, described as: Lots Six (6), and Seven (7), Block Twenty-Two (22), Comanche Land, Second Unit, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat of record in Cabinet A, Slide 184-A, Plat Records of Bell County, Texas, also commonly known as 1508 Ute Trail, Harker Heights, Texas.

ACTION BY THE BUILDING AND STANDARDS COMMISSION:

1. FIND/DO NOT FIND, by a majority vote, that a Manufactured home and its accessory structures located on property at 1508 Ute Trail, Harker Heights, Texas, described as: Lots Six (6), and Seven (7), Block Twenty-Two (22), Comanche Land, Second Unit, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat of record in Cabinet A, Slide 184-A, Plat Records of Bell County, Texas, also commonly

known as 1508 Ute Trail, Harker Heights, Texas is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

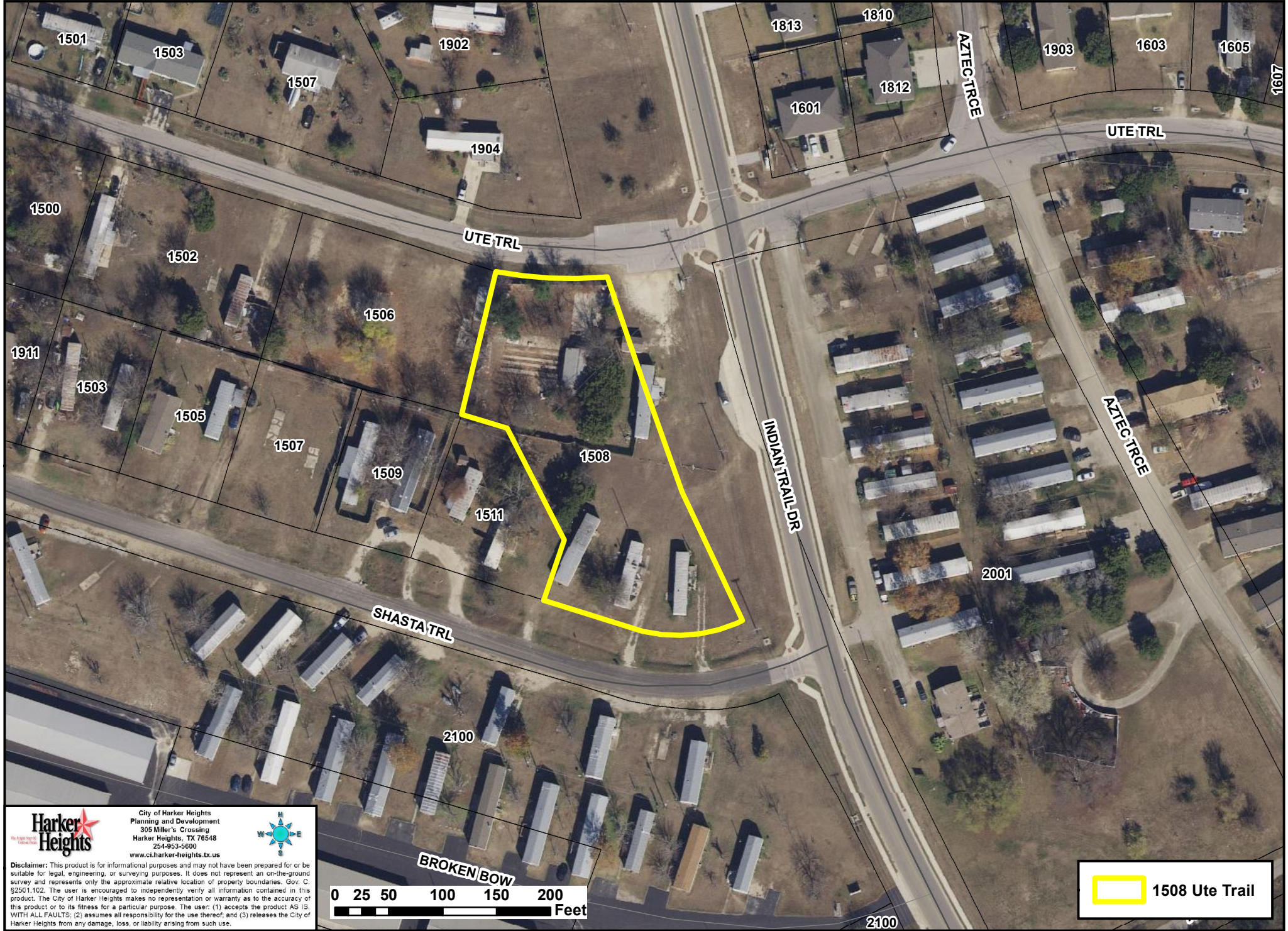
2. ORDER that the owner, mortgagee or lienholder Rehabilitate, Remove, OR Demolish the structure with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances within a certain time period following the order.
 - **Repair.** If the owner, lienholder or mortgagee demonstrates that the building can be feasibly repaired within the time allowed by this section, it shall be ordered remedied or repaired. Repairs shall be deemed feasible only if less than 50% of the structure of the building must be repaired or replaced, or the value of the structure is reduced by less than 50% because of the violations.
 - **Vacate and Secure.** If the building is in such a condition as to make it hazardous to the health, safety or general welfare of its occupants or the public, it may be ordered vacated and secured, and the order may also require the occupants to be relocated.
 - **Demolish or Remove.** In any case where the owner, lienholder or mortgagee fails to demonstrate that the building can be feasibly repaired within the time allowed by this section, the Commission may order that the building be demolished with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances.
3. Any other action desired.

EXHIBITS:

1. Location Map
2. Administrative Search Warrant
3. Building Inspection Report
4. Notice of Substandard Structure and Notice to Vacate (mailed certified December 13, 2020)
5. Notice of Public Hearing (mailed certified January 12, 2021)
6. Legal Ad of Public Hearing (ran in Killeen Daily Herald January 16, 2021)
7. Site Photographs
8. Chapter 160

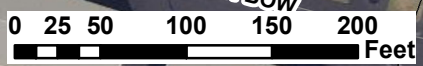
1508 Ute Trail

Location



Harker Heights
City of Harker Heights
Planning and Development
305 Miller's Crossing
Harker Heights, TX 76548
254-953-5600
www.ci.harker-heights.tx.us

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2501.102. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.



 1508 Ute Trail

AFFIDAVIT FOR ADMINISTRATIVE SEARCH WARRANT

THE STATE OF TEXAS § A SINGLE FAMILY RESIDENCE LOCATED AT:
 § 1508 UTE TRL A
COUNTY OF BELL § HARKER HEIGHTS, BELL COUNTY, TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared Michael Beard, who after first being by me duly sworn upon oath, made the following statements and accusations:

1. I am over the age of 18 years. I have personal knowledge of the facts stated herein, I am competent to testify under oath to those facts, and they are all true and correct.

2. I am the Building official for the City of Harker Heights, Bell County, Texas ("City"), and have held that position for over a year. Prior to that, I served as the primary building inspector for the City of Harker Heights for over 6 years, during which time I received several hundred hours of training in building and structural integrity as well as ordinances and investigations. I have been involved in public safety regulations and enforcement for over 12 years and have performed several thousand inspections. I have the authority to exercise the powers of the Building Official as set forth in §160.03(A) of the Code of Harker Heights ("Code") and elsewhere.

3. There is in incorporated city limits of the City a building ("Building") located as follows ("Premises"):

1508 UTE TRL A, Harker Heights, Bell County, Texas 76548

4. The record owner of the Premises is HELMS, ENEDINA, PO BOX 2083 Harker Heights, TX 76548

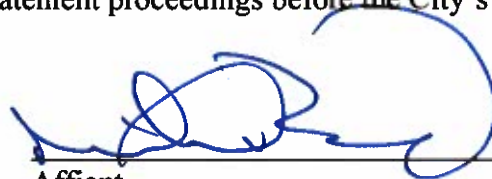
5. The Buildings are residential structure and accessory structures. All are currently unoccupied.

6. On October 7, 2020 I personally conducted a physical inspection of the Premises. Because I did not have consent to enter the Building, the inspection was limited to the exterior. From the exterior I was able to observe the following violations of Sections 160.04 and 93.02 of the Code: The building is unsecured and damaged to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage; general dilapidation or improper maintenance indicating abandonment.

7. I took photographs of the Premises during my inspection of the exterior; and true and correct copies are attached hereto and incorporated as Exhibit(s) 1, 2, 3 and 4 by reference. Within the limitations of the technology the photographs accurately depict the conditions that existed at that time and place. I observed unsafe/incorrect electrical service, extensive roof and siding damage, broken windows, and exposed framing members.

8. The substandard conditions described above have not been abated, thus creating a fire or health hazard or unsafe building condition in violation of the minimum building standards set forth in the Code, including without limitation §160.04 thereof. Based on my training and experience, as well as the conditions described above, I have probable cause to believe and do believe and allege that the interior of the Building is likely in a similar state of disrepair, and that additional fire or health hazards or unsafe building conditions exist inside. As a result the Building represents a concern for public safety and the welfare of those in the neighborhood and those who might respond to emergencies involving the Premises. A search warrant is necessary in order to conduct a thorough inspection to verify whether and to what extent unsafe conditions are present.

9. WHEREFORE, I request the issuance of an administrative search warrant that will authorize entry into the Premises and Building to conduct a thorough inspection for the presence of unsafe building conditions, and/or violations of any fire, health, or building statutes, regulations or ordinances, and specifically for violations of the minimum standards established by §160.04 of the Code, in order to commence abatement proceedings before the City's Building and Standards Commission.



Affiant

SUBSCRIBED AND SWORN TO before me by the said Michael Beard, Affiant, on

Oct. 12, 2020



Notary Public, State of Texas

Exhibit 1



Exhibit 2



Exhibit 3



Exhibit 4



ADMINISTRATIVE SEARCH WARRANT

STATE OF TEXAS §

COUNTY OF BELL §

TO: Any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Bell County, Texas:

WHEREAS, Michael Beard ("Affiant"), the building inspector of the City of Harker Heights, Bell County, Texas, and a credible person that has presented a written affidavit ("Affidavit") to me, which Affidavit was attached to this warrant when it was presented and signed and is by this reference incorporated into this warrant for all purposes;

AND WHEREAS, I find that the verified facts stated by Affiant in the Affidavit show that there is probable cause that there is a public nuisance, or a violation of a fire, health, or building regulation, state, statute of the Code of Harker Heights ("Code") at the premises ("Premises") described and located as follows:

1508 UTE TRL A, Harker Heights, Bell County, Texas 76548

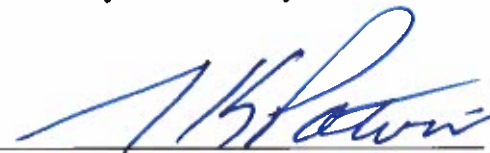
AND WHEREAS, the Affidavit presents the necessary evidence establishing the existence of proper grounds for the issuance of this Administrative Search Warrant pursuant to Article 18.05 of the Texas Code of Criminal Procedure;

NOW, THEREFORE, I do hereby ORDER that any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Texas, execute this Warrant and enter the Premises to inspect and determine if evidence exists that said Premises are substandard or dangerous in violation of the Code. A video and or photographic record of the evidence shall be permitted.

Herein fail not, but have execution with your return thereon, showing how you have executed the same.

ISSUED AT 2:08 o'clock P.M., on this the 12TH day of OCT., 2020, to certify which witness my hand this day.




COURT MAGISTRATE

RETURN

STATE OF TEXAS §
 §
COUNTY OF BELL §

The undersigned Affidavit, being a Code Enforcement Officer of the City of Harker Heights, Texas, and being duly sworn, on oath, certifies that the foregoing Warrant came on hand on the day it was issued and that it was executed on 10/15/2020, by making the inspection directed therein.

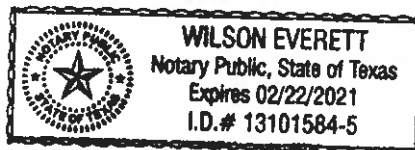
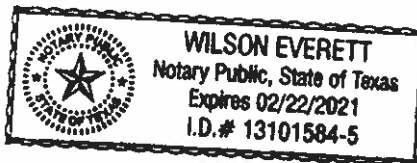


Affiant

SUBSCRIBED AND SWORN TO before me, authority, by said Affiant on October 15, 2020.



Notary Public, State of Texas



Building Inspection Report

City of Harker Heights
305 Miller's Crossing Harker Heights, Texas 76548
Telephone (Main) 254-953-5600
Fax: 254-953-5666

Date: 10/15/2020

Time: 12:39pm

Address: 1508 UTE Harker Heights, TX 76548

Legal Description: Lots 6 and 7, Blk 22, Comanche Land, 2nd Unit

Property Owner: Enedina Helms **Lien Holder(s):** _____

Property Occupant(s): NONE

Inspector: Michael Beard, Building Official

Substandard Buildings Declared and Minimum Buildings Standards Contained in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances

(A) *The above reference buildings, regardless of the date of its construction, is deemed and hereby declared to be Substandard and a nuisance because it has the conditions of defects hereinafter described:*

- (1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.
- (2) Whenever any building, regardless of its structural condition, is unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage, or by children for any purpose
- (3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:
 - (a) The building constitutes a danger to the public even though secured from entry; or
 - (b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (A)(2) of this section
- (4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence
- (5) Whenever any portion of a building remains on a site after the demolition or destruction of the building
- (6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public

- (7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:
- (a) Lack of, or improper lavatory
 - (b) Lack of improper bathtub or shower in a dwelling unit or lodging house
 - (c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel
 - (d) Lack of, or improper kitchen sink in a dwelling unit
 - (e) Lack of hot and cold running water to plumbing fixtures
 - (f) Lack of, or improper operation of adequate heating facilities
 - (g) Lack or, or improper operation of required ventilation equipment
 - (h) Lack of minimum amount of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city
 - (i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation by the city
 - (j) Lack of required electrical lighting
 - (k) Excessive dampness or mold in habitable rooms
 - (l) Infestation or insects, vermin, or rodents
 - (m) General dilapidation or improper maintenance
 - (n) Lack of connection to required sewage disposal system
 - (o) Lack of adequate garbage and rubbish storage and removal facilities
- (8) Whenever any building contains structural hazards, including but not limited to the following:
- (a) Deteriorated or inadequate foundation
 - (b) Defective or deteriorated flooring or floor support
 - (c) Flooring or floor supports are insufficient to carry imposed loads with safety
 - (d) Members or walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration
 - (e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety
 - (f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration
 - (g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety
 - (h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration
 - (i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety

- (9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of building

(B) *The above referenced building, for the purpose of §160.04 of Chapter 160 of the City of Harker Heights, Texas, Code of Ordinances shall be deemed and hereby declared to be a dangerous and substandard building, and nuisance, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:*

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic
- (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic
- (3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1" times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location
- (5) Whenever any portion 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
- (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings
- (7) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction
- (8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause
- (9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used
- (10) 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
- (11) Whenever the building, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 or more percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings
- (12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; or (b) a harbor for vagrants, criminals or illegal activity
- (13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) 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

- (14) Whenever any building or structure, because of obsolescence, dilapidation, deterioration, damage or decay, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard
- (15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered
- (16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the City of Harker Heights, Bell County, Texas



The City of Harker Heights
305 Millers Crossing
Harker Heights, TX 76548
Phone: (254)953-5600
Fax: (254)953-5666

Mayor
Spencer H. Smith

Mayor Pro Tem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
John Reider
Jody Nicholas

DECEMBER 14, 2020

RECORD OWNER:
ENEDINA HELMS
P.O.BOX 2083
HARKER HEIGHTS, TX 76548

RE: NOTICE OF SUBSTANDARD OR DANGEROUS BUILDING(S) AND NOTICE FOR REMOVAL OF PERSONAL PROPERTY AT 1508 UTE TRAIL (LOTS SIX (6), AND SEVEN (7), BLOCK TWENTY-TWO (22), COMANCHE LAND, SECOND UNIT, AN ADDITION TO THE CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF RECORD IN CABINET A, SLIDE 184-A, PLAT RECORDS OF BELL COUNTY, TEXAS, ALSO COMMONLY KNOWN AS 1508 UTE TRAIL, HARKER HEIGHTS, TEXAS).

Certified mail return receipt requested # 7016 3560 0000 6480 1900

To Whom It May Concern:

On October 15, 2020, a physical inspection was made of the residential structure (**manufactured home and accessory structures**) located at **1508 UTE TRAIL (LOTS SIX (6), AND SEVEN (7), BLOCK TWENTY-TWO (22), COMANCHE LAND, SECOND UNIT, AN ADDITION TO THE CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF RECORD IN CABINET A, SLIDE 184-A, PLAT RECORDS OF BELL COUNTY, TEXAS, ALSO COMMONLY KNOWN AS 1508 UTE TRAIL, HARKER HEIGHTS, TEXAS)**. Based on that inspection it was determined by Mr. Michael Beard, the Building Official for the City of Harker Heights, that the structure located at **1508 UTE TRAIL** has been found to be dangerous or substandard under the provisions of §160.04, of the City of Harker Heights Code of Ordinance (see attached **Building Inspection Report**).

Based on this determination, the Building Official for the City of Harker Heights requires that the legal owner of the structure (**manufactured home and accessory structures**) make the necessary repairs to bring the structure up to code under §160.04 or demolish the structure. Until then, the aforementioned structure has been deemed uninhabitable and owners of any personal property within the structure are requested to remove all such items from that structure.

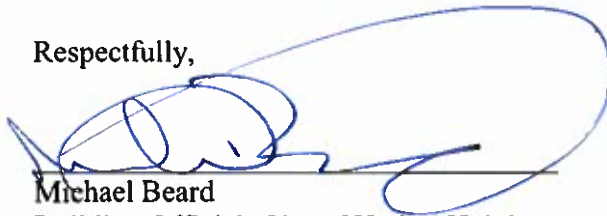
This letter serves as Official Notice requiring **ENEDINA HELMS or their legal representatives** to contact Mr. Michael Beard, the Building Official for the City of Harker Heights, at 305 Miller's Crossing, Harker Heights, Texas, within **ten (10) working days** of the receipt of this letter to discuss a schedule for the complete repair or the demolition of the dangerous and substandard residential structures noted above, along with any additional accessory structures located on the property that are found to be in noncompliance with the Code.

This letter also serves as an Official Notice giving **ENEDINA HELMS or their legal representatives** or any individuals having personal property within the noted structure **ten (10) working days** of the receipt of this letter to remove any and all personal property and/or items from the structure located at **1508 UTE TRAIL**.

Any and all personal property and/or items not removed from the structure (**manufactured home and accessory structures**) located at **1508 UTE TRAIL** will be considered abandoned or unclaimed property and may be removed following the conclusion of the abatement proceedings depending on the decision of the Building Standards Commission.

WARNING: Failure to timely comply with this Notice may result in filing of criminal charges against you in the Municipal Court, commencement of abatement proceedings before the Building and Standards Commission, or other enforcement action as provided by law.

Respectfully,



Michael Beard
Building Official, City of Harker Heights

Attachments:

- Building Inspection Report for all structures located on property at 1508 Ute Trail, Harker Heights, Texas.
- Harker Heights Code Chapter 160



NOTICE OF PUBLIC HEARING
January 12, 2021

The City of Harker Heights
305 Miller's Crossing
Harker Heights, TX 76548
Phone 254/953-5600
Fax 254/953-5614

Mayor
Spencer H. Smith

Mayor Pro Tem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
John Reider
Jody Nicholas

Record Owner:
ENEDINA HELMS
P.O.BOX 2083
HARKER HEIGHTS, TX 76548

Property:
1508 UTE TRAIL (LOTS SIX (6), AND SEVEN (7), BLOCK TWENTY-TWO (22), COMANCHE LAND, SECOND UNIT, AN ADDITION TO THE CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF RECORD IN CABINET A, SLIDE 184-A, PLAT RECORDS OF BELL COUNTY, TEXAS, ALSO COMMONLY KNOWN AS 1508 UTE TRAIL, HARKER HEIGHTS, TEXAS).

Certified mail return receipt requested # 7016 3560 0000 6480 4796

To Whom It May Concern:

According to the real property records of Bell County, you own the real property described in this Notice. If you no longer own the Property, you must execute an affidavit stating that you no longer own the Property and stating the name and last known address of the person who acquired the Property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date this Notice is mailed. If you do not send the affidavit, it will be presumed that you own the Property described in this Notice, even if you do not.

On October 15, 2020, a physical inspection was made of the structures (manufactured home and accessory structures) located on the property at **1508 UTE TRAIL**. Based on those inspection(s) the Building Official has found the said building(s) are dangerous and/or substandard structure(s) under Chapter 160 of the Code of Harker Heights ("Code"). A brief and concise description of the conditions found to render the building(s) dangerous or substandard under §160.04 of the Code of Harker Heights ("Code") is attached to this Notice and incorporated by reference (Building Inspection Report).

Pursuant to the determination of the Building Official, a Public Hearing will be held before the Building and Standards Commission ("Commission") to determine whether the buildings on the Property comply with the standards set out in §160.04 of the Code.

The Public Hearing will be held on **January 27, 2021, at 6:30 P.M. via virtual teleconference. You may join the public meeting with the information below:**
Please join the Building Standards Commission meeting from your computer, tablet, or smartphone.
<https://global.gotomeeting.com/join/806361613>

You can also dial in using your phone.
United States (Toll Free): 1 (866) 899 4679
United States: +1 (571) 317-3116
Access Code: 806-361-613

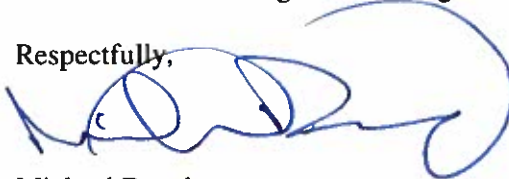
At the Public Hearing the Property owner and all other interested persons may make their appearance virtually or in person by property owner and/or by attorney, and shall have a reasonable opportunity to be heard. Anyone requiring assistive listening devices or other special accommodation is strongly encouraged to contact the City Secretary at least 48 hours prior to the Public Hearing to make the necessary arrangements.

At the Public Hearing each owner, lienholder, or mortgagee of the Property will be required to submit proof of the scope of any work that may be required to comply with Chapter 160 of the Code, and the time that it will take to reasonably perform the work. By law the burden of proof will be upon such owner, lienholder or mortgagee.

If any of the buildings located on the Property are found to be in violation of Chapter 160 of the Code the Commission may order that the buildings be vacated, secured, repaired, removed or demolished within a reasonable time. In addition, the Commission may order that any occupants be relocated by the owner, lienholder or mortgagee of the Property. If the Commission's order is violated the City may perform the actions necessary to comply with the order. The resulting expenses incurred by the City shall be the personal obligation of the Property owner, and the City shall have a priority lien upon the Property to secure payment thereof.

You may contact the City of Harker Heights Building Official by telephone at (254)-953-5667, or by email at mbeard@harkerheights.gov, or you may write to the Building Official at 305 Millers Crossing, Harker Heights, Bell County, Texas 76548.

Respectfully,



Michael Beard
Building Official, City of Harker Heights

Attachments:

1. Building Inspection Report for all structures located on property at 1508 Ute Trail
2. Harker Heights Code Chapter 160

ENEDINA HELMS
P.O.BOX 2083
HARKER HEIGHTS, TX 76548

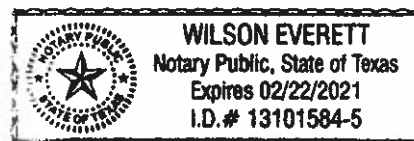
STATE OF TEXAS

COUNTY OF BELL

This instrument acknowledged before me by Michael Beard on January 12, 2021.



Notary Public, State of Texas



On January 27, 2021 at 6:30 P.M., the Building Standards Commission in its regular meeting, will hold a public hearing on the items listed below. The Building Standards Commission will conduct a telephonic meeting to contain the spread of COVID-19 in accordance with Governor Abbott's declaration of the COVID-19 public health threat and action to temporarily suspend certain provisions of the Texas Open Meetings Act issued on March 16, 2020. A full copy of the proceedings can be obtained Monday through Friday from 8 A.M. to 5 P.M. from the Harker Heights Planning and Development Department located at 305 Millers Crossing.

The public may participate remotely in this meeting by dialing-in using the toll-free number:

United States (Toll Free): 1 (866) 899-4679
Access Code: 806-361-613

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home on property described as: Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as 121 East Valley Road, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: Lot Five (5), Block One (1), Kern Terrace Addition Third Extension, an addition to the City of Harker Heights in Bell County, Texas, according to the plat of record in Volume Two, Page 103-C, of the Plat Records of Bell County, Texas, also commonly known as 206 Cynthia Drive, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home and accessory structures on property described as: Lots Six (6), and Seven (7), Block Twenty-Two (22), Comanche Land, Second Unit, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat of record in Cabinet A, Slide 184-A, Plat Records of Bell County, Texas, also commonly known as 1508 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that one accessory structure and an accessory structure/accessory dwelling unit on property described as: Tract H.B. Littlefield No.511, AKA Lot Ten (10), and Eleven (11), Block Thirty-Seven (37), Comanche Land Life Estates, also commonly known as 1701 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: 0.5 acres, more or less, out of Abstract No. 401 of the U. Hunt Survey, City of Harker Heights, Bell County, Texas, also commonly known as 13902 East Farm-to-Market 2410, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

(Legal notice published in the Killeen Daily Herald on January 16, 2021.)



BEWARE
OF THE DOG

2020.10. 7 15:00




2020.10. 7 15:00



2020.10.7 15:05

DANGER
THIS BUILDING IS DEEMED UNSAFE
FOR HUMAN OCCUPANCY

UNDER SECTION 160.03 OF THE BUILDING CODE OF THE
 CITY OF HARKER HEIGHTS
 IT IS UNLAWFUL FOR ANY PERSON TO OCCUPY
 OR RESIDE IN THIS BUILDING

1508 UTE TR

 Building Official

ANY UNAUTHORIZED PERSON REMOVING THIS SIGN MAY BE PROSECUTED

DATE 10/19/2020 Refer to Sec. 104 of Building Code

AFFIDAVIT FOR ADMINISTRATIVE SEARCH WARRANT

THE STATE OF TEXAS § A SINGLE FAMILY RESIDENCE LOCATED AT:
 COUNTY OF BELL § 1508 UTE TR A
 § HARKER HEIGHTS, BELL COUNTY, TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared Michael Beard, who after first being by me duly sworn upon oath, made the following statements and accusations:

1. I am over the age of 18 years. I have personal knowledge of the facts stated herein. I am competent to testify under oath to those facts, and they are all true and correct.
2. I am the Building official for the City of Harker Heights, Bell County, Texas ("City"), and have held that position for over a year. Prior to that, I served as the primary building inspector for the City of Harker Heights for over 6 years, during which time I received several hundred hours of training in building and structural integrity as well as ordinances and investigations. I have been involved in public safety regulations and enforcement for over 12 years and have performed several thousand inspections. I have the authority to exercise the powers of the Building Official as set forth in §160.03(A) of the Code of Harker Heights ("Code") and elsewhere.
3. There is in incorporated city limits of the City a building ("Building") located as follows ("Premises"):
 1508 UTE TR A, Harker Heights, Bell County, Texas 76548
4. The record owner of the Premises is HELMS, ENEDINA, PO BOX 2083 Harker Heights, TX 76548
5. The Buildings are residential structure and accessory structures. All are currently unoccupied.
6. On October 7, 2020 I personally conducted a physical inspection of the Premises. Because I did not have consent to enter the Building, the inspection was limited to the exterior. From the exterior I was able to observe the following violations of Sections 160.04 and 93.02 of the Code: The building is unsecured and damaged to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage; general dilapidation or improper maintenance indicating abandonment.
7. I took photographs of the Premises during my inspection of the exterior, and true and correct copies are attached hereto and incorporated as Exhibits 1, 2, 3 and 4 by reference. Within the limitations of the technology the photographs accurately depict the conditions that existed at that time and place. I observed unsafe/incorrect electrical service, extensive roof and siding damage, broken windows, and exposed framing members.

2020.10.15 12:39



2020.10.15 12:40

Print

Harker Heights Code of Ordinances

CHAPTER 160: UNSAFE, SUBSTANDARD AND DANGEROUS STRUCTURES

Section

| | |
|--------|---|
| 160.01 | Findings and purpose |
| 160.02 | Definitions |
| 160.03 | Generally |
| 160.04 | Minimum standards; substandard buildings declared |
| 160.05 | Determination by building official |
| 160.06 | Public hearing for abatement of substandard buildings |
| 160.07 | Order of Commission regarding substandard buildings |
| 160.08 | Notice of order of the Commission |
| 160.09 | Enforcement of the order of the Commission |
| 160.10 | Performance of work by the city |
| 160.11 | Recovery of cost of securing, repair, removal or demolition |
| 160.12 | Additional authority to secure certain substandard buildings prior to public hearing and secure, demolish, repair or remove certain dangerous buildings |
| 160.13 | Violations |
| 160.14 | Civil penalty |
| 160.15 | Authority not limited |
| 160.16 | Authority of City Attorney |

§ 160.01 FINDINGS AND PURPOSE.

The facts and recitations contained in the preamble of the ordinance that is the basis for this chapter are found and declared to be true and correct.

(Ord. 2011-07, passed 4-12-11)

§ 160.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning.

BUILDING. Includes any building, fence, retaining wall, awning, canopy, sign, shed, garage, house, tent or other structure whatsoever, or any portion thereof, and the enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the sense and meaning of the provisions hereof in context reasonably have application.

BUILDING OFFICIAL. The person designated by the City Council to enforce this chapter.

COMMISSION. The Building and Standards Commission established pursuant to § 33.80.

STANDARD CODES. The codes adopted and amended by § 150.02.

(Ord. 2011-07, passed 4-12-11)

§ 160.03 GENERALLY.

(A) Powers of the building official.

(1) **Administration.** The building official is hereby authorized to enforce the provisions of this chapter. The building official shall have the power to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.

(2) **Inspections.** All buildings within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official. The building official, fire marshal and their designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

(3) **Right of entry.** When it is necessary to make an inspection to enforce the provisions of this chapter, or when the building official or his designee has a reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter which makes the building or premises unsafe, dangerous, or hazardous, the building official or his designee may enter the building or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official or his designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(B) **Abatement of dangerous or substandard buildings.** All buildings or portions thereof which are determined after inspection by the building official to be dangerous or substandard as defined by this chapter are hereby declared to be public nuisances and shall be abated by repair, vacation, demolition, removal or securing in accordance with the procedures specified in this chapter.

(C) **Notice.** When notice is given in accordance with this chapter to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered. On receipt of a notice under this chapter, a manager of the affected property shall notify the owner of the notice within 10 days.

(Ord. 2011-07, passed 4-12-11)

§ 160.04 MINIMUM STANDARDS; SUBSTANDARD BUILDINGS DECLARED.

(A) **Substandard building.** For the purposes of this chapter any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described shall be deemed to be a substandard building, and a nuisance:

(1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.

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

(3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:

(a) The building constitutes a danger to the public even though secured from entry; or

(b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by division (A)(2) of this section.

(4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence.

(5) Whenever any portion of a building remains on a site after the demolition or destruction of the building.

(6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public.

(7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:

(a) Lack of, or improper lavatory.

(b) Lack of, or improper bathtub or shower in a dwelling unit or lodging house.

(c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel.

(d) Lack of, or improper kitchen sink in a dwelling unit.

(e) Lack of hot and cold running water to plumbing fixtures.

(f) Lack of, or improper operation of, adequate heating facilities.

(g) Lack of, or improper operation of, required ventilating equipment.

(h) Lack of minimum amounts of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city.

(i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation of the city.

(j) Lack of required electrical lighting.

(k) Excessive dampness or mold in habitable rooms.

(l) Infestation of insects, vermin or rodents.

(m) General dilapidation or improper maintenance.

(n) Lack of connection to required sewage disposal system.

(o) Lack of adequate garbage and rubbish storage and removal facilities.

(8) Whenever any building contains structural hazards, including but not limited to the following:

(a) Deteriorated or inadequate foundation.

(b) Defective or deteriorated flooring or floor supports.

(c) Flooring or floor supports are insufficient to carry imposed loads with safety.

(d) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.

(e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety.

(f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration.

(g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety.

(h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration.

(i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety.

(9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

(B) **Dangerous and substandard building.** For the purposes of this chapter, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare

of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1st times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location.
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location.
- (5) Whenever any portion 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.
- (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings.
- (7) Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- (8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause.
- (9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (10) 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.
- (11) Whenever the building, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- (12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children, or (b) a harbor for vagrants, criminals or illegal activity.

(13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) 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.

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

(15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered.

(16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.05 DETERMINATION BY BUILDING OFFICIAL.

When the building official has inspected or caused to be inspected any building and has found and determined that the building is substandard, the building official may take any or all of the following actions, as he or she deems appropriate:

- (A) Issue notice to the record owner that the building is substandard and must be repaired or demolished;
- (B) Issue a citation for each violation of this chapter;
- (C) Secure the building if permitted by this chapter; or
- (D) Commence abatement proceedings before the Commission pursuant to § 160.06.

(Ord. 2011-07, passed 4-12-11)

§ 160.06 PUBLIC HEARING FOR ABATEMENT OF SUBSTANDARD BUILDINGS.

(A) *Commencement of proceedings.* When the building official has found and determined that a building is a substandard building, the building official may commence proceedings to cause the repair, vacation, relocation of occupants, removal, demolition or securing of the building.

(B) *Public hearing to be held.* Except when the Commission finds that a building is likely to immediately endanger persons or property, a public hearing shall be held before the Commission to determine whether a building complies with the standards set out in § 160.04. If the Commission determines that the building constitutes an immediate danger, the procedures set forth in § 160.12(B) and following shall be followed.

(C) *Notice.* Not less than ten days prior to the date on which the hearing is set, the building official shall issue a notice of the public hearing directed to the record owner of the building, and to all mortgagees and lienholders. The city shall use diligent efforts to determine the identity and address of any owner, lienholder or mortgagee of the building through searching the Bell County real property records, the records of the Bell County Tax Appraisal District, records of the Secretary of State, Bell County assumed name records, tax records of the city, and utility records of the city. The notice shall contain:

- (1) The name and address of the record owner;
- (2) The street address or legal description sufficient for identification of the premises upon which the building is located;
- (3) A statement that the building official has found the building to be substandard or dangerous, with a brief and concise description of the conditions found to render the building dangerous or substandard under the provisions of § 160.04;
- (4) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the chapter, and the time it will take to reasonably perform the work;
- (5) Notice of the time and place of the public hearing; and
- (6) A statement that if the building is found to be in violation of this chapter, the Commission may order that the building be vacated, secured, repaired, removed or demolished within a reasonable time.

(D) *Additional notice of public hearing.* Prior to the public hearing, the city may file a copy of the notice mailed pursuant to this section in the official public records of real property in Bell County. If such notice is not filed of record, each identified mortgagee and lienholder must be notified of any abatement order issued by the Commission at the public hearing, prior to any remedial action by the city. The city shall also post a copy of the notice mailed pursuant to this section on the front door of each improvement situated on the affected property, or as close thereto as practicable, or if there is no front door then at a conspicuous location on the property. In addition, the notice must be published in a newspaper of general circulation in the city on one occasion on or before the tenth day before the date fixed for the hearing.

(E) *Burden of proof.* At the public hearing, the owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this chapter, and the time it will take to reasonably perform the work.

(F) *Conduct of public hearing.* All cases to be heard by the Commission must be heard by a panel of at least five members and/or alternate members, and a majority vote of the members voting on a matter is necessary to take action thereon. At the public hearing, the owner of the building, and all other interested persons may make their appearance in person or by attorney, and shall have a reasonable opportunity to be heard. Any relevant evidence may be received and considered by the Commission, and for this purpose the chairperson or acting chairperson shall have the authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents. The hearing may be adjourned from day to day or continued upon a majority vote of the Commission, in compliance with the Open Meetings Act.

(Ord. 2011-07, passed 4-12-11)

§ 160.07 ORDER OF COMMISSION REGARDING SUBSTANDARD BUILDING.

(A) *Findings of the Commission.* If the Commission, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in § 160.04, the Commission may order that the building be repaired, vacated, removed or demolished, secured, or the occupants relocated, by the owner, mortgagee or lienholder within a reasonable time as provided herein.

(B) *Time allowed to complete work.*

- (1) The order must require the owner, lienholder or mortgagee of the building to within 30 days:
 - (a) Secure the building from unauthorized entry; and/or
 - (b) Repair, remove or demolish the building unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.
- (2) If the Commission allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the Commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Commission.

(3) The Commission may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner lienholder or mortgagee:

- (a) Submits a detailed plan and time schedule for the work at the hearing; and
- (b) Establishes at the hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work.

(4) If the Commission allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the Commission shall require the owner, lienholder or mortgagee to regularly submit progress reports to the building official to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the Commission or the building official to demonstrate compliance with the time schedules.

(C) *Contents of order.* The order of the Commission must contain at minimum:

- (1) An identification (which is not required to be a legal description) of the building and the property on which it is located; and
- (2) A description of the violation of minimum standards present in the building; and
- (3) A description of the ordered actions, including a statement that the owner may repair, if feasible, or demolish or remove at his option; and
- (4) A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the cost to the property; and

(5) If the Commission has determined that the building will endanger persons or property and that the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the property if the ordered action is not taken within the time allowed.

(Ord. 2011-07, passed 4-12-11)

§ 160.08 NOTICE OF ORDER OF THE COMMISSION.

(A) *Order shall be mailed.* After the public hearing, the building official shall promptly mail, by certified mail, return receipt requested, a copy of the order to the record owner of the building, and each identified lienholder and mortgagee of the building.

(B) *Order shall be filed with City Secretary.* Within ten days after the date that the order is issued by the Commission, the building official shall file a copy of the order in the office of the City Secretary.

(C) *Order shall be published.* Within ten days after the date the order is issued by the Commission, the building official shall publish in a newspaper of general circulation within the city a notice containing:

- (1) The street address or legal description of the property;
- (2) The date the hearing was held;
- (3) A brief statement indicating the results of the order; and
- (4) Instructions stating where a complete copy of the order may be obtained.

(D) *Filing of order or abstract.* The order may be filed in the official public records of real property in Bell County. An abstract or judgment shall be ordered against all parties found to be the owners of the subject property or in possession of that property.

(Ord. 2011-07, passed 4-12-11)

§ 160.09 ENFORCEMENT OF THE ORDER OF THE COMMISSION.

(A) *Compliance.* If an order of the Commission under this chapter is not complied with, the city may take action. If the building is not vacated, secured, repaired, removed or demolished within the time specified by the order, the city may vacate, secure, repair, remove or demolish the building or relocate the occupants at its own expense, provided however:

- (1) The city may not act to remove or demolish a building until after the Commission has found:
 - (a) That such defects or conditions exist to the extent that the life, health, property or safety of the public or the occupants of the building are endangered; and
 - (b) The building is infeasible of repair, or there is no reasonable probability that the building will be repaired within a reasonable period of time if additional time is given.

(2) The city may only repair a building as provided herein to the extent necessary to correct the conditions which render the building dangerous, and may not act to repair a building unless:

- (a) The Commission has made a determination that the building is likely to endanger person or property; and
- (b) The building is a residential dwelling with ten or fewer dwelling units.

(3) In the event there are mortgagors or lienholders, the city may only repair, remove or demolish the building after allowing the lienholder or mortgagee an additional 30 days after the time prescribed in the order has expired to complete the required work.

(4) Unless specifically authorized by a court order or by a written agreement signed by all record owners, mortgagees and lienholders, the city may not act to remove or demolish a building during the pendency of any appeal to a court of competent jurisdiction of the Commission's order.

(B) *Posting of notice to vacate building.* If the order requires vacation or if compliance is not had within the time specified therein, the building official is authorized to require that the building be vacated. Notice to vacate shall be mailed by certified mail, return receipt requested to the occupant of the building and shall be posted at or upon each entrance to the building. The notice shall be in substantially the following form:

*SUBSTANDARD BUILDING

DO NOT ENTER

UNSAFE TO OCCUPY

It is unlawful to occupy this building or to remove or deface this notice.

The Harker Heights Building and Standards Commission has declared this building to be substandard. To obtain a copy of this order, contact the City Secretary at 305 Miller's Crossing, Harker Heights, Texas, (254) 953-5600.

Building Official

City of Harker Heights*

(C) *Remedial action by city.* Any repair or demolition work, or securing of the building shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided. Any surplus realized from the sale of such building, or from the demolition thereof, over and above the cost of demolition and cleaning of the lot, shall be paid over to the person or persons lawfully entitled thereto.

(D) *Permit required.* Any work of closure, repair, removal or demolition by the property owner or any lienholder or mortgagee or their agents must be performed pursuant to valid unexpired permits issued by the city. All permits issued pursuant to an order of the Commission shall expire upon expiration of the time for compliance set forth in the order.

(Ord. 2011-07, passed 4-12-11; Am. Ord. 2012-02, passed 2-14-12)

§ 160.10 PERFORMANCE OF WORK BY THE CITY.

(A) *Procedure.* When any work of repair, removal, demolition or securing is to be performed by the city, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.

(B) *Costs.* The cost of such work shall be paid from city funds and shall constitute a special assessment and a lien against such property to secure payment thereof together with 10% interest on such amount from the date on which the work is performed.

(C) *Repair to minimum standards only.* The city may repair the building at its own expense and assess the expenses on the land on which the building stands or is attached to only to the extent necessary to bring the building into compliance with the minimum standards set forth in § 160.04.

(Ord. 2011-07, passed 4-12-11)

§ 160.11 RECOVERY OF COST OF SECURING, REPAIR, REMOVAL OR DEMOLITION.

(A) *Itemized account and notice of lien.* The building official shall keep an itemized account of the expenses incurred by the city in the securing, repair, removal or demolition of any building pursuant to this chapter. Upon completion of the work, the building official shall prepare and file with the City Secretary a sworn account and notice of lien containing the following information:

- (1) The name and address of the owner if that information can be determined with a reasonable effort;
- (2) A legal description of the real property on which the building is or was located;
- (3) The type of work performed; and
- (4) The amount of expenses incurred by the city in performing the work and the balance due.

(B) *Notice filed in county records.* The City Secretary shall file the notice of lien along with a copy of the order of abatement issued by the Commission in the official public records of Bell County.

(C) *Personal obligation of property owner.* The expenses incurred by the city as set forth in the sworn account of the building official shall be a personal obligation of the property owner in addition to a priority lien upon the property.

(D) *Lien shall be valid and privileged.* Upon filing of the notice of lien in the official public records of Bell County, Texas, the lien shall be valid against the property so assessed. The lien shall be privileged and subordinate only to tax liens and existing special assessment liens, and shall be paramount to all other liens. The lien shall continue until the assessment and all interest due and payable thereon has been paid.

(E) *Assessment must be paid.* No utility service, building permit or certificate of occupancy shall be allowed on any such property until the assessment is paid and such lien is released by the city.

(F) *Release of lien.* After the expenses incurred by the city, as set forth in the sworn account of the building official, have been fully paid with interest of 10% per annum from the date the work was performed, the building official shall execute a release of lien which shall be filed in the official public records of Bell County.

(Ord. 2011-07, passed 4-12-11)

§ 160.12 ADDITIONAL AUTHORITY TO SECURE CERTAIN SUBSTANDARD BUILDINGS PRIOR TO PUBLIC HEARING AND SECURE, DEMOLISH, REPAIR OR REMOVE CERTAIN DANGEROUS BUILDINGS.

(A) *Securing of unoccupied, substandard building.* Notwithstanding any other provisions of this chapter the city may secure a building if the building official determines that the building:

- (1) Violates the minimum standards set forth in § 160.04; and
- (2) Is unoccupied or is occupied only by persons who do not have the right of possession to the building.

(B) *If building creates immediate danger.* Notwithstanding any other provisions of this chapter, if the Commission finds that a building is likely to immediately endanger persons or property the Commission may:

- (1) Order the owner of the building, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the dangerous part of the structure, within a specified time; or
- (2) Repair, remove, or demolish the structure, or the dangerous part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(C) *Notice to owner.* Before the eleventh day after the date the building is secured pursuant to division (A) above, or action is ordered pursuant to division (B)(1) above, or the building is repaired, removed or demolished pursuant to division (B)(2) above, the building official shall give notice to the owner by:

- (1) Personally serving the owner with written notice;
- (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- (3) Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county in which the building is located, if personal service cannot be obtained and the owner's post office address is unknown; or
- (4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown; and

(5) In addition to the above, depositing notice in the United States mail to all lienholders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the County Clerk.

(D) *Contents of notice.* The notice must contain:

(1) An identification (which is not required to be a legal description) of the building and the property on which it is located;

(2) A description of the violation of the minimum standards present in the building;

(3) A statement that the city will secure or has secured, as the case may be, the building, or that the city has taken or will take the action ordered pursuant to division (B); and

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing, removing, demolishing or repairing of the building.

(E) *Hearing.* The Commission shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing, repairing, removing or demolishing of the building, if, within 30 days after the date the city has taken action pursuant to divisions (B)(1) or (B)(2) of this section, the owner files with the city a written request for the hearing. The hearing shall be conducted within 20 days after the date the request is filed.

(F) *Expenses.* If the city incurs expenses under this section, such expenses incurred shall be a personal obligation of the property owner in addition to a priority lien upon the property, and costs shall be recovered as provided by § 160.10 and § 160.11.

(Ord. 2011-07, passed 4-12-11)

§ 160.13 VIOLATIONS.

(A) *Generally.* Except with the valid written permission of the building official, it shall be unlawful for any person to:

(1) Erect, construct or maintain any building that is deemed herein to be a nuisance;

(2) Use, occupy, enter, or remain in any building that is posted with a notice to vacate;

(3) Remove, damage or deface a notice to vacate posted under this chapter; or

(4) Cause or permit any act to be done in violation of any provision of this chapter.

(B) *Compliance with order.* It shall be unlawful for any person to whom an order of the Commission is directed to fail to comply with such order.

(C) *Interference prohibited.* It shall be unlawful for any person to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in the building which has been ordered repaired, vacated, demolished, removed or secured under the provisions of this chapter, or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building, or purchaser is engaged in the work of

repairing, vacating and repairing, or demolishing, removing or securing any such building pursuant to the provision of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.

(D) *Transfer of ownership.* No person may sell, transfer, mortgage, lease or otherwise dispose of a building or property that is the subject of a notice of substandard building, a citation, or an order of the Commission under this chapter until:

(1) The deficiencies noted in the notice, citation or order have been corrected and a new certificate of occupancy has been issued by the city; or

(2) The building official receives a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the notice, citation or order, and unconditionally accepting the responsibility for timely correcting the deficiencies noted therein.

(E) *Separate violations.* Each building or property which is in violation of any part of this chapter is a separate offense. Each violation in any building or property is a separate offense. Each and every day's violation shall constitute a separate and distinct offense.

(F) *Municipal court.* Proceedings under the jurisdiction of the municipal court are not affected by proceedings of the Commission or civil penalties under this chapter.

(Ord. 2011-07, passed 4-12-11)

§ 160.14 CIVIL PENALTY.

(A) *Civil penalty authorized.* In addition to any other enforcement authority provided for by law, and without regard to any criminal prosecution or conviction under this chapter, the Commission may at an administrative hearing assess a civil penalty by order against a property owner for failure to comply with an order issued by the Commission pursuant to this chapter.

(B) *Showing required.* The civil penalty may be assessed if it is shown at the administrative hearing that:

(1) The property owner was notified of the contents of the order issued pursuant to § 160.07; and

(2) The property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order.

(C) *Amount of penalty.* The civil penalty may be assessed in an amount not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 a day for each violation.

(D) *Notice of administrative hearing.* Not less than ten days prior to the date on which the administrative hearing is set, the property owner shall be sent a notice of the hearing by certified mail, return receipt requested. The notice shall contain:

(1) A copy of the order issued by the Commission pursuant to § 160.07.

(2) A statement that the building official has determined that the property owner committed an act in violation of that order, or failed to take an action necessary for compliance with that order;

(3) A statement that at the administrative hearing the Commission may assess a civil penalty not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owners' lawful homestead, in an amount not to exceed \$10 a day for each violation; and

(4) Notice of the time and place of the hearing.

(E) *Copy of order filed with district clerk.* After the civil penalty is assessed, the City Secretary shall file with the Bell County District Clerk a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty.

(F) *Enforcement.* The civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this division is final and binding and constitutes prima facie evidence of the penalty in any suit.

(Ord. 2011-07, passed 4-12-11)

§ 160.15 AUTHORITY NOT LIMITED.

Notwithstanding all other provisions of this chapter, nothing herein shall be deemed a limitation on the duty of the city to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of such building or structure is necessary to the protection of life, property or general welfare of the people in the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.16 AUTHORITY OF CITY ATTORNEY.

The City Attorney may without further authorization of the City Council undertake the enforcement of this chapter by all legal means appropriate or necessary, including but not limited to: enforcement in municipal court; filing a notice of *lis pendens* in the official public records of Bell County; filing of appropriate civil actions in courts of appropriate jurisdiction to seek compliance with an order made under this chapter, to collect a civil penalty, or recover costs as provided by this chapter; to appointment of a receiver as provided by Local Government Code Chapter 214; and to defend the city from suit if suit is taken to appeal any action of the city.

(Ord. 2011-07, passed 4-12-11)



BUILDING AND STANDARDS COMMISSION MEMORANDUM

AGENDA ITEM VII-4

FROM: THE OFFICE OF THE BUILDING OFFICIAL
DATE: JANUARY 27, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER THE EVIDENCE PROVIDED BY THE CITY OF HARKER HEIGHTS BUILDING OFFICIAL THAT ONE ACCESSORY STRUCTURE AND AN ACCESSORY STRUCTURE/ACCESSORY DWELLING UNIT ON PROPERTY DESCRIBED AS: TRACT H.B. LITTLEFIELD NO. 511, AKA LOT TEN (10), AND ELEVEN (11), BLOCK THIRTY-SEVEN (37), COMANCHE LAND LIFE ESTATES, ALSO COMMONLY KNOWN AS 1701 UTE TRAIL, HARKER HEIGHTS, TEXAS, IS AN UNSAFE, SUBSTANDARD, AND DANGEROUS STRUCTURE PER STANDARDS SET OUT IN §160.04 OF CHAPTER 160 OF THE CITY OF HARKER HEIGHTS CODE OF ORDINANCES.

BACKGROUND:

Subject Property: One Accessory Structure and an Accessory Structure/Accessory Dwelling Unit
1701 Ute Trail, Harker Heights, Texas
Tract H.B. Littlefield No. 511, AKA Lot Ten (10), and Eleven (11), Block Thirty-Seven (37), Comanche Land Life Estates, also commonly known as 1701 Ute Trail, Harker Heights, Texas

Property Owner: Phyllis K. Wallace
P.O. Box 2056
Harker Heights, Texas 76548

EXPLANATION:

On October 7, 2020 a visual inspection was made by Michael Beard, City of Harker Heights Building Official. This inspection was to identify the property as a possible substandard structure. An administrative search warrant was obtained and was served on October 15, 2020. This was to allow entry to inspect the property in order to determine if the structure met the requirements for a substandard structure set out in §160.04

Based on the inspection performed by Michael Beard, Building Official on October 15, 2020 the structure does meet the requirements set in §160.04 as evidenced by photos.

TIMELINE OF EVENTS:

- September 23, 2020 – Identified structures as substandard.
- October 12, 2020 – Administrative Search Warrant obtained (Exhibit #2)
- October 15, 2020 – Visual Inspection of the property by Mr. Michael Beard, the City of Harker Heights Building Inspector.
- Building Inspection Report is compiled, and Mr. Michael Beard, the City of Harker Heights Building Official, determines the structure to be unsafe, substandard, and a dangerous structure per §160.04 of the City of Harker Heights Code of Ordinances (Exhibit #3)
- October 23, 2020 – City Staff requested title sheet documents to determine all owners associated with 1701 Ute Trail.
- December 14, 2020 – Notice of Substandard Structure and Notice to Vacate Property delivered to all identifiable property owners via certified mail.
- January 12, 2021 – Notice of Public Hearing was mailed, return receipt requested to the owner of record of the property.
- January 16, 2021 – Notice of Public Hearing posted on all structures on the property.
- January 16, 2021 – Notice of Public Hearing published in the Killeen Daily Herald, the newspaper of general circulation.
- January 16, 2021 – Notice of Public Hearing filed with Bell County.
- January 27, 2021 – BSC Public Hearing.

RECOMMENDATIONS:

Based upon the inspection performed on October 15, 2020, the Building Official recommends that the Building and Standards Commission:

1. FIND that a site built home located on property at 1701 Ute Trail, Harker Heights, Texas, described as: Tract H.B. Littlefield No. 511, AKA Lot Ten (10), and Eleven (11), Block Thirty-Seven (37), Comanche Land Life Estates, also commonly known as 1701 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances, and;

ACTION BY THE BUILDING AND STANDARDS COMMISSION:

1. FIND/DO NOT FIND, by a majority vote, that a site built accessory/accessory dwelling unit located on property at 1701 Ute Trail, Harker Heights, Bell County, Texas, described as: Tract H.B. Littlefield No. 511, AKA Lot Ten (10), and Eleven (11), Block Thirty-Seven (37), Comanche Land Life Estates, also commonly known as 1701 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.
2. ORDER that the owner, mortgagee or lienholder Rehabilitate, Remove, OR Demolish the structure with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances within a certain time period following the order.

- **Repair.** If the owner, lienholder or mortgagee demonstrates that the building can be feasibly repaired within the time allowed by this section, it shall be ordered remedied or repaired. Repairs shall be deemed feasible only if less than 50% of the structure of the building must be repaired or replaced, or the value of the structure is reduced by less than 50% because of the violations.
- **Vacate and Secure.** If the building is in such a condition as to make it hazardous to the health, safety or general welfare of its occupants or the public, it may be ordered vacated and secured, and the order may also require the occupants to be relocated.
- **Demolish or Remove.** In any case where the owner, lienholder or mortgagee fails to demonstrate that the building can be feasibly repaired within the time allowed by this section, the Commission may order that the building be demolished with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances.

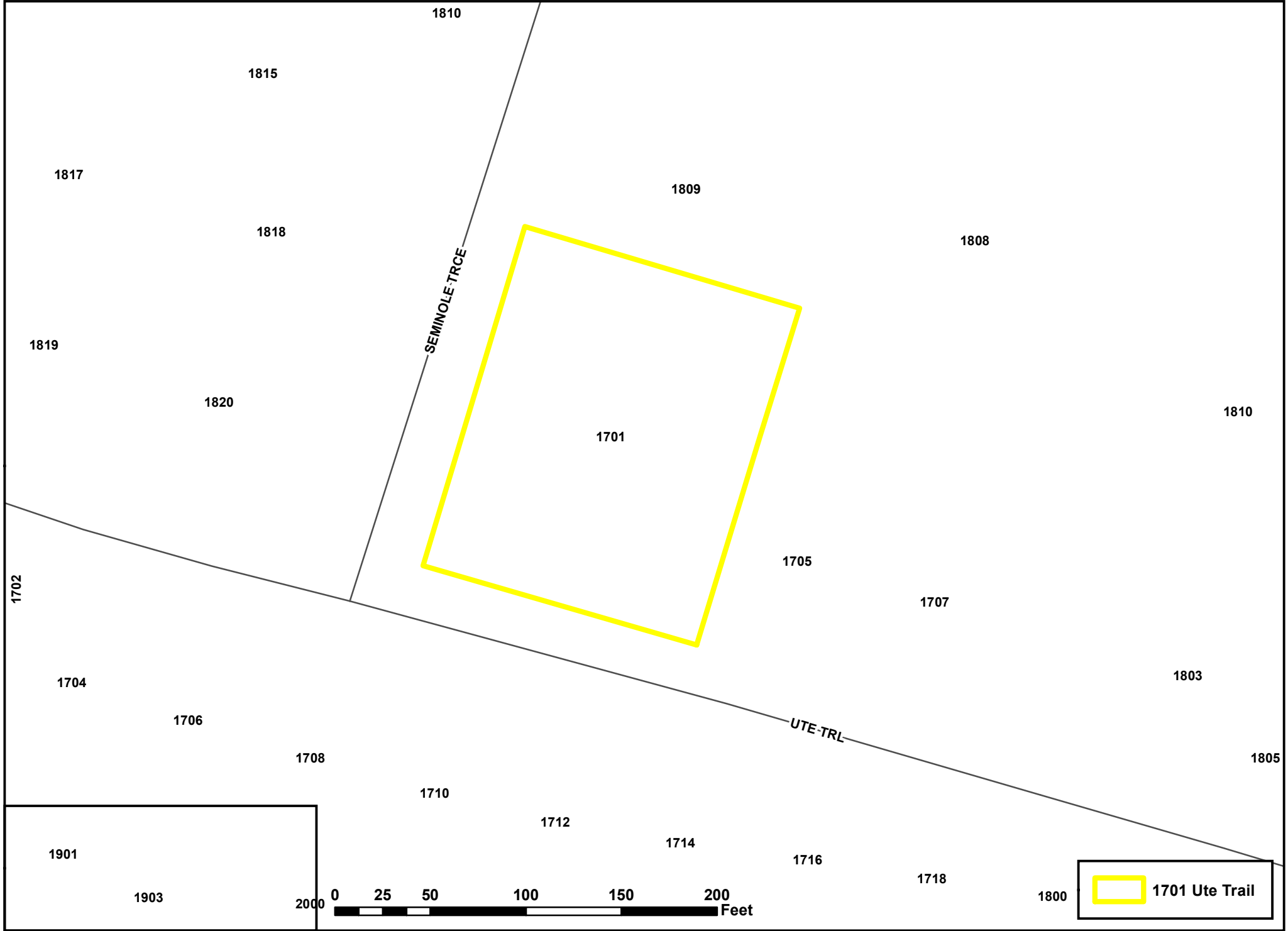
3. Any other action desired.

EXHIBITS:

1. Location Map
2. Administrative Search Warrant
3. Building Inspection Report
4. Notice of Substandard Structure and Notice to Vacate (mailed certified December 14, 2020)
5. Notice of Public Hearing (mailed certified January 12, 2020)
6. Legal Ad of Public Hearing (ran in Killeen Daily Herald January 16, 2020)
7. Letter from Property Owner (Dated January 7, 2021 by Phyllis Wallace)
8. Site Photographs
9. Chapter 160

1701 Ute Trail

Location



AFFIDAVIT FOR ADMINISTRATIVE SEARCH WARRANT

THE STATE OF TEXAS § A SINGLE FAMILY RESIDENCE LOCATED AT:
 § 1701 UTE TRL
COUNTY OF BELL § HARKER HEIGHTS, BELL COUNTY, TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared Michael Beard, who after first being by me duly sworn upon oath, made the following statements and accusations:

1. I am over the age of 18 years. I have personal knowledge of the facts stated herein, I am competent to testify under oath to those facts, and they are all true and correct.

2. I am the Building official for the City of Harker Heights, Bell County, Texas ("City"), and have held that position for over a year. Prior to that, I served as the primary building inspector for the City of Harker Heights for over 6 years, during which time I received several hundred hours of training in building and structural integrity as well as ordinances and investigations. I have been involved in public safety regulations and enforcement for over 12 years and have performed several thousand inspections. I have the authority to exercise the powers of the Building Official as set forth in §160.03(A) of the Code of Harker Heights ("Code") and elsewhere.

3. There is in incorporated city limits of the City a building ("Building") located as follows ("Premises"):

1701 UTE TRL, Harker Heights, Bell County, Texas 76548

4. The record owner of the Premises is WALLACE, PHYLLIS K, PO BOX 2056, Harker Heights, Texas 76548

5. The Buildings are accessory residential structures. Both are currently unoccupied.


6. On September 23, 2020 I personally conducted a physical inspection of the Premises. Because I did not have consent to enter the Building, the inspection was limited to the exterior. From the exterior I was able to observe the following violations of Sections 160.04 and 93.02 of the Code: The building is unsecured and damaged to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage; general dilapidation or improper maintenance indicating abandonment.

7. I took photographs of the Premises during my inspection of the exterior; and true and correct copies are attached hereto and incorporated as Exhibit(s) 1, 2, and 3 by reference. Within the limitations of the technology the photographs accurately depict the conditions that existed at that time and place. I observed extensive roof and siding damage, broken windows, and exposed framing members.

8. The substandard conditions described above have not been abated, thus creating a fire or health hazard or unsafe building condition in violation of the minimum building standards set

forth in the Code, including without limitation §160.04 thereof. Based on my training and experience, as well as the conditions described above, I have probable cause to believe and do believe and allege that the interior of the Building is likely in a similar state of disrepair, and that additional fire or health hazards or unsafe building conditions exist inside. As a result the Building represents a concern for public safety and the welfare of those in the neighborhood and those who might respond to emergencies involving the Premises. A search warrant is necessary in order to conduct a thorough inspection to verify whether and to what extent unsafe conditions are present.

9. WHEREFORE, I request the issuance of an administrative search warrant that will authorize entry into the Premises and Building to conduct a thorough inspection for the presence of unsafe building conditions, and/or violations of any fire, health, or building statutes, regulations or ordinances, and specifically for violations of the minimum standards established by §160.04 of the Code, in order to commence abatement proceedings before the City's Building and Standards Commission.



Affiant

SUBSCRIBED AND SWORN TO before me by the said Michael Beard, Affiant, on

Oct. 12, 2020.





Notary Public, State of Texas

Exhibit 1



Exhibit 2



Exhibit 3



ADMINISTRATIVE SEARCH WARRANT

STATE OF TEXAS §

COUNTY OF BELL §

TO: Any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Bell County, Texas:

WHEREAS, Michael Beard ("Affiant"), the building inspector of the City of Harker Heights, Bell County, Texas, and a credible person that has presented a written affidavit ("Affidavit") to me, which Affidavit was attached to this warrant when it was presented and signed and is by this reference incorporated into this warrant for all purposes;

AND WHEREAS, I find that the verified facts stated by Affiant in the Affidavit show that there is probable cause that there is a public nuisance, or a violation of a fire, health, or building regulation, state, statute of the Code of Harker Heights ("Code") at the premises ("Premises") described and located as follows:

1701 UTE TRL, Harker Heights, Bell County, Texas 76548

AND WHEREAS, the Affidavit presents the necessary evidence establishing the existence of proper grounds for the issuance of this Administrative Search Warrant pursuant to Article 18.05 of the Texas Code of Criminal Procedure;

NOW, THEREFORE, I do hereby ORDER that any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Texas, execute this Warrant and enter the Premises to inspect and determine if evidence exists that said Premises are substandard or dangerous in violation of the Code. A video and or photographic record of the evidence shall be permitted.

Herein fail not, but have execution with your return thereon, showing how you have executed the same.

ISSUED AT 2:00 o'clock P.M., on this the 12TH day of OCT., 2020, to certify which witness my hand this day.




[Signature]
COURT MAGISTRATE

RETURN

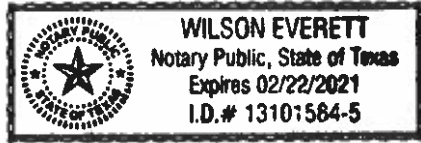
STATE OF TEXAS §
 §
COUNTY OF BELL §

The undersigned Affidavit, being a Code Enforcement Officer of the City of Harker Heights, Texas, and being duly sworn, on oath, certifies that the foregoing Warrant came on hand on the day it was issued and that it was executed on 10/15/2020, by making the inspection directed therein.


Affiant

SUBSCRIBED AND SWORN TO before me, authority, by said Affiant on
October 15, 2020


Notary Public, State of Texas



Building Inspection Report

City of Harker Heights
305 Miller's Crossing Harker Heights, Texas 76548
Telephone (Main) 254-953-5600
Fax: 254-953-5666

Date: 10/15/2020

Time: 12:55PM

Address: 1701 UTE

Legal Description: HB Littlefield Abstract No. 511, aka Lots 10 and 11, Blk 37, Comanche Land Life Estates

Property Owner: Phyllis Wallace **Lien Holder(s):** _____

Property Occupant(s): None

Inspector: Michael Beard, Building Official

Substandard Buildings Declared and Minimum Buildings Standards Contained in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances

(A) *The above reference buildings, regardless of the date of its construction, is deemed and hereby declared to be Substandard and a nuisance because it has the conditions of defects hereinafter described:*

- (1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.
- (2) Whenever any building, regardless of its structural condition, is unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage, or by children for any purpose
- (3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:
 - (a) The building constitutes a danger to the public even though secured from entry; or
 - (b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (A)(2) of this section
- (4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence
- (5) Whenever any portion of a building remains on a site after the demolition or destruction of the building
- (6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public

- (7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:
- (a) Lack of, or improper lavatory
 - (b) Lack of improper bathtub or shower in a dwelling unit or lodging house
 - (c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel
 - (d) Lack of, or improper kitchen sink in a dwelling unit
 - (e) Lack of hot and cold running water to plumbing fixtures
 - (f) Lack of, or improper operation of adequate heating facilities
 - (g) Lack or, or improper operation of required ventilation equipment
 - (h) Lack of minimum amount of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city
 - (i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation by the city
 - (j) Lack of required electrical lighting
 - (k) Excessive dampness or mold in habitable rooms
 - (l) Infestation or insects, vermin, or rodents
 - (m) General dilapidation or improper maintenance
 - (n) Lack of connection to required sewage disposal system
 - (o) Lack of adequate garbage and rubbish storage and removal facilities
- (8) Whenever any building contains structural hazards, including but not limited to the following:
- (a) Deteriorated or inadequate foundation
 - (b) Defective or deteriorated flooring or floor support
 - (c) Flooring or floor supports are insufficient to carry imposed loads with safety
 - (d) Members or walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration
 - (e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety
 - (f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration
 - (g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety
 - (h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration
 - (i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety

- (9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of building

(B) *The above referenced building, for the purpose of §160.04 of Chapter 160 of the City of Harker Heights, Texas, Code of Ordinances shall be deemed and hereby declared to be a dangerous and substandard building, and nuisance, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:*

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic
- (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic
- (3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1" times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location
- (5) Whenever any portion 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
- (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings
- (7) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction
- (8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause
- (9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used
- (10) 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
- (11) Whenever the building, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 or more percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings
- (12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; or (b) a harbor for vagrants, criminals or illegal activity
- (13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) 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

- (14) Whenever any building or structure, because of obsolescence, dilapidation, deterioration, damage or decay, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard
- (15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered
- (16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the City of Harker Heights, Bell County, Texas



The City of Harker Heights
305 Millers Crossing
Harker Heights, TX 76548
Phone: (254)953-5600
Fax: (254)953-5666

Mayor
Spencer H. Smith

Mayor Pro Tem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
John Reider
Jody Nicholas

DECEMBER 14, 2020

RECORD OWNER:
PHYLLIS K. WALLACE
P.O. BOX 2056
HARKER HEIGHTS, TX 76548

RE: NOTICE OF SUBSTANDARD OR DANGEROUS BUILDING(S) AND NOTICE FOR REMOVAL OF PERSONAL PROPERTY AT 1701 UTE TRAIL (TRACT H.B. LITTLEFIELD NO. 511, AKA LOTS 10, 11, BLOCK THIRTY-SEVEN (37), COMANCHE LAND LIFE ESTATES, ALSO COMMONLY KNOWN AS 1701 UTE TRAIL, HARKER HEIGHTS, TEXAS).

Certified mail return receipt requested # 7016 3560 0000 6480 1931

To Whom It May Concern:

On October 15, 2020, a physical inspection was made of the residential structure (**one accessory structure and an accessory structure/accessory dwelling unit**) located at **1701 UTE TRAIL (TRACT H.B. LITTLEFIELD NO. 511, AKA LOTS 10, 11, BLOCK THIRTY-SEVEN (37), COMANCHE LAND LIFE ESTATES, ALSO COMMONLY KNOWN AS 1701 UTE TRAIL, HARKER HEIGHTS, TEXAS)**. Based on that inspection it was determined by Mr. Michael Beard, the Building Official for the City of Harker Heights, that the structure located at **1701 UTE TRAIL** has been found to be dangerous or substandard under the provisions of §160.04, of the City of Harker Heights Code of Ordinance (see attached **Building Inspection Report**).

Based on this determination, the Building Official for the City of Harker Heights requires that the legal owner of the structure (**one accessory structure and an accessory structure/accessory dwelling unit**) make the necessary repairs to bring the structure up to code under §160.04 or demolish the structure. Until then, the aforementioned structure has been deemed uninhabitable and owners of any personal property within the structure are requested to remove all such items from that structure.

This letter serves as Official Notice requiring **PHYLLIS K. WALLACE or their legal representatives** to contact Mr. Michael Beard, the Building Official for the City of Harker Heights, at 305 Miller's Crossing, Harker Heights, Texas, within

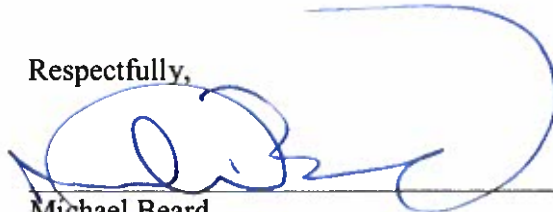
ten (10) working days of the receipt of this letter to discuss a schedule for the complete repair or the demolition of the dangerous and substandard residential structures noted above, along with any additional accessory structures located on the property that are found to be in noncompliance with the Code.

This letter also serves as an Official Notice giving **PHYLLIS K. WALLACE** or **their legal representatives** or any individuals having personal property within the noted structure **ten (10) working days** of the receipt of this letter to remove any and all personal property and/or items from the structure located at **1701 UTE TRAIL**.

Any and all personal property and/or items not removed from the structure (**one accessory structure and an accessory structure/accessory dwelling unit**) located at **1701 UTE TRAIL** will be considered abandoned or unclaimed property and may be removed following the conclusion of the abatement proceedings depending on the decision of the Building Standards Commission.

WARNING: Failure to timely comply with this Notice may result in filing of criminal charges against you in the Municipal Court, commencement of abatement proceedings before the Building and Standards Commission, or other enforcement action as provided by law.

Respectfully,



Michael Beard
Building Official, City of Harker Heights

Attachments:

- Building Inspection Report for all structures located on property at 1701 Ute Trail, Harker Heights, Texas.
- Harker Heights Code Chapter 160



NOTICE OF PUBLIC HEARING
January 12, 2021

The City of Harker Heights
305 Miller's Crossing
Harker Heights, TX 76548
Phone 254/953-5600
Fax 254/953-5614

Mayor
Spencer H. Smith

Mayor Pro Tem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
John Reider
Jody Nicholas

Record Owner:
PHYLLIS K. WALLACE
P.O. BOX 2056
HARKER HEIGHTS, TX 76548

Property:
1701 UTE TRAIL (TRACT H.B. LITTLEFIELD NO. 511, AKA LOTS 10, 11, BLOCK THIRTY-SEVEN (37), COMANCHE LAND LIFE ESTATES, ALSO COMMONLY KNOWN AS 1701 UTE TRAIL, HARKER HEIGHTS, TEXAS).

Certified mail return receipt requested # 7016 3560 0000 6480 4802

To Whom It May Concern:

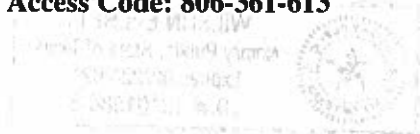
According to the real property records of Bell County, you own the real property described in this Notice. If you no longer own the Property, you must execute an affidavit stating that you no longer own the Property and stating the name and last known address of the person who acquired the Property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date this Notice is mailed. If you do not send the affidavit, it will be presumed that you own the Property described in this Notice, even if you do not.

On October 15, 2020, a physical inspection was made of the structure (one accessory structure and an accessory structure/accessory dwelling unit) located on the property at **1701 UTE TRAIL**. Based on those inspection(s) the Building Official has found the said building(s) are dangerous and/or substandard structure(s) under Chapter 160 of the Code of Harker Heights ("Code"). A brief and concise description of the conditions found to render the building(s) dangerous or substandard under §160.04 of the Code of Harker Heights ("Code") is attached to this Notice and incorporated by reference (Building Inspection Report).

Pursuant to the determination of the Building Official, a Public Hearing will be held before the Building and Standards Commission ("Commission") to determine whether the buildings on the Property comply with the standards set out in §160.04 of the Code.

The Public Hearing will be held on January 27, 2021, at 6:30 P.M. via virtual teleconference. You may join the public meeting with the information below:
Please join the Building Standards Commission meeting from your computer, tablet, or smartphone.
<https://global.gotomeeting.com/join/806361613>

You can also dial in using your phone.
United States (Toll Free): 1 (866) 899 4679
United States: +1 (571) 317-3116
Access Code: 806-361-613



At the Public Hearing the Property owner and all other interested persons may make their appearance virtually or in person by property owner and/or by attorney, and shall have a reasonable opportunity to be heard. Anyone requiring assistive listening devices or other special accommodation is strongly encouraged to contact the City Secretary at least 48 hours prior to the Public Hearing to make the necessary arrangements.

At the Public Hearing each owner, lienholder, or mortgagee of the Property will be required to submit proof of the scope of any work that may be required to comply with Chapter 160 of the Code, and the time that it will take to reasonably perform the work. By law the burden of proof will be upon such owner, lienholder or mortgagee.

If any of the buildings located on the Property are found to be in violation of Chapter 160 of the Code the Commission may order that the buildings be vacated, secured, repaired, removed or demolished within a reasonable time. In addition, the Commission may order that any occupants be relocated by the owner, lienholder or mortgagee of the Property. If the Commission's order is violated the City may perform the actions necessary to comply with the order. The resulting expenses incurred by the City shall be the personal obligation of the Property owner, and the City shall have a priority lien upon the Property to secure payment thereof.

You may contact the City of Harker Heights Building Official by telephone at (254)-953-5667, or by email at mbeard@harkerheights.gov, or you may write to the Building Official at 305 Millers Crossing, Harker Heights, Bell County, Texas 76548.

Respectfully,

Michael Beard
Building Official, City of Harker Heights

Attachments:

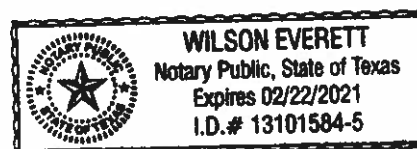
1. Building Inspection Report for all structures located on property at 1701 Ute Trail
2. Harker Heights Code Chapter 160

PHYLLIS K. WALLACE
P.O. BOX 2056
HARKER HEIGHTS, TX 76548

STATE OF TEXAS
COUNTY OF BELL

This instrument acknowledged before me by Michael Beard on January 12, 2021.

Wilson Everett
Notary Public, State of Texas



On January 27, 2021 at 6:30 P.M., the Building Standards Commission in its regular meeting, will hold a public hearing on the items listed below. The Building Standards Commission will conduct a telephonic meeting to contain the spread of COVID-19 in accordance with Governor Abbott's declaration of the COVID-19 public health threat and action to temporarily suspend certain provisions of the Texas Open Meetings Act issued on March 16, 2020. A full copy of the proceedings can be obtained Monday through Friday from 8 A.M. to 5 P.M. from the Harker Heights Planning and Development Department located at 305 Millers Crossing.

The public may participate remotely in this meeting by dialing-in using the toll-free number:

United States (Toll Free): 1 (866) 899-4679
Access Code: 806-361-613

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home on property described as: Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as 121 East Valley Road, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: Lot Five (5), Block One (1), Kern Terrace Addition Third Extension, an addition to the City of Harker Heights in Bell County, Texas, according to the plat of record in Volume Two, Page 103-C, of the Plat Records of Bell County, Texas, also commonly known as 206 Cynthia Drive, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home and accessory structures on property described as: Lots Six (6), and Seven (7), Block Twenty-Two (22), Comanche Land, Second Unit, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat of record in Cabinet A, Slide 184-A, Plat Records of Bell County, Texas, also commonly known as 1508 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that one accessory structure and an accessory structure/accessory dwelling unit on property described as: Tract H.B. Littlefield No.511, AKA Lot Ten (10), and Eleven (11), Block Thirty-Seven (37), Comanche Land Life Estates, also commonly known as 1701 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: 0.5 acres, more or less, out of Abstract No. 401 of the U. Hunt Survey, City of Harker Heights, Bell County, Texas, also commonly known as 13902 East Farm-to-Market 2410, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

(Legal notice published in the Killeen Daily Herald on January 16, 2021.)

Jan 7, 2021

Mr. Michael Beard-

I Phyllis Wallace request a
hearing concerning 1701 W. R. Harker Heights
also requesting a waiver of fine

Thank you for your consideration

Phyllis Wallace.

Received

JAN 05 2021 *MB*

Planning & Development

Received

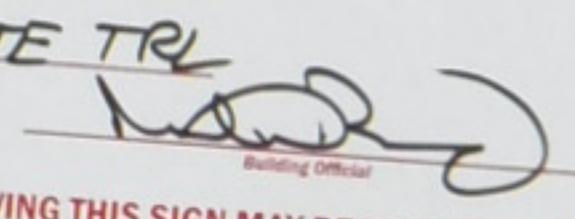
JAN 13 2021

Planning & Development



2020. 9.23 16:27



DANGER
THIS BUILDING IS DEEMED UNSAFE
FOR HUMAN OCCUPANCY
UNDER SECTION 169.03 OF THE BUILDING CODE OF THE
CITY OF HARKER HEIGHTS
IT IS UNLAWFUL FOR ANY PERSON TO OCCUPY
OR RESIDE IN THIS BUILDING
1701 UTE TRL

Building Official
ANY UNAUTHORIZED PERSON REMOVING THIS SIGN MAY BE PROSECUTED
DATE 10/15/2020 Refer to Sec. 104 of Building Code

AFFIDAVIT FOR ADMINISTRATIVE SEARCH WARRANT

THE STATE OF TEXAS § A SINGLE FAMILY RESIDENCE LOCATED AT
COUNTY OF BELL § 1701 UTE TRL
§ HARKER HEIGHTS, BELL COUNTY, TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared Michael Beard, who after first being by me duly sworn upon oath, made the following statements and accusations:

1. I am over the age of 18 years. I have personal knowledge of the facts stated herein, I am competent to testify under oath to those facts, and they are all true and correct.
2. I am the Building official for the City of Harker Heights, Bell County, Texas ("City"), and have held that position for over a year. Prior to that, I served as the primary building inspector for the City of Harker Heights for over 6 years, during which time I received several hundred hours of training in building and structural integrity as well as ordinances and investigations. I have been involved in public safety regulations and enforcement for over 12 years and have performed several thousand inspections. I have the authority to exercise the powers of the Building Official as set forth in §160.03(A) of the Code of Harker Heights ("Code") and elsewhere.
3. There is in incorporated city limits of the City a building ("Building") located as follows ("Premises"):
1701 UTE TRL, Harker Heights, Bell County, Texas 76548
4. The record owner of the Premises is WALLACE, PHYLLIS K, PO BOX 2056, Harker Heights, Texas 76548
5. The Buildings are accessory residential structures. Both are currently unoccupied.
6. On September 23, 2020 I personally conducted a physical inspection of the Premises. Because I did not have consent to enter the Building, the inspection was limited to the exterior. From the exterior I was able to observe the following violations of Sections 160.04 and 93.02 of the Code: The building is unsecured and damaged to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage, general dilapidation or improper maintenance indicating abandonment.
7. I took photographs of the Premises during my inspection of the exterior, and true and correct copies are attached hereto and incorporated as Exhibit(s) 1, 2, and 3 by reference. Within that time and place I observed extensive roof and siding damage, broken windows, and exposed framing members.
8. The substandard conditions described above have not been abated, thus creating a fire or health hazard or unsafe building condition in violation of the minimum building standards set

2020.10.15 12:55



2020.10.15 12:56



2020.10.15 12:58



2020.10.15 12:58



2020.10.15 13:01



2020.10.15 13:01



2020.10.15 13:02

Print

Harker Heights Code of Ordinances

CHAPTER 160: UNSAFE, SUBSTANDARD AND DANGEROUS STRUCTURES

Section

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| 160.01 | Findings and purpose |
| 160.02 | Definitions |
| 160.03 | Generally |
| 160.04 | Minimum standards; substandard buildings declared |
| 160.05 | Determination by building official |
| 160.06 | Public hearing for abatement of substandard buildings |
| 160.07 | Order of Commission regarding substandard buildings |
| 160.08 | Notice of order of the Commission |
| 160.09 | Enforcement of the order of the Commission |
| 160.10 | Performance of work by the city |
| 160.11 | Recovery of cost of securing, repair, removal or demolition |
| 160.12 | Additional authority to secure certain substandard buildings prior to public hearing and secure, demolish, repair or remove certain dangerous buildings |
| 160.13 | Violations |
| 160.14 | Civil penalty |
| 160.15 | Authority not limited |
| 160.16 | Authority of City Attorney |

§ 160.01 FINDINGS AND PURPOSE.

The facts and recitations contained in the preamble of the ordinance that is the basis for this chapter are found and declared to be true and correct.

(Ord. 2011-07, passed 4-12-11)

§ 160.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning.

BUILDING. Includes any building, fence, retaining wall, awning, canopy, sign, shed, garage, house, tent or other structure whatsoever, or any portion thereof, and the enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the sense and meaning of the provisions hereof in context reasonably have application.

BUILDING OFFICIAL. The person designated by the City Council to enforce this chapter.

COMMISSION. The Building and Standards Commission established pursuant to § 33.80.

STANDARD CODES. The codes adopted and amended by § 150.02.

(Ord. 2011-07, passed 4-12-11)

§ 160.03 GENERALLY.

(A) Powers of the building official.

(1) **Administration.** The building official is hereby authorized to enforce the provisions of this chapter. The building official shall have the power to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.

(2) **Inspections.** All buildings within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official. The building official, fire marshal and their designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

(3) **Right of entry.** When it is necessary to make an inspection to enforce the provisions of this chapter, or when the building official or his designee has a reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter which makes the building or premises unsafe, dangerous, or hazardous, the building official or his designee may enter the building or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official or his designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(B) **Abatement of dangerous or substandard buildings.** All buildings or portions thereof which are determined after inspection by the building official to be dangerous or substandard as defined by this chapter are hereby declared to be public nuisances and shall be abated by repair, vacation, demolition, removal or securing in accordance with the procedures specified in this chapter.

(C) **Notice.** When notice is given in accordance with this chapter to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered. On receipt of a notice under this chapter, a manager of the affected property shall notify the owner of the notice within 10 days.

(Ord. 2011-07, passed 4-12-11)

§ 160.04 MINIMUM STANDARDS; SUBSTANDARD BUILDINGS DECLARED.

(A) **Substandard building.** For the purposes of this chapter any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described shall be deemed to be a substandard building, and a nuisance:

(1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.

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

(3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:

(a) The building constitutes a danger to the public even though secured from entry; or

(b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by division (A)(2) of this section.

(4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence.

(5) Whenever any portion of a building remains on a site after the demolition or destruction of the building.

(6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public.

(7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:

(a) Lack of, or improper lavatory.

(b) Lack of, or improper bathtub or shower in a dwelling unit or lodging house.

(c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel.

(d) Lack of, or improper kitchen sink in a dwelling unit.

(e) Lack of hot and cold running water to plumbing fixtures.

(f) Lack of, or improper operation of, adequate heating facilities.

(g) Lack of, or improper operation of, required ventilating equipment.

(h) Lack of minimum amounts of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city.

(i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation of the city.

(j) Lack of required electrical lighting.

(k) Excessive dampness or mold in habitable rooms.

(l) Infestation of insects, vermin or rodents.

(m) General dilapidation or improper maintenance.

(n) Lack of connection to required sewage disposal system.

(o) Lack of adequate garbage and rubbish storage and removal facilities.

(8) Whenever any building contains structural hazards, including but not limited to the following:

(a) Deteriorated or inadequate foundation.

(b) Defective or deteriorated flooring or floor supports.

(c) Flooring or floor supports are insufficient to carry imposed loads with safety.

(d) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.

(e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety.

(f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration.

(g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety.

(h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration.

(i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety.

(9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

(B) **Dangerous and substandard building.** For the purposes of this chapter, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare

of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1st times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location.
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location.
- (5) Whenever any portion 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.
- (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings.
- (7) Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- (8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause.
- (9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (10) 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.
- (11) Whenever the building, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- (12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children, or (b) a harbor for vagrants, criminals or illegal activity.

(13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) 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.

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

(15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered.

(16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.05 DETERMINATION BY BUILDING OFFICIAL.

When the building official has inspected or caused to be inspected any building and has found and determined that the building is substandard, the building official may take any or all of the following actions, as he or she deems appropriate:

- (A) Issue notice to the record owner that the building is substandard and must be repaired or demolished;
- (B) Issue a citation for each violation of this chapter;
- (C) Secure the building if permitted by this chapter; or
- (D) Commence abatement proceedings before the Commission pursuant to § 160.06.

(Ord. 2011-07, passed 4-12-11)

§ 160.06 PUBLIC HEARING FOR ABATEMENT OF SUBSTANDARD BUILDINGS.

(A) *Commencement of proceedings.* When the building official has found and determined that a building is a substandard building, the building official may commence proceedings to cause the repair, vacation, relocation of occupants, removal, demolition or securing of the building.

(B) *Public hearing to be held.* Except when the Commission finds that a building is likely to immediately endanger persons or property, a public hearing shall be held before the Commission to determine whether a building complies with the standards set out in § 160.04. If the Commission determines that the building constitutes an immediate danger, the procedures set forth in § 160.12(B) and following shall be followed.

(C) *Notice.* Not less than ten days prior to the date on which the hearing is set, the building official shall issue a notice of the public hearing directed to the record owner of the building, and to all mortgagees and lienholders. The city shall use diligent efforts to determine the identity and address of any owner, lienholder or mortgagee of the building through searching the Bell County real property records, the records of the Bell County Tax Appraisal District, records of the Secretary of State, Bell County assumed name records, tax records of the city, and utility records of the city. The notice shall contain:

- (1) The name and address of the record owner;
- (2) The street address or legal description sufficient for identification of the premises upon which the building is located;
- (3) A statement that the building official has found the building to be substandard or dangerous, with a brief and concise description of the conditions found to render the building dangerous or substandard under the provisions of § 160.04;
- (4) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the chapter, and the time it will take to reasonably perform the work;
- (5) Notice of the time and place of the public hearing; and
- (6) A statement that if the building is found to be in violation of this chapter, the Commission may order that the building be vacated, secured, repaired, removed or demolished within a reasonable time.

(D) *Additional notice of public hearing.* Prior to the public hearing, the city may file a copy of the notice mailed pursuant to this section in the official public records of real property in Bell County. If such notice is not filed of record, each identified mortgagee and lienholder must be notified of any abatement order issued by the Commission at the public hearing, prior to any remedial action by the city. The city shall also post a copy of the notice mailed pursuant to this section on the front door of each improvement situated on the affected property, or as close thereto as practicable, or if there is no front door then at a conspicuous location on the property. In addition, the notice must be published in a newspaper of general circulation in the city on one occasion on or before the tenth day before the date fixed for the hearing.

(E) *Burden of proof.* At the public hearing, the owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this chapter, and the time it will take to reasonably perform the work.

(F) *Conduct of public hearing.* All cases to be heard by the Commission must be heard by a panel of at least five members and/or alternate members, and a majority vote of the members voting on a matter is necessary to take action thereon. At the public hearing, the owner of the building, and all other interested persons may make their appearance in person or by attorney, and shall have a reasonable opportunity to be heard. Any relevant evidence may be received and considered by the Commission, and for this purpose the chairperson or acting chairperson shall have the authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents. The hearing may be adjourned from day to day or continued upon a majority vote of the Commission, in compliance with the Open Meetings Act.

(Ord. 2011-07, passed 4-12-11)

§ 160.07 ORDER OF COMMISSION REGARDING SUBSTANDARD BUILDING.

(A) *Findings of the Commission.* If the Commission, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in § 160.04, the Commission may order that the building be repaired, vacated, removed or demolished, secured, or the occupants relocated, by the owner, mortgagee or lienholder within a reasonable time as provided herein.

(B) *Time allowed to complete work.*

- (1) The order must require the owner, lienholder or mortgagee of the building to within 30 days:
 - (a) Secure the building from unauthorized entry; and/or
 - (b) Repair, remove or demolish the building unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.
- (2) If the Commission allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the Commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Commission.

(3) The Commission may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner lienholder or mortgagee:

- (a) Submits a detailed plan and time schedule for the work at the hearing; and
- (b) Establishes at the hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work.

(4) If the Commission allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the Commission shall require the owner, lienholder or mortgagee to regularly submit progress reports to the building official to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the Commission or the building official to demonstrate compliance with the time schedules.

(C) *Contents of order.* The order of the Commission must contain at minimum:

- (1) An identification (which is not required to be a legal description) of the building and the property on which it is located; and
- (2) A description of the violation of minimum standards present in the building; and
- (3) A description of the ordered actions, including a statement that the owner may repair, if feasible, or demolish or remove at his option; and
- (4) A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the cost to the property; and

(5) If the Commission has determined that the building will endanger persons or property and that the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the property if the ordered action is not taken within the time allowed.

(Ord. 2011-07, passed 4-12-11)

§ 160.08 NOTICE OF ORDER OF THE COMMISSION.

(A) *Order shall be mailed.* After the public hearing, the building official shall promptly mail, by certified mail, return receipt requested, a copy of the order to the record owner of the building, and each identified lienholder and mortgagee of the building.

(B) *Order shall be filed with City Secretary.* Within ten days after the date that the order is issued by the Commission, the building official shall file a copy of the order in the office of the City Secretary.

(C) *Order shall be published.* Within ten days after the date the order is issued by the Commission, the building official shall publish in a newspaper of general circulation within the city a notice containing:

- (1) The street address or legal description of the property;
- (2) The date the hearing was held;
- (3) A brief statement indicating the results of the order; and
- (4) Instructions stating where a complete copy of the order may be obtained.

(D) *Filing of order or abstract.* The order may be filed in the official public records of real property in Bell County. An abstract or judgment shall be ordered against all parties found to be the owners of the subject property or in possession of that property.

(Ord. 2011-07, passed 4-12-11)

§ 160.09 ENFORCEMENT OF THE ORDER OF THE COMMISSION.

(A) *Compliance.* If an order of the Commission under this chapter is not complied with, the city may take action. If the building is not vacated, secured, repaired, removed or demolished within the time specified by the order, the city may vacate, secure, repair, remove or demolish the building or relocate the occupants at its own expense, provided however:

- (1) The city may not act to remove or demolish a building until after the Commission has found:
 - (a) That such defects or conditions exist to the extent that the life, health, property or safety of the public or the occupants of the building are endangered; and
 - (b) The building is infeasible of repair, or there is no reasonable probability that the building will be repaired within a reasonable period of time if additional time is given.

(2) The city may only repair a building as provided herein to the extent necessary to correct the conditions which render the building dangerous, and may not act to repair a building unless:

- (a) The Commission has made a determination that the building is likely to endanger person or property; and
- (b) The building is a residential dwelling with ten or fewer dwelling units.

(3) In the event there are mortgagors or lienholders, the city may only repair, remove or demolish the building after allowing the lienholder or mortgagee an additional 30 days after the time prescribed in the order has expired to complete the required work.

(4) Unless specifically authorized by a court order or by a written agreement signed by all record owners, mortgagees and lienholders, the city may not act to remove or demolish a building during the pendency of any appeal to a court of competent jurisdiction of the Commission's order.

(B) *Posting of notice to vacate building.* If the order requires vacation or if compliance is not had within the time specified therein, the building official is authorized to require that the building be vacated. Notice to vacate shall be mailed by certified mail, return receipt requested to the occupant of the building and shall be posted at or upon each entrance to the building. The notice shall be in substantially the following form:

*SUBSTANDARD BUILDING

DO NOT ENTER

UNSAFE TO OCCUPY

It is unlawful to occupy this building or to remove or deface this notice.

The Harker Heights Building and Standards Commission has declared this building to be substandard. To obtain a copy of this order, contact the City Secretary at 305 Miller's Crossing, Harker Heights, Texas, (254) 953-5600.

Building Official

City of Harker Heights*

(C) *Remedial action by city.* Any repair or demolition work, or securing of the building shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided. Any surplus realized from the sale of such building, or from the demolition thereof, over and above the cost of demolition and cleaning of the lot, shall be paid over to the person or persons lawfully entitled thereto.

(D) *Permit required.* Any work of closure, repair, removal or demolition by the property owner or any lienholder or mortgagee or their agents must be performed pursuant to valid unexpired permits issued by the city. All permits issued pursuant to an order of the Commission shall expire upon expiration of the time for compliance set forth in the order.

(Ord. 2011-07, passed 4-12-11; Am. Ord. 2012-02, passed 2-14-12)

§ 160.10 PERFORMANCE OF WORK BY THE CITY.

(A) *Procedure.* When any work of repair, removal, demolition or securing is to be performed by the city, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.

(B) *Costs.* The cost of such work shall be paid from city funds and shall constitute a special assessment and a lien against such property to secure payment thereof together with 10% interest on such amount from the date on which the work is performed.

(C) *Repair to minimum standards only.* The city may repair the building at its own expense and assess the expenses on the land on which the building stands or is attached to only to the extent necessary to bring the building into compliance with the minimum standards set forth in § 160.04.

(Ord. 2011-07, passed 4-12-11)

§ 160.11 RECOVERY OF COST OF SECURING, REPAIR, REMOVAL OR DEMOLITION.

(A) *Itemized account and notice of lien.* The building official shall keep an itemized account of the expenses incurred by the city in the securing, repair, removal or demolition of any building pursuant to this chapter. Upon completion of the work, the building official shall prepare and file with the City Secretary a sworn account and notice of lien containing the following information:

- (1) The name and address of the owner if that information can be determined with a reasonable effort;
- (2) A legal description of the real property on which the building is or was located;
- (3) The type of work performed; and
- (4) The amount of expenses incurred by the city in performing the work and the balance due.

(B) *Notice filed in county records.* The City Secretary shall file the notice of lien along with a copy of the order of abatement issued by the Commission in the official public records of Bell County.

(C) *Personal obligation of property owner.* The expenses incurred by the city as set forth in the sworn account of the building official shall be a personal obligation of the property owner in addition to a priority lien upon the property.

(D) *Lien shall be valid and privileged.* Upon filing of the notice of lien in the official public records of Bell County, Texas, the lien shall be valid against the property so assessed. The lien shall be privileged and subordinate only to tax liens and existing special assessment liens, and shall be paramount to all other liens. The lien shall continue until the assessment and all interest due and payable thereon has been paid.

(E) *Assessment must be paid.* No utility service, building permit or certificate of occupancy shall be allowed on any such property until the assessment is paid and such lien is released by the city.

(F) *Release of lien.* After the expenses incurred by the city, as set forth in the sworn account of the building official, have been fully paid with interest of 10% per annum from the date the work was performed, the building official shall execute a release of lien which shall be filed in the official public records of Bell County.

(Ord. 2011-07, passed 4-12-11)

§ 160.12 ADDITIONAL AUTHORITY TO SECURE CERTAIN SUBSTANDARD BUILDINGS PRIOR TO PUBLIC HEARING AND SECURE, DEMOLISH, REPAIR OR REMOVE CERTAIN DANGEROUS BUILDINGS.

(A) *Securing of unoccupied, substandard building.* Notwithstanding any other provisions of this chapter the city may secure a building if the building official determines that the building:

- (1) Violates the minimum standards set forth in § 160.04; and
- (2) Is unoccupied or is occupied only by persons who do not have the right of possession to the building.

(B) *If building creates immediate danger.* Notwithstanding any other provisions of this chapter, if the Commission finds that a building is likely to immediately endanger persons or property the Commission may:

- (1) Order the owner of the building, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the dangerous part of the structure, within a specified time; or
- (2) Repair, remove, or demolish the structure, or the dangerous part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(C) *Notice to owner.* Before the eleventh day after the date the building is secured pursuant to division (A) above, or action is ordered pursuant to division (B)(1) above, or the building is repaired, removed or demolished pursuant to division (B)(2) above, the building official shall give notice to the owner by:

- (1) Personally serving the owner with written notice;
- (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- (3) Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county in which the building is located, if personal service cannot be obtained and the owner's post office address is unknown; or
- (4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown; and

(5) In addition to the above, depositing notice in the United States mail to all lienholders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the County Clerk.

(D) *Contents of notice.* The notice must contain:

(1) An identification (which is not required to be a legal description) of the building and the property on which it is located;

(2) A description of the violation of the minimum standards present in the building;

(3) A statement that the city will secure or has secured, as the case may be, the building, or that the city has taken or will take the action ordered pursuant to division (B); and

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing, removing, demolishing or repairing of the building.

(E) *Hearing.* The Commission shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing, repairing, removing or demolishing of the building, if, within 30 days after the date the city has taken action pursuant to divisions (B)(1) or (B)(2) of this section, the owner files with the city a written request for the hearing. The hearing shall be conducted within 20 days after the date the request is filed.

(F) *Expenses.* If the city incurs expenses under this section, such expenses incurred shall be a personal obligation of the property owner in addition to a priority lien upon the property, and costs shall be recovered as provided by § 160.10 and § 160.11.

(Ord. 2011-07, passed 4-12-11)

§ 160.13 VIOLATIONS.

(A) *Generally.* Except with the valid written permission of the building official, it shall be unlawful for any person to:

(1) Erect, construct or maintain any building that is deemed herein to be a nuisance;

(2) Use, occupy, enter, or remain in any building that is posted with a notice to vacate;

(3) Remove, damage or deface a notice to vacate posted under this chapter; or

(4) Cause or permit any act to be done in violation of any provision of this chapter.

(B) *Compliance with order.* It shall be unlawful for any person to whom an order of the Commission is directed to fail to comply with such order.

(C) *Interference prohibited.* It shall be unlawful for any person to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in the building which has been ordered repaired, vacated, demolished, removed or secured under the provisions of this chapter, or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building, or purchaser is engaged in the work of

repairing, vacating and repairing, or demolishing, removing or securing any such building pursuant to the provision of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.

(D) *Transfer of ownership.* No person may sell, transfer, mortgage, lease or otherwise dispose of a building or property that is the subject of a notice of substandard building, a citation, or an order of the Commission under this chapter until:

(1) The deficiencies noted in the notice, citation or order have been corrected and a new certificate of occupancy has been issued by the city; or

(2) The building official receives a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the notice, citation or order, and unconditionally accepting the responsibility for timely correcting the deficiencies noted therein.

(E) *Separate violations.* Each building or property which is in violation of any part of this chapter is a separate offense. Each violation in any building or property is a separate offense. Each and every day's violation shall constitute a separate and distinct offense.

(F) *Municipal court.* Proceedings under the jurisdiction of the municipal court are not affected by proceedings of the Commission or civil penalties under this chapter.

(Ord. 2011-07, passed 4-12-11)

§ 160.14 CIVIL PENALTY.

(A) *Civil penalty authorized.* In addition to any other enforcement authority provided for by law, and without regard to any criminal prosecution or conviction under this chapter, the Commission may at an administrative hearing assess a civil penalty by order against a property owner for failure to comply with an order issued by the Commission pursuant to this chapter.

(B) *Showing required.* The civil penalty may be assessed if it is shown at the administrative hearing that:

(1) The property owner was notified of the contents of the order issued pursuant to § 160.07; and

(2) The property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order.

(C) *Amount of penalty.* The civil penalty may be assessed in an amount not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 a day for each violation.

(D) *Notice of administrative hearing.* Not less than ten days prior to the date on which the administrative hearing is set, the property owner shall be sent a notice of the hearing by certified mail, return receipt requested. The notice shall contain:

(1) A copy of the order issued by the Commission pursuant to § 160.07.

(2) A statement that the building official has determined that the property owner committed an act in violation of that order, or failed to take an action necessary for compliance with that order;

(3) A statement that at the administrative hearing the Commission may assess a civil penalty not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owners' lawful homestead, in an amount not to exceed \$10 a day for each violation; and

(4) Notice of the time and place of the hearing.

(E) *Copy of order filed with district clerk.* After the civil penalty is assessed, the City Secretary shall file with the Bell County District Clerk a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty.

(F) *Enforcement.* The civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this division is final and binding and constitutes prima facie evidence of the penalty in any suit.

(Ord. 2011-07, passed 4-12-11)

§ 160.15 AUTHORITY NOT LIMITED.

Notwithstanding all other provisions of this chapter, nothing herein shall be deemed a limitation on the duty of the city to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of such building or structure is necessary to the protection of life, property or general welfare of the people in the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.16 AUTHORITY OF CITY ATTORNEY.

The City Attorney may without further authorization of the City Council undertake the enforcement of this chapter by all legal means appropriate or necessary, including but not limited to: enforcement in municipal court; filing a notice of *lis pendens* in the official public records of Bell County; filing of appropriate civil actions in courts of appropriate jurisdiction to seek compliance with an order made under this chapter, to collect a civil penalty, or recover costs as provided by this chapter; to appointment of a receiver as provided by Local Government Code Chapter 214; and to defend the city from suit if suit is taken to appeal any action of the city.

(Ord. 2011-07, passed 4-12-11)



BUILDING AND STANDARDS COMMISSION MEMORANDUM

AGENDA ITEM VII-5

FROM: THE OFFICE OF THE BUILDING OFFICIAL

DATE: JANUARY 27, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER THE EVIDENCE PROVIDED BY THE CITY OF HARKER HEIGHTS BUILDING OFFICIAL THAT A SITE BUILT STRUCTURE ON PROPERTY DESCRIBED AS: 0.5 ACRES, MORE OR LESS, OUT OF ABSTRACT NO. 401 OF THE U. HUNT SURVEY, CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, ALSO COMMONLY KNOWN AS 13902 EAST FARM-TO-MARKET 2410, HARKER HEIGHTS, TEXAS, IS AN UNSAFE, SUBSTANDARD, AND DANGEROUS STRUCTURE PER STANDARDS SET OUT IN §160.04 OF CHAPTER 160 OF THE CITY OF HARKER HEIGHTS CODE OF ORDINANCES.

BACKGROUND:

Subject Property: Site Built Home
 13902 E. FM 2410, Harker Heights, Texas
 0.5 acres, more or less, out of Abstract No. 401 of the U. Hunt Survey,
 City of Harker Heights, Bell County, Texas, also commonly known as
 13902 East Farm-to-Market 2410, Harker Heights, Texas

Property Owner: Mathis, Bonnie Maxine Daniels & Barbara Ann Daniels
 4013 Chaparral Road
 Killeen, TX 76542

EXPLANATION:

On October 7, 2020 a visual inspection was made by Michael Beard, City of Harker Heights Building Official. This inspection was to identify the property as a possible substandard structure. An administrative search warrant was obtained and was served on October 15, 2020. This was to allow entry to inspect the property in order to determine if the structure met the requirements for a substandard structure set out in §160.04

Based on the inspection performed by Michael Beard, Building Official on October 15, 2020 the structure does meet the requirements set in §160.04 as evidenced by photos.

TIMELINE OF EVENTS:

- October 7, 2020 – Visual external inspection of the property by Mr. Michael Beard, the City of Harker Heights Building Official.

- October 21, 2020 – Administrative Search Warrant obtained (Exhibit #2)
- October 23, 2020 – Thorough internal visual inspection performed of the property by Mr. Michael Beard, the City of Harker Heights Building Official.
- Building Inspection Report is compiled, and Mr. Michael Beard, the City of Harker Heights Building Official, determines the structure to be unsafe, substandard, and a dangerous structure per §160.04 of the City of Harker Heights Code of Ordinances (Exhibit #3)
- October 23, 2020 – City Staff requested title sheet documents to determine all owners associated with 13902 E. FM 2410.
- December 13, 2020 – Notice of Substandard Structure and Notice to Vacate Property delivered to all identifiable property owners via certified mail.
- January 8, 2021 – Demolition permit issued.
- January 12, 2021 – Notice of Public Hearing was mailed, return receipt requested to the owner of record of the property.
- January 16, 2021 – Notice of Public Hearing posted on all structures on the property.
- January 16, 2021 – Notice of Public Hearing published in the Killeen Daily Herald, the newspaper of general circulation.
- January 16, 2021 – Notice of Public Hearing filed with Bell County.
- January 19, 2021 – Demolition completed.
- January 27, 2021 – BSC Public Hearing.

RECOMMENDATIONS:

Based upon the inspection performed on October 15, 2020, the Building Official recommends that the Building and Standards Commission:

1. FIND that a site built home located on property at 13902 E. FM 2410, Harker Heights, Texas, described as: 0.5 acres, more or less, out of Abstract No. 401 of the U. Hunt Survey, City of Harker Heights, Bell County, Texas, also commonly known as 13902 East Farm-to-Market 2410, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances, and;

ACTION BY THE BUILDING AND STANDARDS COMMISSION:

1. FIND/DO NOT FIND, by a majority vote, that a site built home located on property at 13902 E. FM 2410, Harker Heights, Bell County, Texas, described as: 0.5 acres, more or less, out of Abstract No. 401 of the U. Hunt Survey, City of Harker Heights, Bell County, Texas, also commonly known as 13902 East Farm-to-Market 2410, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.
2. ORDER that the owner, mortgagee or lienholder Rehabilitate, Remove, OR Demolish the structure with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances within a certain time period following the order.

- **Repair.** If the owner, lienholder or mortgagee demonstrates that the building can be feasibly repaired within the time allowed by this section, it shall be ordered remedied or repaired. Repairs shall be deemed feasible only if less than 50% of the structure of the building must be repaired or replaced, or the value of the structure is reduced by less than 50% because of the violations.
- **Vacate and Secure.** If the building is in such a condition as to make it hazardous to the health, safety or general welfare of its occupants or the public, it may be ordered vacated and secured, and the order may also require the occupants to be relocated.
- **Demolish or Remove.** In any case where the owner, lienholder or mortgagee fails to demonstrate that the building can be feasibly repaired within the time allowed by this section, the Commission may order that the building be demolished with due process and notifications as set out in §160.12 of Chapter 160 of the City of Harker Heights Code of Ordinances.


3. Any other action desired.

EXHIBITS:

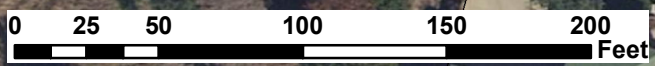
1. Location Map
2. Administrative Search Warrant
3. Building Inspection Report
4. Notice of Substandard Structure and Notice to Vacate (mailed certified December 14, 2020)
5. Notice of Public Hearing (mailed certified January 12, 2021)
6. Legal Ad of Public Hearing (ran in Killeen Daily Herald January 16, 2021)
7. Demolition Permit (Issued January 8, 2021)
8. Site Photographs
9. Chapter 160



Harker Heights
City of Harker Heights
Planning and Development
305 Miller's Crossing
Harker Heights, TX 76548
254-953-5600
www.ci.harker-heights.tx.us



Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2501.102. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.



 13902 E. Knights Way (E. FM 2410)

AFFIDAVIT FOR ADMINISTRATIVE SEARCH WARRANT

THE STATE OF TEXAS § A SINGLE FAMILY RESIDENCE LOCATED AT:
 § 13902 EAST FM 2410
COUNTY OF BELL § HARKER HEIGHTS, BELL COUNTY, TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared Michael Beard, who after first being by me duly sworn upon oath, made the following statements and accusations:

1. I am over the age of 18 years. I have personal knowledge of the facts stated herein, I am competent to testify under oath to those facts, and they are all true and correct.

2. I am the Building official for the City of Harker Heights, Bell County, Texas ("City"), and have held that position for over a year. Prior to that, I served as the primary building inspector for the City of Harker Heights for over 6 years, during which time I received several hundred hours of training in building and structural integrity as well as ordinances and investigations. I have been involved in public safety regulations and enforcement for over 12 years and have performed several thousand inspections. I have the authority to exercise the powers of the Building Official as set forth in §160.03(A) of the Code of Harker Heights ("Code") and elsewhere.

3. There is in incorporated city limits of the City a building ("Building") located as follows ("Premises"):

13902 East FM 2410, Harker Heights, Bell County, Texas 76548

4. The record owner of the Premises is MATHIS, BONNIE MAXINE DANIELS & BARBARA ANN DANIELS, 4013 Chapparral Road, Killeen TX 76542

5. The Building are residential structure and accessory. Both are currently unoccupied.

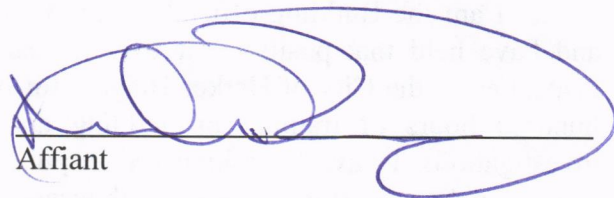
6. On October 7, 2020 I personally conducted a physical inspection of the Premises. Because I did not have consent to enter the Building, the inspection was limited to the exterior. From the exterior I was able to observe the following violations of Sections 160.04 and 93.02 of the Code: The building is unsecured and damaged to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage; general dilapidation or improper maintenance indicating abandonment.

7. I took photographs of the Premises during my inspection of the exterior; and true and correct copies are attached hereto and incorporated as Exhibit(s) 1, 2, and 3 by reference. Within the limitations of the technology the photographs accurately depict the conditions that existed at that time and place. I observed extensive roof and siding damage, broken windows, exposed framing members and trash and debris.

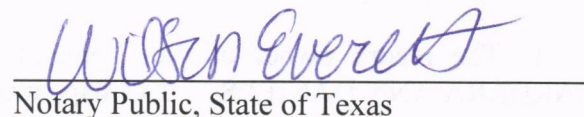
8. The substandard conditions described above have not been abated, thus creating a fire or health hazard or unsafe building condition in violation of the minimum building standards set

forth in the Code, including without limitation §160.04 thereof. Based on my training and experience, as well as the conditions described above, I have probable cause to believe and do believe and allege that the interior of the Building is likely in a similar state of disrepair, and that additional fire or health hazards or unsafe building conditions exist inside. As a result the Building represents a concern for public safety and the welfare of those in the neighborhood and those who might respond to emergencies involving the Premises. A search warrant is necessary in order to conduct a thorough inspection to verify whether and to what extent unsafe conditions are present.

9. WHEREFORE, I request the issuance of an administrative search warrant that will authorize entry into the Premises and Building to conduct a thorough inspection for the presence of unsafe building conditions, and/or violations of any fire, health, or building statutes, regulations or ordinances, and specifically for violations of the minimum standards established by §160.04 of the Code, in order to commence abatement proceedings before the City's Building and Standards Commission.


Affiant

SUBSCRIBED AND SWORN TO before me by the said Michael Beard, Affiant, on October 15, 2020.


Notary Public, State of Texas

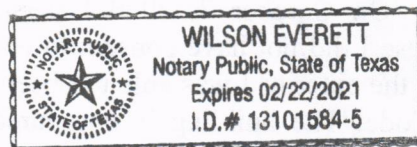


Exhibit 3



Exhibit 1



Exhibit 2



ADMINISTRATIVE SEARCH WARRANT

STATE OF TEXAS §

COUNTY OF BELL §

TO: Any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Bell County, Texas:

WHEREAS, Michael Beard ("Affiant"), the building inspector of the City of Harker Heights, Bell County, Texas, and a credible person that has presented a written affidavit ("Affidavit") to me, which Affidavit was attached to this warrant when it was presented and signed and is by this reference incorporated into this warrant for all purposes;

AND WHEREAS, I find that the verified facts stated by Affiant in the Affidavit show that there is probable cause that there is a public nuisance, or a violation of a fire, health, or building regulation, state, statute of the Code of Harker Heights ("Code") at the premises ("Premises") described and located as follows:

13902 East FM 2410, Harker Heights, Bell County, Texas 76548

AND WHEREAS, the Affidavit presents the necessary evidence establishing the existence of proper grounds for the issuance of this Administrative Search Warrant pursuant to Article 18.05 of the Texas Code of Criminal Procedure;

NOW, THEREFORE, I do hereby ORDER that any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Texas, execute this Warrant and enter the Premises to inspect and determine if evidence exists that said Premises are substandard or dangerous in violation of the Code. A video and or photographic record of the evidence shall be permitted.

Herein fail not, but have execution with your return thereon, showing how you have executed the same.

ISSUED AT 10:20 o'clock A.M., on this the 21st day of October, 2020, to certify which witness my hand this day.



COURT MAGISTRATE

RETURN


STATE OF TEXAS §
 §
COUNTY OF BELL §

The undersigned Affidavit, being a Code Enforcement Officer of the City of Harker Heights, Texas, and being duly sworn, on oath, certifies that the foregoing Warrant came on hand on the day it was issued and that it was executed on 10/23/2020, by making the inspection directed therein.

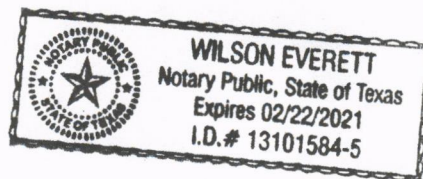


Affiant

SUBSCRIBED AND SWORN TO before me, authority, by said Affiant on October 23, 2020.



Notary Public, State of Texas



Building Inspection Report

City of Harker Heights
305 Miller's Crossing Harker Heights, Texas 76548
Telephone (Main) 254-953-5600
Fax: 254-953-5666

Date: 10/23/2020

Time: 7:43 AM

Address: 13902 E. FM 2410, Harker Heights, TX 76548

Legal Description: Abstract No. 401 of the U. Hunt Survey, 0.5 acres +/-

Property Owner: Bonnie Daniels-Mathis, Barbara Daniels **Lien Holder(s):** _____

Property Occupant(s): NONE

Inspector: Michael Beard, Building Official

Substandard Buildings Declared and Minimum Buildings Standards Contained in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances

(A) *The above reference buildings, regardless of the date of its construction, is deemed and hereby declared to be Substandard and a nuisance because it has the conditions of defects hereinafter described:*

- (1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.
- (2) Whenever any building, regardless of its structural condition, is unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be reasonably expected to be entered or used by vagrants or other uninvited persons as a place of harborage, or by children for any purpose
- (3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:
 - (a) The building constitutes a danger to the public even though secured from entry; or
 - (b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (A)(2) of this section
- (4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence
- (5) Whenever any portion of a building remains on a site after the demolition or destruction of the building
- (6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public

- (7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:
- (a) Lack of, or improper lavatory
 - (b) Lack of improper bathtub or shower in a dwelling unit or lodging house
 - (c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel
 - (d) Lack of, or improper kitchen sink in a dwelling unit
 - (e) Lack of hot and cold running water to plumbing fixtures
 - (f) Lack of, or improper operation of adequate heating facilities
 - (g) Lack or, or improper operation of required ventilation equipment
 - (h) Lack of minimum amount of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city
 - (i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation by the city
 - (j) Lack of required electrical lighting
 - (k) Excessive dampness or mold in habitable rooms
 - (l) Infestation or insects, vermin, or rodents
 - (m) General dilapidation or improper maintenance
 - (n) Lack of connection to required sewage disposal system
 - (o) Lack of adequate garbage and rubbish storage and removal facilities
- (8) Whenever any building contains structural hazards, including but not limited to the following:
- (a) Deteriorated or inadequate foundation
 - (b) Defective or deteriorated flooring or floor support
 - (c) Flooring or floor supports are insufficient to carry imposed loads with safety
 - (d) Members or walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration
 - (e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety
 - (f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration
 - (g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety
 - (h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration
 - (i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety

- (9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of building

(B) *The above referenced building, for the purpose of §160.04 of Chapter 160 of the City of Harker Heights, Texas, Code of Ordinances shall be deemed and hereby declared to be a dangerous and substandard building, and nuisance, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:*

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic
- (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic
- (3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1" times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location
- (5) Whenever any portion 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
- (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings
- (7) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction
- (8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause
- (9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used
- (10) 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
- (11) Whenever the building, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 or more percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings
- (12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; or (b) a harbor for vagrants, criminals or illegal activity
- (13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) 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

- (14) Whenever any building or structure, because of obsolescence, dilapidation, deterioration, damage or decay, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard
- (15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered
- (16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the City of Harker Heights, Bell County, Texas



The City of Harker Heights
305 Millers Crossing
Harker Heights, TX 76548
Phone: (254)953-5600
Fax: (254)953-5666

Mayor
Spencer H. Smith

Mayor Pro Tem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
John Reider
Jody Nicholas

DECEMBER 14, 2020

RECORD OWNER:

**MATHIS, BONNIE MAXINE DANIELS & BARBARA ANN DANIELS
4013 CHAPARRAL ROAD
KILLEEN, TX 76542**

**RE: NOTICE OF SUBSTANDARD OR DANGEROUS BUILDING(S) AND
NOTICE FOR REMOVAL OF PERSONAL PROPERTY AT 13902 E. FM
2401 (0.5 ACRES, MORE OR LESS, OUT OF ABSTRACT NO. 401 OF THE
U. HUNT SURVEY, CITY OF HARKER HEIGHTS, BELL COUNTY,
TEXAS, COMMONLY KNOWN AS 13902 EAST FARM TO MARKET
2410, HARKER HEIGHTS, TEXAS).**

Certified mail return receipt requested # 7016 3560 0000 6480 1924

To Whom It May Concern:

On October 23, 2020, a physical inspection was made of the residential structure (site built structure) located at **13902 E. FM 2410 (0.5 ACRES, MORE OR LESS, OUT OF ABSTRACT NO. 401 OF THE U. HUNT SURVEY, CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, COMMONLY KNOWN AS 13902 EAST FARM TO MARKET 2410, HARKER HEIGHTS, TEXAS)**. Based on that inspection it was determined by Mr. Michael Beard, the Building Official for the City of Harker Heights, that the structure located at **13902 E. FM 2410** has been found to be dangerous or substandard under the provisions of §160.04, of the City of Harker Heights Code of Ordinance (see attached **Building Inspection Report**).

Based on this determination, the Building Official for the City of Harker Heights requires that the legal owner of the structure (site built structure) make the necessary repairs to bring the structure up to code under §160.04 or demolish the structure. Until then, the aforementioned structure has been deemed uninhabitable and owners of any personal property within the structure are requested to remove all such items from that structure.

This letter serves as Official Notice requiring **BONNIE MATHIS & BARBARA DANIELS or their legal representatives** to contact Mr. Michael Beard, the Building Official for the City of Harker Heights, at 305 Miller's Crossing, Harker Heights, Texas, within **ten (10) working days** of the receipt of this letter to discuss

a schedule for the complete repair or the demolition of the dangerous and substandard residential structures noted above, along with any additional accessory structures located on the property that are found to be in noncompliance with the Code.

This letter also serves as an Official Notice giving **BONNIE MATHIS & BARBARA DANIELS or their legal representatives** or any individuals having personal property within the noted structure **ten (10) working days** of the receipt of this letter to remove any and all personal property and/or items from the structure located at **13902 E. FM 2410**.

Any and all personal property and/or items not removed from the structure (**site built structure**) located at **13902 E. FM 2410** will be considered abandoned or unclaimed property and may be removed following the conclusion of the abatement proceedings depending on the decision of the Building Standards Commission.

WARNING: Failure to timely comply with this Notice may result in filing of criminal charges against you in the Municipal Court, commencement of abatement proceedings before the Building and Standards Commission, or other enforcement action as provided by law.

Respectfully,



Michael Beard
Building Official, City of Harker Heights

Attachments:

- Building Inspection Report for all structures located on property at 13902 E. FM 2410, Harker Heights, Texas.
- Harker Heights Code Chapter 160



NOTICE OF PUBLIC HEARING
January 12, 2021

The City of Harker Heights
305 Miller's Crossing
Harker Heights, TX 76548
Phone 254/953-5600
Fax 254/953-5614

Mayor
Spencer H. Smith

Mayor Pro Tem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
John Reider
Jody Nicholas

Record Owner:

MATHIS, BONNIE MAXINE DANIELS & BARBARA ANN DANIELS
4013 CHAPARRAL ROAD
KILLEEN, TX 76542

Property:

13902 E. FM 2401 (0.5 ACRES, MORE OR LESS, OUT OF ABSTRACT NO. 401 OF THE U. HUNT SURVEY, CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS, COMMONLY KNOWN AS 13902 EAST FARM TO MARKET 2410, HARKER HEIGHTS, TEXAS).

Certified mail return receipt requested # 7016 3560 0000 6480 4819

To Whom It May Concern:

According to the real property records of Bell County, you own the real property described in this Notice. If you no longer own the Property, you must execute an affidavit stating that you no longer own the Property and stating the name and last known address of the person who acquired the Property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date this Notice is mailed. If you do not send the affidavit, it will be presumed that you own the Property described in this Notice, even if you do not.

On October 15, 2020, a physical inspection was made of the above-described structure (site built structure) located on the property at **13902 E. FM 2410**. Based on those inspection(s) the Building Official has found the said building(s) are dangerous and/or substandard structure(s) under Chapter 160 of the Code of Harker Heights ("Code"). A brief and concise description of the conditions found to render the building(s) dangerous or substandard under §160.04 of the Code of Harker Heights ("Code") is attached to this Notice and incorporated by reference (Building Inspection Report).

Pursuant to the determination of the Building Official, a Public Hearing will be held before the Building and Standards Commission ("Commission") to determine whether the buildings on the Property comply with the standards set out in §160.04 of the Code.

The Public Hearing will be held on **January 27, 2021, at 6:30 P.M. via virtual teleconference. You may join the public meeting with the information below:**

Please join the Building Standards Commission meeting from your computer, tablet, or smartphone.

<https://global.gotomeeting.com/join/806361613>

You can also dial in using your phone.

United States (Toll Free): 1 (866) 899 4679

United States: +1 (571) 317-3116

Access Code: 806-361-613



At the Public Hearing the Property owner and all other interested persons may make their appearance virtually or in person by property owner and/or by attorney, and shall have a reasonable opportunity to be heard. Anyone requiring assistive listening devices or other special accommodation is strongly encouraged to contact the City Secretary at least 48 hours prior to the Public Hearing to make the necessary arrangements.

At the Public Hearing each owner, lienholder, or mortgagee of the Property will be required to submit proof of the scope of any work that may be required to comply with Chapter 160 of the Code, and the time that it will take to reasonably perform the work. By law the burden of proof will be upon such owner, lienholder or mortgagee.

If any of the buildings located on the Property are found to be in violation of Chapter 160 of the Code the Commission may order that the buildings be vacated, secured, repaired, removed or demolished within a reasonable time. In addition, the Commission may order that any occupants be relocated by the owner, lienholder or mortgagee of the Property. If the Commission's order is violated the City may perform the actions necessary to comply with the order. The resulting expenses incurred by the City shall be the personal obligation of the Property owner, and the City shall have a priority lien upon the Property to secure payment thereof.

You may contact the City of Harker Heights Building Official by telephone at (254)-953-5667, or by email at mbeard@harkerheights.gov, or you may write to the Building Official at 305 Millers Crossing, Harker Heights, Bell County, Texas 76548.

Respectfully,



Michael Beard
Building Official, City of Harker Heights

Attachments:


1. Building Inspection Report for all structures located on property at 13902 E. FM 2410
2. Harker Heights Code Chapter 160

**MATHIS, BONNIE MAXINE DANIELS & BARBARA ANN DANIELS
4013 CHAPARRAL ROAD
KILLEEN, TX 76542**

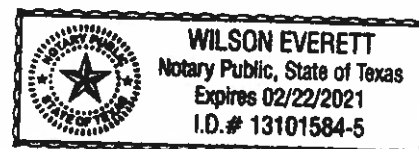
STATE OF TEXAS

COUNTY OF BELL

This instrument acknowledged before me by Michael Beard on January 12, 2021.



Notary Public, State of Texas



On January 27, 2021 at 6:30 P.M., the Building Standards Commission in its regular meeting, will hold a public hearing on the items listed below. The Building Standards Commission will conduct a telephonic meeting to contain the spread of COVID-19 in accordance with Governor Abbott's declaration of the COVID-19 public health threat and action to temporarily suspend certain provisions of the Texas Open Meetings Act issued on March 16, 2020. A full copy of the proceedings can be obtained Monday through Friday from 8 A.M. to 5 P.M. from the Harker Heights Planning and Development Department located at 305 Millers Crossing.

The public may participate remotely in this meeting by dialing-in using the toll-free number:

United States (Toll Free): 1 (866) 899-4679
Access Code: 806-361-613

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home on property described as: Lot Eleven (11), Block Two (2), of the Valley View Addition, to the City of Harker Heights, Bell County, Texas, according to plat records of Bell County, Texas, also commonly known as 121 East Valley Road, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: Lot Five (5), Block One (1), Kern Terrace Addition Third Extension, an addition to the City of Harker Heights in Bell County, Texas, according to the plat of record in Volume Two, Page 103-C, of the Plat Records of Bell County, Texas, also commonly known as 206 Cynthia Drive, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a manufactured home and accessory structures on property described as: Lots Six (6), and Seven (7), Block Twenty-Two (22), Comanche Land, Second Unit, an addition to the City of Harker Heights, Bell County, Texas, according to the map or plat of record in Cabinet A, Slide 184-A, Plat Records of Bell County, Texas, also commonly known as 1508 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that one accessory structure and an accessory structure/accessory dwelling unit on property described as: Tract H.B. Littlefield No.511, AKA Lot Ten (10), and Eleven (11), Block Thirty-Seven (37), Comanche Land Life Estates, also commonly known as 1701 Ute Trail, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

Conduct a Public Hearing to discuss and consider the evidence provided by the City of Harker Heights Building Official that a site built structure on property described as: 0.5 acres, more or less, out of Abstract No. 401 of the U. Hunt Survey, City of Harker Heights, Bell County, Texas, also commonly known as 13902 East Farm-to-Market 2410, Harker Heights, Texas, is an unsafe, substandard, and dangerous structure per standards set out in §160.04 of Chapter 160 of the City of Harker Heights Code of Ordinances.

(Legal notice published in the Killeen Daily Herald on January 16, 2021.)



City of Harker Heights
 Building Department
 305 Millers Crossing
 Harker Heights, TX 76548
 Phone: (254) 953-5648

Building Permit Application

PERMITS CAN BE APPLIED FOR ON MYGOVERNMENTONLINE.ORG
 Help Desk # (866) 957-3764

PLEASE NOTE THE FOLLOWING BEFORE PROCEEDING:

- If commercial remodeling, you must attach an Asbestos inspection report with this application (as of Jan.1, 2002).
- Separate Erosion and Sediment Control Permit is required for all land disturbing activities.
- A Site Plan or Plot Plan (to scale) of the property and the proposed location must be included.
- If the address is on Septic you must provide approval from Bell County Health District with this application.

Please select if the project is: Residential Commercial

Date: Jan 8, 2021

Project Address: 13902 FM 2410 belton, tx

Property Owner: Bonnie Mathis

Phone: [REDACTED]

Owner Address

(if different from above): 4013 Chaparral rd Killeen, tx 76542

Contractor Information

General Contractor: Rigoberto Gonzalezregut

Phone: [REDACTED]

Address: 893 County Road 3376 Kempner, tx

E-Mail: [REDACTED]

| | License No. | Address | Phone | E-mail |
|-----------------------|-------------|---------|-------|--------|
| Electrical Contractor | | | | |
| Plumbing Contractor | | | | |
| Mechanical Contractor | | | | |
| Irrigation Contractor | | | | |

Select Project Type & Provide Description of Work Below

- | | | |
|---|----------------------------------|--|
| <input type="radio"/> Backflow | <input type="radio"/> Irrigation | <input type="radio"/> Skirting |
| <input checked="" type="radio"/> Demolition | <input type="radio"/> Mechanical | <input type="radio"/> Water Heater |
| <input type="radio"/> Electric | <input type="radio"/> Plumbing | <input type="radio"/> Water/Sewer Line |
| <input type="radio"/> Gas Test/Permit | <input type="radio"/> Porch/Deck | <input type="radio"/> Water Softener |
| | <input type="radio"/> Roof | |

---Other Project Types on Back Page---

DESCRIPTION OF WORK TO BE DONE:

Demolition of two structures on the property (main house) (shed)



2020.10. 7 14:52

DANGER
THIS BUILDING IS DEEMED UNSAFE
FOR HUMAN OCCUPANCY
UNDER SECTION 160 OF THE BUILDING CODE OF THE
CITY OF HARKER HEIGHTS
IT IS UNLAWFUL FOR ANY PERSON TO OCCUPY
OR RESIDE IN THIS BUILDING
13902 E FM 2410
[Signature]
ANY UNAUTHORIZED PERSON REMOVING THIS SIGN MAY BE PROSECUTED
DATE 10/2/2020 Refer to Sec. 1094 of Building Code

ADMINISTRATIVE SEARCH WARRANT

STATE OF TEXAS 1
COUNTY OF BELL 1

TO: Any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Bell County, Texas.

WHEREAS, Michael David ("Affiant"), the Building Inspector of the City of Harker Heights, Bell County, Texas, and a credible person that has presented a written affidavit ("Affidavit") to the undersigned incorporated into this warrant for all purposes.

AND WHEREAS, I find that the verified facts stated by Affiant in the affidavit show that there is probable cause that there is a public nuisance, or a violation of a fire, health, or building regulation, state statute or the Code of Harker Heights ("Code") at the premises ("Premises") described and located as follows:

13902 East FM 2410, Harker Heights, Bell County, Texas 76788

AND WHEREAS, the Affidavit presents the necessary evidence establishing the existence of proper grounds for the issuance of this Administrative Search Warrant pursuant to Article 18.03 of the Texas Code of Criminal Procedure.

NOW THEREFORE, I do hereby ORDER that any health officer, fire marshal, or code enforcement officer of the City of Harker Heights, Texas, execute this Warrant and enter the Premises to inspect and determine if evidence exists that said Premises are in violation or dangerous in violation of the Code. A video and/or photographic record of the evidence shall be maintained.

He/she/they are, but have execution with your return thereon, showing how you have executed the same.

SUBD. BY 10/20/2020 at 11:00 A.M. on the 21st day of October, 2020. — a county which within its jurisdiction.

Bill R. Hall
COUNTY CLERK

2020.10.23 7:43



2021. 1.15 16:01

Print

Harker Heights Code of Ordinances

CHAPTER 160: UNSAFE, SUBSTANDARD AND DANGEROUS STRUCTURES

Section

| | |
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| 160.01 | Findings and purpose |
| 160.02 | Definitions |
| 160.03 | Generally |
| 160.04 | Minimum standards; substandard buildings declared |
| 160.05 | Determination by building official |
| 160.06 | Public hearing for abatement of substandard buildings |
| 160.07 | Order of Commission regarding substandard buildings |
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§ 160.01 FINDINGS AND PURPOSE.

The facts and recitations contained in the preamble of the ordinance that is the basis for this chapter are found and declared to be true and correct.

(Ord. 2011-07, passed 4-12-11)

§ 160.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings as ascribed to them in this section, except where the context clearly indicated a different meaning.

BUILDING. Includes any building, fence, retaining wall, awning, canopy, sign, shed, garage, house, tent or other structure whatsoever, or any portion thereof, and the enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the sense and meaning of the provisions hereof in context reasonably have application.

BUILDING OFFICIAL. The person designated by the City Council to enforce this chapter.

COMMISSION. The Building and Standards Commission established pursuant to § 33.80.

STANDARD CODES. The codes adopted and amended by § 150.02.

(Ord. 2011-07, passed 4-12-11)

§ 160.03 GENERALLY.

(A) Powers of the building official.

(1) **Administration.** The building official is hereby authorized to enforce the provisions of this chapter. The building official shall have the power to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.

(2) **Inspections.** All buildings within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official. The building official, fire marshal and their designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

(3) **Right of entry.** When it is necessary to make an inspection to enforce the provisions of this chapter, or when the building official or his designee has a reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter which makes the building or premises unsafe, dangerous, or hazardous, the building official or his designee may enter the building or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official or his designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(B) **Abatement of dangerous or substandard buildings.** All buildings or portions thereof which are determined after inspection by the building official to be dangerous or substandard as defined by this chapter are hereby declared to be public nuisances and shall be abated by repair, vacation, demolition, removal or securing in accordance with the procedures specified in this chapter.

(C) **Notice.** When notice is given in accordance with this chapter to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered. On receipt of a notice under this chapter, a manager of the affected property shall notify the owner of the notice within 10 days.

(Ord. 2011-07, passed 4-12-11)

§ 160.04 MINIMUM STANDARDS; SUBSTANDARD BUILDINGS DECLARED.

(A) **Substandard building.** For the purposes of this chapter any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described shall be deemed to be a substandard building, and a nuisance:

(1) Whenever any building is dilapidated, deteriorated, decayed or damaged to the extent that it is unfit for human habitation, or a hazard to the public health, safety and welfare.

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

(3) Whenever any building is boarded up, fenced or otherwise secured in any manner if:

(a) The building constitutes a danger to the public even though secured from entry; or

(b) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by division (A)(2) of this section.

(4) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence.

(5) Whenever any portion of a building remains on a site after the demolition or destruction of the building.

(6) Whenever any building or a portion thereof is abandoned so as to constitute an attractive nuisance or hazard to the public.

(7) Whenever a building used or intended to be used for indoor workspace, dwelling, or other human occupancy is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, any of the following:

(a) Lack of, or improper lavatory.

(b) Lack of, or improper bathtub or shower in a dwelling unit or lodging house.

(c) Lack of, or improper lavatories and bathtubs or showers per number of guests in a hotel.

(d) Lack of, or improper kitchen sink in a dwelling unit.

(e) Lack of hot and cold running water to plumbing fixtures.

(f) Lack of, or improper operation of, adequate heating facilities.

(g) Lack of, or improper operation of, required ventilating equipment.

(h) Lack of minimum amounts of natural light and ventilation required by this chapter, the standard codes, or other ordinance or regulation of the city.

(i) Room and space dimensions less than required by this chapter, the standard codes, or other ordinance or regulation of the city.

(j) Lack of required electrical lighting.

(k) Excessive dampness or mold in habitable rooms.

(l) Infestation of insects, vermin or rodents.

(m) General dilapidation or improper maintenance.

(n) Lack of connection to required sewage disposal system.

(o) Lack of adequate garbage and rubbish storage and removal facilities.

(8) Whenever any building contains structural hazards, including but not limited to the following:

(a) Deteriorated or inadequate foundation.

(b) Defective or deteriorated flooring or floor supports.

(c) Flooring or floor supports are insufficient to carry imposed loads with safety.

(d) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.

(e) Members of walls, partitions or other vertical supports that are insufficient to carry imposed loads with safety.

(f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration.

(g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety.

(h) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration.

(i) Fireplaces or chimneys that are insufficient to carry imposed loads with safety.

(9) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of the city, as specified in any of the standard codes, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

(B) **Dangerous and substandard building.** For the purposes of this chapter, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety or welfare

of the public or the occupants thereof shall be deemed and hereby is declared to be a dangerous and substandard building, and a nuisance:

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than 1st times the working stress or stresses allowed in the standard codes for new buildings of similar structure, purpose or location.
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such damage and is less than the minimum requirements of the applicable standard codes for new buildings of similar structure, purpose or location.
- (5) Whenever any portion 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.
- (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the applicable standard codes for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the such codes for such buildings.
- (7) Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- (8) Whenever the building or any portion thereof is likely to partially or completely collapse because of: (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause.
- (9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (10) 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.
- (11) Whenever the building, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- (12) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children, or (b) a harbor for vagrants, criminals or illegal activity.

(13) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) 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.

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

(15) Whenever any building is defined by any provision of the standard codes or other ordinance or regulation of the city as substandard, and the life, health or safety of the public or any occupant is endangered.

(16) Whenever any building is defined as dangerous to the life, health or safety of the public or any occupant thereof by any provision of the standard codes or other ordinance or regulation of the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.05 DETERMINATION BY BUILDING OFFICIAL.

When the building official has inspected or caused to be inspected any building and has found and determined that the building is substandard, the building official may take any or all of the following actions, as he or she deems appropriate:

- (A) Issue notice to the record owner that the building is substandard and must be repaired or demolished;
- (B) Issue a citation for each violation of this chapter;
- (C) Secure the building if permitted by this chapter; or
- (D) Commence abatement proceedings before the Commission pursuant to § 160.06.

(Ord. 2011-07, passed 4-12-11)

§ 160.06 PUBLIC HEARING FOR ABATEMENT OF SUBSTANDARD BUILDINGS.

(A) *Commencement of proceedings.* When the building official has found and determined that a building is a substandard building, the building official may commence proceedings to cause the repair, vacation, relocation of occupants, removal, demolition or securing of the building.

(B) *Public hearing to be held.* Except when the Commission finds that a building is likely to immediately endanger persons or property, a public hearing shall be held before the Commission to determine whether a building complies with the standards set out in § 160.04. If the Commission determines that the building constitutes an immediate danger, the procedures set forth in § 160.12(B) and following shall be followed.

(C) *Notice.* Not less than ten days prior to the date on which the hearing is set, the building official shall issue a notice of the public hearing directed to the record owner of the building, and to all mortgagees and lienholders. The city shall use diligent efforts to determine the identity and address of any owner, lienholder or mortgagee of the building through searching the Bell County real property records, the records of the Bell County Tax Appraisal District, records of the Secretary of State, Bell County assumed name records, tax records of the city, and utility records of the city. The notice shall contain:

- (1) The name and address of the record owner;
- (2) The street address or legal description sufficient for identification of the premises upon which the building is located;
- (3) A statement that the building official has found the building to be substandard or dangerous, with a brief and concise description of the conditions found to render the building dangerous or substandard under the provisions of § 160.04;
- (4) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the chapter, and the time it will take to reasonably perform the work;
- (5) Notice of the time and place of the public hearing; and
- (6) A statement that if the building is found to be in violation of this chapter, the Commission may order that the building be vacated, secured, repaired, removed or demolished within a reasonable time.

(D) *Additional notice of public hearing.* Prior to the public hearing, the city may file a copy of the notice mailed pursuant to this section in the official public records of real property in Bell County. If such notice is not filed of record, each identified mortgagee and lienholder must be notified of any abatement order issued by the Commission at the public hearing, prior to any remedial action by the city. The city shall also post a copy of the notice mailed pursuant to this section on the front door of each improvement situated on the affected property, or as close thereto as practicable, or if there is no front door then at a conspicuous location on the property. In addition, the notice must be published in a newspaper of general circulation in the city on one occasion on or before the tenth day before the date fixed for the hearing.

(E) *Burden of proof.* At the public hearing, the owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this chapter, and the time it will take to reasonably perform the work.

(F) *Conduct of public hearing.* All cases to be heard by the Commission must be heard by a panel of at least five members and/or alternate members, and a majority vote of the members voting on a matter is necessary to take action thereon. At the public hearing, the owner of the building, and all other interested persons may make their appearance in person or by attorney, and shall have a reasonable opportunity to be heard. Any relevant evidence may be received and considered by the Commission, and for this purpose the chairperson or acting chairperson shall have the authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents. The hearing may be adjourned from day to day or continued upon a majority vote of the Commission, in compliance with the Open Meetings Act.

(Ord. 2011-07, passed 4-12-11)

§ 160.07 ORDER OF COMMISSION REGARDING SUBSTANDARD BUILDING.

(A) *Findings of the Commission.* If the Commission, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in § 160.04, the Commission may order that the building be repaired, vacated, removed or demolished, secured, or the occupants relocated, by the owner, mortgagee or lienholder within a reasonable time as provided herein.

(B) *Time allowed to complete work.*

- (1) The order must require the owner, lienholder or mortgagee of the building to within 30 days:
 - (a) Secure the building from unauthorized entry; and/or
 - (b) Repair, remove or demolish the building unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.
- (2) If the Commission allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the Commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Commission.
- (3) The Commission may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner lienholder or mortgagee:
 - (a) Submits a detailed plan and time schedule for the work at the hearing; and
 - (b) Establishes at the hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work.
- (4) If the Commission allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the Commission shall require the owner, lienholder or mortgagee to regularly submit progress reports to the building official to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the Commission or the building official to demonstrate compliance with the time schedules.

(C) *Contents of order.* The order of the Commission must contain at minimum:

- (1) An identification (which is not required to be a legal description) of the building and the property on which it is located; and
- (2) A description of the violation of minimum standards present in the building; and
- (3) A description of the ordered actions, including a statement that the owner may repair, if feasible, or demolish or remove at his option; and
- (4) A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the cost to the property; and

(5) If the Commission has determined that the building will endanger persons or property and that the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the property if the ordered action is not taken within the time allowed.

(Ord. 2011-07, passed 4-12-11)

§ 160.08 NOTICE OF ORDER OF THE COMMISSION.

(A) *Order shall be mailed.* After the public hearing, the building official shall promptly mail, by certified mail, return receipt requested, a copy of the order to the record owner of the building, and each identified lienholder and mortgagee of the building.

(B) *Order shall be filed with City Secretary.* Within ten days after the date that the order is issued by the Commission, the building official shall file a copy of the order in the office of the City Secretary.

(C) *Order shall be published.* Within ten days after the date the order is issued by the Commission, the building official shall publish in a newspaper of general circulation within the city a notice containing:

- (1) The street address or legal description of the property;
- (2) The date the hearing was held;
- (3) A brief statement indicating the results of the order; and
- (4) Instructions stating where a complete copy of the order may be obtained.

(D) *Filing of order or abstract.* The order may be filed in the official public records of real property in Bell County. An abstract or judgment shall be ordered against all parties found to be the owners of the subject property or in possession of that property.

(Ord. 2011-07, passed 4-12-11)

§ 160.09 ENFORCEMENT OF THE ORDER OF THE COMMISSION.

(A) *Compliance.* If an order of the Commission under this chapter is not complied with, the city may take action. If the building is not vacated, secured, repaired, removed or demolished within the time specified by the order, the city may vacate, secure, repair, remove or demolish the building or relocate the occupants at its own expense, provided however:

- (1) The city may not act to remove or demolish a building until after the Commission has found:
 - (a) That such defects or conditions exist to the extent that the life, health, property or safety of the public or the occupants of the building are endangered; and
 - (b) The building is infeasible of repair, or there is no reasonable probability that the building will be repaired within a reasonable period of time if additional time is given.

(2) The city may only repair a building as provided herein to the extent necessary to correct the conditions which render the building dangerous, and may not act to repair a building unless:

- (a) The Commission has made a determination that the building is likely to endanger person or property; and
- (b) The building is a residential dwelling with ten or fewer dwelling units.

(3) In the event there are mortgagors or lienholders, the city may only repair, remove or demolish the building after allowing the lienholder or mortgagee an additional 30 days after the time prescribed in the order has expired to complete the required work.

(4) Unless specifically authorized by a court order or by a written agreement signed by all record owners, mortgagees and lienholders, the city may not act to remove or demolish a building during the pendency of any appeal to a court of competent jurisdiction of the Commission's order.

(B) *Posting of notice to vacate building.* If the order requires vacation or if compliance is not had within the time specified therein, the building official is authorized to require that the building be vacated. Notice to vacate shall be mailed by certified mail, return receipt requested to the occupant of the building and shall be posted at or upon each entrance to the building. The notice shall be in substantially the following form:

*SUBSTANDARD BUILDING

DO NOT ENTER

UNSAFE TO OCCUPY

It is unlawful to occupy this building or to remove or deface this notice.

The Harker Heights Building and Standards Commission has declared this building to be substandard. To obtain a copy of this order, contact the City Secretary at 305 Miller's Crossing, Harker Heights, Texas, (254) 953-5600.

Building Official

City of Harker Heights*

(C) *Remedial action by city.* Any repair or demolition work, or securing of the building shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided. Any surplus realized from the sale of such building, or from the demolition thereof, over and above the cost of demolition and cleaning of the lot, shall be paid over to the person or persons lawfully entitled thereto.

(D) *Permit required.* Any work of closure, repair, removal or demolition by the property owner or any lienholder or mortgagee or their agents must be performed pursuant to valid unexpired permits issued by the city. All permits issued pursuant to an order of the Commission shall expire upon expiration of the time for compliance set forth in the order.

(Ord. 2011-07, passed 4-12-11; Am. Ord. 2012-02, passed 2-14-12)

§ 160.10 PERFORMANCE OF WORK BY THE CITY.

(A) *Procedure.* When any work of repair, removal, demolition or securing is to be performed by the city, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.

(B) *Costs.* The cost of such work shall be paid from city funds and shall constitute a special assessment and a lien against such property to secure payment thereof together with 10% interest on such amount from the date on which the work is performed.

(C) *Repair to minimum standards only.* The city may repair the building at its own expense and assess the expenses on the land on which the building stands or is attached to only to the extent necessary to bring the building into compliance with the minimum standards set forth in § 160.04.

(Ord. 2011-07, passed 4-12-11)

§ 160.11 RECOVERY OF COST OF SECURING, REPAIR, REMOVAL OR DEMOLITION.

(A) *Itemized account and notice of lien.* The building official shall keep an itemized account of the expenses incurred by the city in the securing, repair, removal or demolition of any building pursuant to this chapter. Upon completion of the work, the building official shall prepare and file with the City Secretary a sworn account and notice of lien containing the following information:

- (1) The name and address of the owner if that information can be determined with a reasonable effort;
- (2) A legal description of the real property on which the building is or was located;
- (3) The type of work performed; and
- (4) The amount of expenses incurred by the city in performing the work and the balance due.

(B) *Notice filed in county records.* The City Secretary shall file the notice of lien along with a copy of the order of abatement issued by the Commission in the official public records of Bell County.

(C) *Personal obligation of property owner.* The expenses incurred by the city as set forth in the sworn account of the building official shall be a personal obligation of the property owner in addition to a priority lien upon the property.

(D) *Lien shall be valid and privileged.* Upon filing of the notice of lien in the official public records of Bell County, Texas, the lien shall be valid against the property so assessed. The lien shall be privileged and subordinate only to tax liens and existing special assessment liens, and shall be paramount to all other liens. The lien shall continue until the assessment and all interest due and payable thereon has been paid.

(E) *Assessment must be paid.* No utility service, building permit or certificate of occupancy shall be allowed on any such property until the assessment is paid and such lien is released by the city.

(F) *Release of lien.* After the expenses incurred by the city, as set forth in the sworn account of the building official, have been fully paid with interest of 10% per annum from the date the work was performed, the building official shall execute a release of lien which shall be filed in the official public records of Bell County.

(Ord. 2011-07, passed 4-12-11)

§ 160.12 ADDITIONAL AUTHORITY TO SECURE CERTAIN SUBSTANDARD BUILDINGS PRIOR TO PUBLIC HEARING AND SECURE, DEMOLISH, REPAIR OR REMOVE CERTAIN DANGEROUS BUILDINGS.

(A) *Securing of unoccupied, substandard building.* Notwithstanding any other provisions of this chapter the city may secure a building if the building official determines that the building:

- (1) Violates the minimum standards set forth in § 160.04; and
- (2) Is unoccupied or is occupied only by persons who do not have the right of possession to the building.

(B) *If building creates immediate danger.* Notwithstanding any other provisions of this chapter, if the Commission finds that a building is likely to immediately endanger persons or property the Commission may:

- (1) Order the owner of the building, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the dangerous part of the structure, within a specified time; or
- (2) Repair, remove, or demolish the structure, or the dangerous part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(C) *Notice to owner.* Before the eleventh day after the date the building is secured pursuant to division (A) above, or action is ordered pursuant to division (B)(1) above, or the building is repaired, removed or demolished pursuant to division (B)(2) above, the building official shall give notice to the owner by:

- (1) Personally serving the owner with written notice;
- (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- (3) Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county in which the building is located, if personal service cannot be obtained and the owner's post office address is unknown; or
- (4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown; and

(5) In addition to the above, depositing notice in the United States mail to all lienholders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the County Clerk.

(D) *Contents of notice.* The notice must contain:

(1) An identification (which is not required to be a legal description) of the building and the property on which it is located;

(2) A description of the violation of the minimum standards present in the building;

(3) A statement that the city will secure or has secured, as the case may be, the building, or that the city has taken or will take the action ordered pursuant to division (B); and

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing, removing, demolishing or repairing of the building.

(E) *Hearing.* The Commission shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing, repairing, removing or demolishing of the building, if, within 30 days after the date the city has taken action pursuant to divisions (B)(1) or (B)(2) of this section, the owner files with the city a written request for the hearing. The hearing shall be conducted within 20 days after the date the request is filed.

(F) *Expenses.* If the city incurs expenses under this section, such expenses incurred shall be a personal obligation of the property owner in addition to a priority lien upon the property, and costs shall be recovered as provided by § 160.10 and § 160.11.

(Ord. 2011-07, passed 4-12-11)

§ 160.13 VIOLATIONS.

(A) *Generally.* Except with the valid written permission of the building official, it shall be unlawful for any person to:

(1) Erect, construct or maintain any building that is deemed herein to be a nuisance;

(2) Use, occupy, enter, or remain in any building that is posted with a notice to vacate;

(3) Remove, damage or deface a notice to vacate posted under this chapter; or

(4) Cause or permit any act to be done in violation of any provision of this chapter.

(B) *Compliance with order.* It shall be unlawful for any person to whom an order of the Commission is directed to fail to comply with such order.

(C) *Interference prohibited.* It shall be unlawful for any person to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in the building which has been ordered repaired, vacated, demolished, removed or secured under the provisions of this chapter, or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building, or purchaser is engaged in the work of

repairing, vacating and repairing, or demolishing, removing or securing any such building pursuant to the provision of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.

(D) *Transfer of ownership.* No person may sell, transfer, mortgage, lease or otherwise dispose of a building or property that is the subject of a notice of substandard building, a citation, or an order of the Commission under this chapter until:

(1) The deficiencies noted in the notice, citation or order have been corrected and a new certificate of occupancy has been issued by the city; or

(2) The building official receives a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the notice, citation or order, and unconditionally accepting the responsibility for timely correcting the deficiencies noted therein.

(E) *Separate violations.* Each building or property which is in violation of any part of this chapter is a separate offense. Each violation in any building or property is a separate offense. Each and every day's violation shall constitute a separate and distinct offense.

(F) *Municipal court.* Proceedings under the jurisdiction of the municipal court are not affected by proceedings of the Commission or civil penalties under this chapter.

(Ord. 2011-07, passed 4-12-11)

§ 160.14 CIVIL PENALTY.

(A) *Civil penalty authorized.* In addition to any other enforcement authority provided for by law, and without regard to any criminal prosecution or conviction under this chapter, the Commission may at an administrative hearing assess a civil penalty by order against a property owner for failure to comply with an order issued by the Commission pursuant to this chapter.

(B) *Showing required.* The civil penalty may be assessed if it is shown at the administrative hearing that:

(1) The property owner was notified of the contents of the order issued pursuant to § 160.07; and

(2) The property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order.

(C) *Amount of penalty.* The civil penalty may be assessed in an amount not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 a day for each violation.

(D) *Notice of administrative hearing.* Not less than ten days prior to the date on which the administrative hearing is set, the property owner shall be sent a notice of the hearing by certified mail, return receipt requested. The notice shall contain:

(1) A copy of the order issued by the Commission pursuant to § 160.07.

(2) A statement that the building official has determined that the property owner committed an act in violation of that order, or failed to take an action necessary for compliance with that order;

(3) A statement that at the administrative hearing the Commission may assess a civil penalty not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owners' lawful homestead, in an amount not to exceed \$10 a day for each violation; and

(4) Notice of the time and place of the hearing.

(E) *Copy of order filed with district clerk.* After the civil penalty is assessed, the City Secretary shall file with the Bell County District Clerk a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty.

(F) *Enforcement.* The civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this division is final and binding and constitutes prima facie evidence of the penalty in any suit.

(Ord. 2011-07, passed 4-12-11)

§ 160.15 AUTHORITY NOT LIMITED.

Notwithstanding all other provisions of this chapter, nothing herein shall be deemed a limitation on the duty of the city to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of such building or structure is necessary to the protection of life, property or general welfare of the people in the city.

(Ord. 2011-07, passed 4-12-11)

§ 160.16 AUTHORITY OF CITY ATTORNEY.

The City Attorney may without further authorization of the City Council undertake the enforcement of this chapter by all legal means appropriate or necessary, including but not limited to: enforcement in municipal court; filing a notice of *lis pendens* in the official public records of Bell County; filing of appropriate civil actions in courts of appropriate jurisdiction to seek compliance with an order made under this chapter, to collect a civil penalty, or recover costs as provided by this chapter; to appointment of a receiver as provided by Local Government Code Chapter 214; and to defend the city from suit if suit is taken to appeal any action of the city.

(Ord. 2011-07, passed 4-12-11)