

ORDINANCE NO. O-2020-0020

AN ORDINANCE OF THE CITY OF LA MARQUE, TEXAS, AMENDING CHAPTERS 14, BUILDINGS AND BUILDING REGULATIONS, AND 29, FIRE PREVENTION AND EMERGENCY SERVICES, OF THE CODE OF ORDINANCES BY ADOPTING THE 2018 EDITIONS OF THE INTERNATIONAL FIRE CODE, BUILDING CODE, RESIDENTIAL CODE, PROPERTY MAINTENANCE CODE, PLUMBING CODE, ENERGY CONSERVATION CODE, MECHANICAL CODE, FUEL GAS CODE, EXISTING BUILDING CODE, PRIVATE SEWAGE DISPOSAL CODE, SWIMMING POOL AND SPA CODE AS PUBLISHED BY THE INTERNATIONAL CODE COUNCIL; ADOPTING THE 2017 EDITION OF THE NATIONAL ELECTRICAL CODE AS PUBLISHED BY THE NATIONAL FIRE PROTECTION ASSOCIATION; ADDING LOCAL AMENDMENTS TO THE ADOPTED CODES; ESTABLISHING THE BOARD OF ADJUSTMENTS AS THE BOARD OF APPEALS FOR THESE ADOPTED CODES; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00 AS PROVIDED BY SECTION 1-7 OF THE CODE OF ORDINANCES; MAKING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS:

SECTION 1. That Article II, "Building Code," of Chapter 14, "Buildings and Building Regulations," of the City of La Marque Code of Ordinances ("City Code") is hereby amended to read as follows:

"ARTICLE II. - CONSTRUCTION CODES

Sec. 14-21. - Adopted Construction Codes

The following codes are adopted as the "Building Code" of the City of La Marque, pursuant to Chapters 214 and 54 of the Texas Local Government Code:

- (a) International Building Code, 2018 edition, including appendices C, E, F, G and J
- (b) International Residential Code, 2018 edition, including appendices A through K, and M through S;
- (c) International Energy Conservation Code, 2018 edition;
- (d) International Fuel Gas Code, 2018 edition;
- (e) National Electric Code, 2017 edition;
- (f) International Mechanical Code, 2018 edition, including appendix A;
- (g) International Plumbing Code, 2018 edition, including appendices B through E;
- (h) International Property Maintenance Code, 2018 edition;
- (i) International Existing Building Code, 2018 edition;
- (j) International Private Sewage Disposal Code, 2018 edition; and
- (k) International Swimming Pool and Spa Code, 2018 edition;

as published by the International Code Council, Inc. and the National Electrical Code as published by the National Fire Protection Association.

Sec. 14-22. - Conflicts

If there is a conflict between any section of this ordinance and a section of any code adopted by this ordinance or any other section of City Code, the most stringent

standard shall apply. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

Sec. 14-23. - Stop Work Order; Penalty for violations of article.

Any person violating any of the provisions of this article shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined in an amount not to exceed \$2,000.00 per day per occurrence of the violation. Each day in which a violation shall occur or continue shall constitute a separate offense.

Any provision contained in a code adopted by this Article referencing a penalty for violation of a stop work order is amended to provide as follows: Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined in an amount not to exceed \$2,000.00 per day per occurrence of the violation. Each day in which a violation shall occur or continue shall constitute a separate offense.

Sec. 14-24. - Building Standards Commission.

The City of La Marque adopts the provisions of Local Government Code Chapter 54 of the State of Texas and subchapter C thereof, which is entitled "Quasi-Judicial Enforcement of Health and Safety Ordinances of Home-Rule Municipality," and does declare the implementation of that subchapter and the creation of the building and standards commission which shall be composed of five members and a number of alternate members not to exceed eight. In addition, the commission shall have such powers, duties and responsibilities as shall be from time to time provided for and delegated to the City of La Marque by the Legislature of the State of Texas, it being the intent of the City of La Marque to fully implement subchapter C of chapter 54 of the Local Government Code as well as any other commission, officer or legal authority as provided for under the provisions of state law such powers, privileges and rights as may be from time to time provided for by the Legislature of the State of Texas without restriction of limitation. The council member representing district "A" shall serve as an ex-officio non-voting member of the building and standards commission, and shall be allowed to sit at the dais with the commission.

Sec. 14-25. - Board of Appeals.

Notwithstanding any other provision to the contrary in any code adopted in this Article and regardless of any requirements for the members of the Board of Appeals in any such code adopted in this Article, the Board of appeals shall be the Board of Adjustment for all codes adopted by this Article. Notwithstanding any provision to the contrary contained in any code adopted in this Article, any person aggrieved by a decision of a person designated by the City Manager to enforce a code adopted by this Article may file an appeal to the Board of Adjustment. An application for appeal shall be based on a claim that the true intent of the code adopted by this Article, has been incorrectly interpreted, the provisions of the code do not fully apply, or the requirements of the code are adequately satisfied by other means. and must be filed in writing with the City Clerk within 30 days of the decision being appealed.

Sec. 14-26. - Registration requirements for contractors.

The following requirements shall be applicable to all mechanical, plumbing, electrical, and general contractors performing work within the city:

- (a) *Administrative fee.* All contractors shall be required to register with the city and, except for plumbers and electricians licensed under Texas Occupations Code chapter 1301, pay an annual administrative fee for such registration prior to undertaking work within the city limits. The registration fee shall be an amount established by city council in the schedule of fees on file with the City Clerk. "Contractor" shall be defined as a person, other than a homeowner, who is required to obtain a permit from the city before beginning construction or repair work on any residence or commercial establishment within the city limits. All contractors shall complete a registration form provided by the city and provide copies of all the documents listed below, as well as any other documentation requested by the city. Failure to provide this information, or update same, shall constitute cause for revocation of such registration.
- (b) *License.* Proof of the following specific licenses shall be required of each type of contractor, each of which shall be issued by, and in accordance with, the laws of the State of Texas:
 - (1) Mechanical—Mechanical license.
 - (2) Plumbing—Plumbers' license.
 - (3) Electrical—Master electrician's license.
 - (4) General—No license required.
- (c) *Insurance.* No permit shall be issued for any general or building contracting working, as such work is defined within the International Building Code, adopted in section 14-21, until the general or building contractor or his employer shall have arranged to carry the following insurance:
 - (1) Worker's compensation insurance in accordance with applicable law;
 - (2) Public liability insurance to the extent of \$50,000.00 for any one accident, and \$100,000.00 for any one person; and
 - (3) Property damage insurance to the extent of \$10,000.00 for any one accident, and \$100,000.00 in the aggregate.Such insurance shall be written by an accredited company under the supervision of the board of insurance commissioners of the state. Evidence of compliance with the insurance requirements of this section shall be considered as having been met when the policy, a copy thereof, or a certificate of insurance has been filed with and approved by the building official of the city. Such policy shall include an endorsement thereon that the building official will be notified at least ten days in advance in the event of the policy being cancelled or expiring before the expiration date of the license.

Sec. 14-27. - Local Amendments to Adopted Construction Codes

- (a) *Building Code Amendments.* The following revisions are made to the building code adopted in Section 14-21 of this Article.

Section 103, Department of Building Safety, is deleted in its entirety.

Section 104.8, Liability is deleted in its entirety.

Section 105.2, Work Exempt From Permit, is amended to delete the following subsections from the "Building" category so that a building permit is required for all fences (commercial only), accessory structures, sidewalks, and driveways:

1. One-story detached *accessory structures* used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 m²).
2. Fences not over 7 feet (2134 mm) high.
6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.

Section 113, Board of Appeals, is deleted in its entirety.

Section 1612.3, Establishment of Flood Hazard Areas, is amended to read as follows: Flood Hazard Areas shall be those established by City Code Chapter 32, Flood Damage Prevention.

- (b) *Residential Code Amendments.* The following revisions are made to the residential code adopted in Section 14-21 of this Article.

Section R103, Department of Building Safety, is deleted in its entirety.

Section R104.8, Liability, is deleted in its entirety

Section R105.2, Work Exempt From Permit, is amended to delete the following subsections from the "Building" category so that a building permit is required for all accessory structures, sidewalks and driveways (provided, however, uncovered residential decks and patios that are not made of concrete and that are not connected to an exterior doorway are not required to obtain a permit prior to construction):

1. One-story detached *accessory structures* used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet (18.58 m²).
5. Sidewalks and driveways.

Section R112, Board of Appeals, is deleted in its entirety.

Table R301.2(1), is amended by adding the following requirement: wind design speed shall be the higher of that required in the adopted building codes of the City of La Marque, or that required by the Texas Insurance Code or other applicable state law, but in no event less than 138 miles per hour.

Section P2603.5.1, Sewer Depth, insert: twelve inches (12") and twelve inches (12"), respectively.

(c) *Energy Conservation Code Amendments.* The energy conservation code adopted in Section 14-21 of this Article shall be amended to conform to that adopted by the State of Texas or pursuant to applicable state law.

(d) *Fuel Gas Code Amendments.* The following revisions are made to the fuel gas code adopted in Section 14-21 of this Article.

Section 103, (FGC) Department of Inspection, is deleted in its entirety.

Section 106.6.2 and 106.6.3, Fee Schedule and Fee Refunds, are amended to read as follows: The fees for work shall be paid in accordance with the fee schedule adopted by the City Council and amended from time to time.

Section 109, Means of Appeal, is deleted in its entirety.

(e) *National Electrical Code Amendments.* Reserved.

(f) *Mechanical Code Amendments.* The following revisions are made to the mechanical code adopted in Section 14-21 of this Article.

Section 103.4, Liability, is deleted in its entirety.

Section 106.5.2, Fee Schedule, is amended to read as follows: The fees for work shall be paid in accordance with the fee schedule adopted by the City Council and amended from time to time.

Section 109, Means of Appeal, is deleted in its entirety.

(g) *Plumbing Code Amendments.* The following revisions are made to the plumbing code adopted in Section 14-21 of this Article.

Section 103, Department of Plumbing Inspection, is deleted in its entirety.

Section 106.6.2 and 106.6.3, Fee Schedule and Fee Refunds, are amended to read as follows: The fees for work shall be paid in accordance with the fee schedule adopted by the City Council and amended from time to time.

Section 109, Means of Appeal, is deleted in its entirety.

Section P305.6.1, Sewer Depth, insert: twelve inches (12") and twelve inches (12"), respectively.

Section P903.1, Roof Extensions, insert: twelve inches (12").

(h) *Property Maintenance Code Amendments.* The following revisions are made to the property maintenance code adopted in Section 14-21 of this Article.

Chapter 1 is replaced with Exhibit A attached to this ordinance and incorporated herein by reference showing amendments and deletions to that chapter in accordance with Chapters 214 and 54 of the Texas Local Government Code and local amendments to this adopted code.

Section 302.4, Insert: six inches (6").

Section 303.1, is amended to read as follows: Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. Swimming pools containing water that is black or green in color, or that contain algae or other plants shall be deemed unsanitary.

Section 304.14, is amended to require ventilation screens year round.

Section 602.3, insert: November 1, February 28.

Section 602.4, Insert: November 1, February 28.

- (i) *Existing Building Code.* The following revisions are made to the existing building code adopted in Section 14-21 of this Article.

Section 103, Department of Building Safety, is deleted in its entirety.

Section 104.8, Liability, is deleted in its entirety.

Section 112, Board of Appeals, is deleted in its entirety.

Section 1401.2, Effective Date, insert: January 1, 2021.

- (j) *Private Sewage Disposal Code.* The following revisions are made to the private sewage disposal code adopted in Section 14-21 of this Article.

Section 103, Department of Private Sewage Disposal Inspection, is deleted in its entirety.

Section 106.4.2 and 106.4.3, Fee Schedule and Fee Refunds, are amended to read as follows: The fees for work shall be paid in accordance with the fee schedule adopted by the City Council and amended from time to time.

Section 109, Means of Appeal, is deleted in its entirety.

Section 405.2.5, insert: such date as prescribed by TCEQ regulations.

Section 405.2.6, insert: such date as prescribed by TCEQ regulations.

- (k) *Swimming Pool and Spa Code.* The following revisions are made to the swimming pool and spa code adopted in Section 14-21 of this Article.

Section 103, Department of Building Safety, is deleted in its entirety.

Section 105.6.2 and 105.6.3, Fee Schedule and Fee Refunds, are amended to read as follows: The fees for work shall be paid in accordance with the fee schedule adopted by the City Council and amended from time to time.

Section 108, Means of Appeal, is deleted in its entirety.

Sec. 14-28. - Bulkhead Design and Construction Requirements.

- (a) Before any design drawings or plans of a bulkhead or similar structure in the city are used or construction is begun, they shall first be approved by the City code official.

- (b) The design of all bulkheads shall be performed by a licensed professional engineer. If any portion of the bulkhead design, materials or construction techniques deviate from the minimum standards and specifications contained within this division, the plans must be performed and sealed by a registered professional engineer, and the engineering design shall include, where applicable, a subsurface soils investigation report indicating classifications, stratifications, and the design characteristics of the soils.
- (c) All bulkheads installed in the city must be inspected for compliance with all rules and regulations and requirements by the City code official during installation of sheet piling, filter cloth, tie rod and anchor (deadman), and backfilling. Should the contractor fail to notify the City code official to complete the aforementioned inspections, the City code official will require the work to be uncovered at the contractor's expense so that these inspections can be made.
- (d) All commercial and residential developments in the city adjacent to the water must install suitable bulkhead along the banks the entire length of the property shoreline. The bulkheads shall be designed and installed in such manner as to ensure proper soil and land retention and the effective reduction of storm damage and erosion.
- (e) In the design of bulkheading for the city, the foundation and backfill conditions, the exposure to wave action and scour, regulatory floods and the type of materials shall all be taken into consideration. The plans shall be submitted to the city for approval prior to construction of any bulkheads and shall be certified by a licensed engineer.
- (f) Proper construction procedures shall be followed at all times in the driving and placing of bulkheading in the jurisdiction of the city. Furthermore, care should be taken to ensure that damage does not occur to or result from the driving procedures of the piles or the sheet piling used in the bulkhead. Any piling so damaged shall be removed and replaced.
- (g) All bulkhead sheet piling shall be driven at least 50 percent of its length below the mud line.
- (h) A suitable waterproof sheeting called filter cloth shall also be placed in the entire length and height of the bulkhead prior to backfilling of material.
- (i) All bulkheads shall be constructed with tie-back anchor rods. Such rods shall be a minimum three-quarter-inch diameter galvanized steel spaced on maximum six feet centers. Rods shall be continuous without lap welds, couplings or turnbuckles.
- (j) Each tie-back rod shall be attached to a separate reaction anchor pile or to a horizontally aligned treated timber deadman. Such reaction pile or deadman shall be located behind a minimum distance of one and one-half times the sheet pile length.

- (k) A reaction pile shall be a minimum six inches by six inches square or seven inch diameter, treated timber pile equal in length to the sheet piling, driven a minimum distance of 70 percent of its length into undisturbed soil.
- (l) A treated timber deadman shall be a minimum eight inches by ten inches square.
- (m) The tops of the deadman or reaction pile shall be a minimum of three feet below finished grade.
- (n) The following criteria shall apply to timber bulkheads:
 - (1) All lumber used which will be below normal high tide level shall be of 2.5 treated type (CCA Type C Saltwater Treatment).
 - (2) The sheet piling shall be driven at least 50 percent of its length below the mud line.
 - (3) The outboard piling at the face of the bulkhead will be driven a minimum of four feet below the bottom of the timber sheets on maximum six feet spacing.
 - (4) Sheet piling shall be a minimum two inch thick, tongue and groove sheeting.
 - (5) Outboard piles shall be a minimum six inch treated timber. Timber wales on wooden bulkheads are to be placed outside of sheet piling at a minimum of two locations. one at the top of sheeting and the other two-thirds of the distance from the top to the mud line. Wales are to be placed behind water piles as shown in detail "A". three wales will be required when exposure of wood exceeds six feet.
- (o) All nails, screws and bolting used in the construction of the bulkheads shall be galvanized.
- (p) The following criteria shall apply to concrete bulkheads:
 - (1) The sheet piling shall be driven at least 50 percent of its length below the mud line.
 - (2) The sheet piles shall be minimum of six inches thick and maximum of six feet wide precast tongue and groove sheets.
 - (3) The concrete and structural design of the sheets and cap shall conform to the Concrete subsection under section 14-309 of this division.
 - (4) Filter cloth is recommended for full width installation behind the wall. An acceptable alternate method of sealing joints is to place a thick layer 12 inches wide by four-inches minimum thickness) of high strength concrete grout behind each joint from bottom of cap to mud line.

Sec. 14-29. - Bulkhead Materials.

- (a) *Wood.* Wood used in the construction of bulkheads must be marine-grade and shown on the submitted plans as the construction material for the applicable part(s) of the bulkhead and the material requirements listed on the submitted plans or the

manufacturers specifications must be submitted with the plans for approval by the City code official.

- (b) *Connectors*. Timber bulkheads often fail because of corrosion, abrasion, fatigue of metal connections or because of abrasion of the wood by loose connectors and not as a result of deterioration of the wood members. For marine exposure, all hardware should be galvanized and the following minimum sizes used:

In or Below Splash Zone

Bolts, 1 inch diameter

Plates, 0.5 inch thickness

Washers, Ogee (standard size to fit bolt)

Above Splash Zone

Bolts, 0.75 inch diameter

Plates, 0.375 inch thickness

Washers, 0.25 inch plate (Ogee optional)

In general, the exposure of bolts to the atmosphere should be reduced to a minimum by using only one washer or plate per unit. Adjacent timbers shall be in contact with the bolt to prevent exposure. Bolt holes shall not exceed the diameter of the bolt by more than 0.062 inches. Drift bolts or spiral bolts shall have a driving fit. Washers shall bear evenly and fully on the timber, and where the axis of the bolt is not perpendicular to the face of the timber, beveled plates or washers shall be used.

- (c) *Concrete*. All concrete material shall conform with, and the structures be constructed in accordance with, engineering and manufacturer's specifications. The ultimate compressive strength of concrete shall in no case be less than 3,000 pounds per square inch at 28 days of age. The allowable stress shall not exceed 33 percent using the ultimate strength design criteria. Special care shall be taken in the concrete construction to prevent and reduce the number of voids in the surfaces and between the joints of the concrete. Additionally, all reinforcing steel must be sufficiently covered a minimum of two inches to prevent salt water from reaching the steel. The minimum steel reinforcement in concrete panels shall be shown in Table II.
- (d) *Steel*. The use of steel bulkheads is not allowed in the city. Structural steel is extremely susceptible to corrosion in coastal environments and its use is therefore limited. All steel materials shall be coated after fabrication on all surfaces that have been cut or have had their protective coating damaged. All anchoring devices including nails, spikes and bolts shall also be hot dipped galvanized or suitably protected against corrosion.

- (e) *Aluminum.* Aluminum bulkheads may be used in the city. However, a suitable structural marine alloy content in the base metal or application of preservative coating resistant to seawater and a wide range of hydrogen such as 5052 aluminum shall be used. As with the other bulkheads, care must be taken in driving aluminum piling to ensure damage does not occur or the structural integrity is not damaged as determined by the building official. However, the piles must be driven by a conventional driving hammer to the final depth where the required resistance is obtained. As in the case of the other pile materials, a suitable structural top cap must be added to the aluminum sheet pile structure after completion, Also, a rigid structural connection of the panels, to prevent displacement, must be utilized.
- (f) *PVC plastic sheet piling.* The use of PVC plastic sheeting piling may be used in the city. Installation shall be by jackhammer, pile driver, backhoe or water jet. Installation by a vibratory compactor may be used if approved by the building official. A suitable structural top cap must be added to the PVC plastic sheet pile structure after completion. A rigid structural connection of the panels, to prevent displacement, must be utilized. The PVC plastic must be either deep-V or box-ribbed configuration meeting the minimum specifications listed in Table III.
- (g) *Tie rods.* Minimum one three-quarter-inch diameter galvanized steel bars of ASTM A615, Grade 60 reinforcement bars or ASTM A36 steel shall serve to anchor the top of the sheet piling to the reaction pile or anchor.

TABLE I

Bulkhead Specifications		
<i>Pilings</i>		
Treatment	no less than	CCA 2.5
Size	no less than	6" × 6" × 12' or 8" × 12' Butts
Penetration	no less than	60%
Spacing	no less than	5' on center
<i>Stringers (Outside)</i>		
Treatment	no less than	CCA 2.5
Size	no less than	3" × 8" rough

Placement	(1) no more than 2' space between top stringers and center	
	(2) shelf level for bottom stringers	
<i>Stringers (Inside—Facia Board)</i>		
Treatment	no less than	CCA 2.5
Size	no less than	2" × 8"
<i>Centermatch</i>		
Treatment	no less than	CCA 2.5
Size	no less than	2" × 10" × 10'
Penetration	no less than	35%
<i>Deadman or tieback specifications</i>		
Size	no less than	8" × 8" × 10'
Depth	no less than	3'
Length	no less than	12'; provided, however, when the home foundation is located within 12' of the water line as it currently exists, length may be reduced to no less than 10'
Rods	no less than	3/4" material galvanized
Sucker Rods	no less than	1" × 20' w/10" augers galvanized
All deadman should be put in horizontally no less than 12 feet back from water line.		

TABLE II

Height Above Mud Line (Exposure) Feet	Minimum Length of Panel	Horizontal and Vertical Reinforcing
7' or less	Height × 2	#5 bars @ 6" O.C.
6' or less	Height × 2	#4 bars @ 6" O.C.
5' or less	Height × 2	#4 bars @ 7.5" O.C.
4' or less	Height × 2	#4 bars @ 7.5" O.C.

Greater than 7 feet: Provide engineering design and certification.

TABLE III

Physical properties	Unit	Box-ribbed	Deep-V
Material		Vinyl	Vinyl
Weight	lb/ft.	1.8	1.8
Thickness	in	0.2	0.2
Linear coverage/sheet	in	10.5	12.0
Depth of cross section	in	6.0	3.0
<i>Mechanical properties</i>	<i>Unit</i>	<i>Box-ribbed</i>	<i>Deep-V</i>
Tensile strength	lb/in ²	6,300	6,300
Flexural strength	lb/in ²	13,000	13,000
Flexural modulus	lb/in ²	380,000	380,000
Section modulus	in ³ /ft	6.1	1.5
Moment of inertia	in ⁴ /ft	19.3	2.2
Maximum moment	lb.ft	3,600	900

Allowable moment	lb.ft	1,200	300
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Sec. 14-30. - Article not to affect any suit.

Nothing in this Article or in the building codes hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance previously adopted or repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.

Sec. 14-31. - Reference.

Any reference throughout the City Code to "fire code," "construction code," or "building code" shall reference all applicable codes adopted by this Article and the Fire Code adopted in Chapter 29 of the City Code, including any local amendments to these adopted codes. Any reference in a code adopted by this Article to "name of jurisdiction" or "authority having jurisdiction" shall mean the City of La Marque, Texas.

Sec. 14-32. - Connection to sewer required.

- (a) *Connection with city sewer system generally.* Every building in which plumbing fixtures are installed shall have a connection to a public sewer. An approved private sewage disposal system may be used only when there is no public sewer line located within 1000 feet of the property line; provided, however, private sewage disposal systems shall not be allowed for properties being subdivided or for which a more intense use is being requested. The drainage system of each new building and of new work installed in existing buildings shall be separate and independent from that of any other building and when available shall have an independent connection with a public sewer. When one building stands in the rear of another building, on an interior lot and these buildings are on one parcel of land under one owner, then the building sewer may be extended to serve the rear.
- (b) *Owner must connect to sewer.* Every owner or occupant of any building or dwelling within the city where such building or dwelling shall contain a water closet or privy and which building or dwelling is within 500 feet of a public sewer shall be connected with such public sewer within 120 days after notice of sewer availability by the city. Sewer service charges will commence automatically after 120 days. In all cases where a privy or water closet is now or may hereafter be connected with the public sewer system, the owner controlling the same or his agent shall cause such privy or closets to be supplied with water for flushing which shall be delivered from a tank or flush valve; and said tank shall be approved by the International Plumbing Code."

SECTION 2. That Articles III - IX of Chapter 14, "Buildings and Building Regulations," of the City Code, including all subsections, are hereby deleted in their entirety.

SECTION 3. That Article I, "In General," of Chapter 29, "Fire Prevention and Emergency Services," is hereby amended to read as follows:

"ARTICLE I. - IN GENERAL

Sec. 29-1. - Fire code adopted.

The 2018 edition of the International Fire Code and Appendix chapters C and D, H and I, as published by the International Code Council, a current copy of which is on file with the office of the city clerk, is hereby adopted as the fire code of the city as if fully set out in this section, with the additions, insertions, deletions and changes prescribed this Article, and declared operative and binding within the corporate limits of the city.

Sec. 29-2. - Conflicts.

If a section of the International Fire Code conflicts with any other requirement of an adopted code or other city ordinance, the most restrictive section shall control.

Sec. 29-3. - Penalties for violation of fire code.

Any person, firm, or corporation violating the terms of the fire code shall be guilty of a misdemeanor and punished by a fine up to \$2,000.00. Each day that any violations of, or failure to comply with, this article is committed or permitted to continue shall constitute a separate and distinct offense under this section.

Sec. 29-4. - Board of Appeals.

Notwithstanding any other provision to the contrary in any code adopted in this Article and regardless of any requirements for the members of the Board of Appeals in any such code adopted in this Article, the Board of appeals shall be the Board of Adjustment for all codes adopted by this Article. Notwithstanding any provision to the contrary contained in any code adopted in this Article, any person aggrieved by a decision of a person designated by the City Manager to enforce a code adopted by this Article may file an appeal to the Board of Adjustment. An application for appeal shall be based on a claim that the true intent of the City's fire code has been incorrectly interpreted, the provisions of the code do not fully apply, or the requirements of the code are adequately satisfied by other means. and must be filed in writing with the City Clerk within 30 days of the decision being appealed.

Sec. 29-5. - Local amendments to fire code.

The following sections of the code adopted in Section 29-5 are hereby revised.

Sections 103.1, 103.3, and 103.4, 103.4.1 are deleted in their entirety.

Section 103, is amended to read as follows: The fire code official shall be the fire marshal or the fire chief's designee in the absence of a fire marshal or a vacancy in the fire marshal's position.

Section 109, Board of Appeals, is deleted in its entirety.

Section 110.4, is amended in its entirety and replaced by Section 29-5(c) of the City of La Marque Code of Ordinances

Section 112.4, is amended by inserting "fines in accordance with Section 29-5(c) of the City of La Marque Code of Ordinances."

Section 307.2.1, is amended to read as follows: No person shall burn or allow on property they own, lease or have custody and control over, including through use of contractor or agent, the burning of any rubbish, trash, waste, leaves, weeds, grass, lumber, or any other combustible materials within the City unless the person has first received a permit for such open burning from the fire code official.

Section 903.2.8, is amended to read as follows: An *automatic sprinkler system* installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R *fire area*, including multi-family structures, *townhouses, tri-plex* and *quadplex (fourplex)* apartments, when they contain three or more dwelling units. This section shall not apply to detached one- and two-family dwelling units or units separated by a fire wall when the design of the units and fire wall is approved by the building official in writing in response to submittal of complete construction plans.

Section 5704.2.9.6.1, insert: in accordance with City Code, Texas Railroad Commission, or Texas Commission on Environmental Quality Rules where applicable.

Section 5706.2.4.4, insert: in accordance with City Code, Texas Railroad Commission, or Texas Commission on Environmental Quality Rules where applicable.

Section 5806.2, insert: in accordance with City Code, Texas Railroad Commission, or Texas Commission on Environmental Quality Rules where applicable.

Section 6104.2, insert: in accordance with City Code, Texas Railroad Commission, or Texas Commission on Environmental Quality Rules where applicable

Appendix C is amended as follows.

Section C102.1 is amended to read: One fire hydrant shall be required every 500 feet for residential development, uses or subdivisions when applied to public streets or other fire apparatus access road. One fire hydrant shall be required every 300 feet for all non-residential developments, uses or subdivisions, including but not limited to multi-family uses containing three or more dwelling units, when applied to public streets or other fire apparatus access road.

Table C102.1 is deleted in its entirety.

Section C103.1 is amended to read as follows: The minimum number of fire hydrants available to a building shall comply with Section 102.1; provided, however, all points on public streets and fire apparatus access roads adjacent to a building shall be within 250 feet or additional hydrants shall be required. Further, in addition to the number of required hydrants provided in this Section and Section 102.1, an additional hydrant shall be required for every 4,000 square feet of floor area unless a standpipe or automatic sprinkler system is installed throughout the building.

Sections C103.2 and C103.3 are deleted in their entirety.

Appendix D is amended as follows.

Section D103.3 is amended to read: The minimum turning radius shall be 25 feet; provided, however, the fire code official may require additional turning radius based on geographic conditions or fire apparatus access road layout, configuration or construction."

SECTION 4. That Section 29-41, "Fire Lanes," of the City Code is hereby deleted in its entirety.

SECTION 5. Effective Date and Publishing. This ordinance shall be effective upon the later of: (i) January 1, 2021 or, (ii) adoption, public hearing in accordance with Section 2.19 of the City Charter, and publication of this ordinance or a caption that summarizes the purpose of this ordinance and the penalty for violating this ordinance in accordance with Chapter 52 of the Texas Local Government Code and Article II of the City Charter.

SECTION 6. Conflict and Repeal. This ordinance is intended to be cumulative and shall not repeal any previous ordinances except to the extent of an irreconcilable conflict.

SECTION 7. Severability. In the event any clause, phrase provision, sentence, or part of this ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this ordinance as a whole or any part of the same, notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, AND APPROVED by the City Council of the City of La Marque on First Reading this _____ day of December 2020; and

PASSED, APPROVED, AND ADOPTED by the City Council of the City of La Marque on Second and Final Reading this ____ day of December 2020.

CITY OF LA MARQUE, TEXAS

Bobby Hocking, Mayor

ATTEST:

Robin Eldridge, TRMC, City Clerk

APPROVED AS TO FORM:

Derra Leigh Purnell, City Attorney

EXHIBIT A
LOCAL AMENDMENTS TO CHAPTER 1 OF THE INTERNATIONAL PROPERTY
MAINTENANCE CODE

(This chapter to replace chapter 1 of the IPMC in all field manuals and official City copies)

CHAPTER 1
SCOPE AND ADMINISTRATION
PART 1 — SCOPE AND APPLICATION

SECTION 101
GENERAL

[A] 101.1 Title. These regulations shall be known as the *International Property Maintenance Code* of the City of La Marque (the “City”), including any additions, deletions, or changes, hereinafter referred to as “this code.”

[A] 101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of *owners*, *owner’s authorized agent*, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

[A] 101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

[A] 101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102
APPLICABILITY

[A] 102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code or a section of this code and another requirement of the City specify different requirements, the most restrictive shall govern.

[A] 102.1.1 Treatment of Apartment Complexes For the purposes of this code, an apartment complex shall be treated as a single structure if common areas fail to be maintained in violation of the International Property Maintenance Code, as adopted and amended by the city. All other buildings on the same premises of an apartment complex shall be treated as a single structure. Common stairwells and walkways of each building shall be common areas for purposes of this code.

[A] 102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner*, *owner’s authorized agent*, *operator* or *occupant* shall cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from

or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* authorized agent shall be responsible for the maintenance of buildings, structures and *premises*.

[A] 102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code* or any other requirement of the City.

[A] 102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe and insanitary.

[A] 102.5 Workmanship. Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer's instructions.

[A] 102.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the *building official* to be safe and in the public interest of health, safety and welfare.

[A] 102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

[A] 102.7.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

[A] 102.7.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

[A] 102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *building official*.

[A] 102.9 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

[A] 102.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 — ADMINISTRATION AND ENFORCEMENT

SECTION 103

~~DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION~~ BUILDING OFFICIAL, DEPUTIES, LIABILITY, AND FEES

~~[A] 103.1 General.~~ The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the *building official*.

[A] 103.2 Appointment. The *building official* shall be appointed by the ~~chief appointing authority~~ City Manager of the jurisdiction. The term “building official” as used in this code shall refer to the City official or officials designated by the City Manager to enforce and administer this code or any requirements thereof.

[A] 103.3 Deputies. In accordance with the prescribed procedures of ~~this jurisdiction~~ the City and with the concurrence of the appointing authority, the *building official* ~~shall have the authority to~~ may appoint a deputy(s). Such employees shall have powers as delegated by the *building official*.

~~[A] 103.4 Liability.~~ The *building official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

[A] 103.4.1 Legal defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

[A] 103.5 Fees. The fees for activities and services performed ~~by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule. [JURISDICTION TO INSERT APPROPRIATE SCHEDULE.]~~ under this code shall be as provided by the adopted fee schedule of the City.

SECTION 104

DUTIES AND POWERS OF THE BUILDING OFFICIAL

[A] 104.1 General. The *building official* is hereby authorized and directed to enforce the provisions of this code. The *building official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

[A] 104.2 Inspections. The *building official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *building official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

[A] 104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *building official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *building official* is authorized to enter the structure or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *building official* shall present credentials to the *occupant* and request entry. If such structure or *premises* is unoccupied, the *building official* shall first make a reasonable effort to locate the *owner*, *owner's authorized agent*, or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused, the *building official* shall have recourse to the remedies provided by law to secure entry.

[A] 104.4 Identification. The *building official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

[A] 104.5 Notices and orders. The *building official* shall issue all necessary notices or orders to ensure compliance with this code.

[A] 104.6 Department records. The *building official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 105 APPROVAL

[A] 105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* authorized agent, provided the *building official* shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

[A] 105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *building official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not *approved*, the building official shall respond in writing, stating the reasons the alternative was not *approved*.

[A] 105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

[A] 105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

[A] 105.3.2 Test reports. Reports of tests shall be retained by the *building official* for the period required for retention of public records.

[A] 105.4 Used material and equipment. The use of used materials that meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and *approved* by the *building official*.

[A] 105.5 Approved materials and equipment. Materials, equipment and devices *approved* by the *building official* shall be constructed and installed in accordance with such approval.

[A] 105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

SECTION 106 VIOLATIONS

[A] 106.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

[A] 106.2 Notice of violation. The *building official* shall serve a notice of violation or order in accordance with Section 107; except, citations shall be issued and notice of citation provided in accordance with state law.

[A] 106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 or issued citation shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *building official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

[A] 106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] 106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the ~~legal officer of the jurisdiction~~ city attorney or other counsel retained by the City from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

SECTION 107 NOTICES AND ORDERS

[A] 107.1 Notice to person responsible. Whenever the *building official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the ~~person responsible for the violation~~ owner as

specified in this code and identified in accordance with section 107.1.1. ~~Notices for condemnation procedures shall also comply with Section 108.3.~~

[A] 107.1.1 Owner for purposes of this section. All notices shall be sent to the *owner* of the affected premises or structure, who shall be identified by a diligent search of the following records:

1. county real property records of the county in which the building is located;
2. appraisal district records of the appraisal district in which the building is located;
3. records of the secretary of state;
4. assumed name records of the county in which the building is located;
5. tax records of the municipality; and
6. utility records of the municipality.

[A] 107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* or owner's authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

[A] 107.2.1 Additional requirements for notice of unsafe structure. In addition to the form prescribed in Section 107.2, notice of an *unsafe structure* shall include:

1. the date of the scheduled public hearing; or a copy of the board of appeals or municipal court determination and order;
2. a statement that the owner will be required to submit at the hearing proof of the scope of any work that may be required to comply with this code and city ordinances and the time it will take to reasonably perform the work; and
3. a statement that the city may take the actions ordered if the owner does not complete those actions prior to the deadline imposed at the public hearing, which may be 30 days from the date of the public hearing.

[A] 107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified ~~or first class~~ mail, return receipt requested, addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

[A] 107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the *building official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *building official*.

[A] 107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

[A] 107.6 Transfer of ownership. It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *building official* and shall furnish to the *building official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

[A] 108.1 General. When a structure or equipment is found by the *building official* to be unsafe, the *building official* may recommend require the vacation, relocation of occupants, securing, repair, removal, or demolition of an *unsafe structure* or *premises* pursuant to the provisions of this code.

[A] 108.1.1 Unsafe structures. An *unsafe structure* is one that is found to be a hazard to the public health, safety, and welfare due to one or more of the following conditions: dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

1. the *structure* is dilapidated as defined by section 108.1.5, substandard as defined by section 108.1.4, or unfit for human habitation as defined by section 108.1.3;
2. the *structure* is, regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
3. the *structure* is boarded up, fenced, or otherwise secured in any manner that constitutes a danger to the public even though secured from entry; or the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection 2.

[A] 108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or structure.

[A] 108.1.3 Structure unfit for human occupancy. A structure is unfit for human *occupancy* whenever the *building official* finds that such structure ~~is unsafe, unlawful or~~, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

[A] 108.1.4 Unlawful Substandard structure. ~~An unlawful~~ A *substandard structure* is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

[A] 108.1.5 ~~Dangerous Dilapidated~~ structure or premises. For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, 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.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *building official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

[A] 108.1.6 Procedure for Abatement of Unsafe Structures. If a structure has been identified as unsafe, the *building official* shall:

1. schedule a public hearing with the *board of appeals* or, if none, the municipal court to determine whether the *structure* is *unsafe* and to order the *structure* vacated, secured, repaired, removed, or demolished by the owner and the occupants relocated within a reasonable time if such a determination is made;
2. send notice in accordance with section 107 that the *building official* has identified an *unsafe structure* on the *premises*, including the specific conditions that render the *structure unsafe* and the date of the scheduled public hearing;
3. file or cause to be filed a copy of the notice in the real property records of the county in which the *unsafe structure* is located;
4. verify and document the condition of the *unsafe structure* within 48 hours of the scheduled public hearing;
5. report the condition of the unsafe structure to the *board of appeals* or municipal court at the public hearing and recommend the vacation, relocation of occupants, securing, repair, removal, or demolition of the *unsafe structure* within 30 days; provided, the *board of appeals* or municipal court may allow the *owner* up to 90 days to repair, remove, or demolish the *unsafe structure*, or to submit at the hearing a detailed plan and time schedule for the work if the *owner* establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work;
6. send notice in accordance with section 107 of the board's determination and order within 10 days after the order is issued;
7. publish or cause to be published in a newspaper of general circulation in the city in which the *unsafe structure* is located a notice containing: the street address or legal description of the property; the date the public hearing was held; a brief statement indicating the results of the order; and instructions stating where a complete copy of the order may be obtained;
8. verify and document the condition of the unsafe structure following the date specified by the order;
9. take no action nor cause any action to be taken until 20 days has elapsed from the date of the order with no appeal filed in accordance with section 111.1; 30 days has elapsed from the date of the order with no appeal for court review filed in accordance with section 111.7; and the condition of the *unsafe structure* remains *unsafe*; provided, if an appeal has been filed in accordance with sections 111.1 or 111.7, the appeal shall stay all enforcement, other than emergency measures taken under section 109, until the appeal is heard; and
10. provided no appeal has been filed and the deadline for such appeal has elapsed, timely commence the vacation, relocation of occupants, securing, repair, removal, or demolition of the *unsafe structure* pursuant to the order of the board of appeals or municipal court and document all actions taken.

[A] 108.2 Closing ~~Securing~~ of vacant structures. If the *unsafe structure* is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the *building official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up and secured so as not to be an attractive nuisance, following either completion of the unsafe structure abatement procedures in this Chapter or the emergency procedures of Chapter 214 of the Texas Local Government Code. Upon failure of the *owner* or owner's authorized agent to close up the *premises* within the time specified in the order, the *building official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

[A] 108.2.1 Authority to disconnect service utilities. The *building official* shall have the authority to authorize disconnection or prevent connection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 ~~in case of emergency~~ where necessary to enforce this code to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The *building official* shall notify the serving utility and, whenever possible, the *owner* or owner's authorized agent and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner*, owner's authorized agent or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

[A] 108.3 Notice and Placarding. Whenever the *building official* has ~~condemned~~ identified as unsafe a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner*, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the ~~condemned~~ unsafe equipment. The notice shall be in the form prescribed in Section 107.2

[A] 108.4 Placarding. ~~Upon failure of the owner, owner's authorized agent or person responsible to comply with the notice provisions within the time given,~~ The *building official* shall post on the *premises* or on defective equipment a placard bearing the word ~~"condemned"~~ "Unsafe, it shall be unlawful to occupy this building" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

[A] 108.4.1 Placard removal. The *building official* shall remove the ~~condemnation~~ placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *building official* shall be subject to the penalties provided by this code.

[A] 108.5 ~~Prohibited occupancy~~ Vacating of Structure. Any occupied structure ~~condemned~~ found to be unsafe and placarded by the *building official* shall be vacated as ordered by the *building official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner*, owner's authorized agent or any person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

[A] 108.6 Abatement methods. The *owner*, owner's authorized agent *operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *building official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

[A] 108.7 Record. The *building official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

SECTION 109 EMERGENCY MEASURES

[A] 109.1 Imminent danger. When, in the opinion of the *building official*, there is *imminent danger* of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *building official*, after approval of the governing body of the City, is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *building official* shall

cause to be posted at each entrance to such structure a notice reading as follows: "This *Structure* Is Unsafe and Its *Occupancy* Has Been Prohibited by the *Building official*." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

[A] 109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the *building official*, there is *imminent danger* due to an unsafe condition, the *building official* shall may order the necessary work to be done to temporarily secure the structure, including the boarding up of openings, to render such structure temporarily safe ~~whether or not the legal procedure herein described has been instituted~~; and shall cause such other action to be taken as the *building official* deems necessary to meet such emergency; provided the structure is unoccupied or is occupied only by persons who do not have a right of possession to the building. Before the 11th day after the date the structure is secured, notice shall be provided in accordance with section 107

[A] 109.3 Closing streets. When necessary for public safety, the *building official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

[A] 109.4 Emergency repairs. For the purposes of this section, the *building official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

[A] 109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* or owner's authorized agent of the *premises* where the unsafe structure is or was located for the recovery of such costs.

[A] 109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon written request ~~petition~~ directed to the appeals board within 30 days after the date the City secures the building, be afforded a hearing as described in this code within 20 days after the date the request is filed.

SECTION 110 DEMOLITION

[A] 110.1 General. The *building official* shall order the *owner* or owner's authorized agent of any *premises* upon which is located any structure, which in the *building official's* or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the *building official* shall order the *owner* or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

[A] 110.2 Notices and orders. Notices and orders shall comply with Section 107.

[A] 110.3 Failure to comply. If the *owner* of a *premises* or owner's authorized agent fails to comply with a demolition order within the time prescribed, the *building official*, after approval of the governing body of the City, shall cause the structure to be demolished and removed, either through an available public agency or

by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

[A] 110.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 111

MEANS OF APPEAL AND PUBLIC HEARINGS

[A] 111.1 Application for appeal. Any person directly affected by a decision of the *building official* or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served, except as otherwise provided by section 109 for appeals of Emergency Repairs or other action taken under section 109. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. An application for appeal under section 111.1 is an administrative remedy and shall not preclude an appeal for court review of an order by the board of appeals or municipal court in accordance with section 111.7.

~~**[A] 111.2 Membership of board.** The board of appeals shall consist of not less than three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The *building official* shall be an ex officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.~~

~~**[A] 111.2.1 Alternate members.** The chief appointing authority shall appoint not less than two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.~~

~~**[A] 111.2.2 Chairman.** The board shall annually select one of its members to serve as chairman.~~

~~**[A] 111.2.3 Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.~~

~~**[A] 111.2.4 Secretary.** The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.~~

~~**[A] 111.2.5 Compensation of members.** Compensation of members shall be determined by law.~~

[A] 111.3 Notice of meeting. The jurisdiction City may, but is not required to, hold additional public hearings as part of the procedure for the abatement of unsafe structures prescribed in section 108.1.6. Notice of such additional public hearings shall be sent to the *owner* in accordance with section 107.

~~**[A] 111.4 Open hearing.** Hearings before the board shall be subject to the Open Meetings Act, open to the public. The appellant, the appellant's representative, the *building official* and any person whose interests~~

~~are affected shall be given an opportunity to be heard. A quorum shall consist of a minimum of two-thirds of the board membership.~~

[A] 111.4.1 Procedure. The board shall ~~adopt and~~ make available to the public through the secretary procedures, if any, under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

~~**[A] 111.5 Postponed hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.~~

[A] 111.6 Board decision. The board shall modify or reverse the decision of the *building official* only by a concurring vote of a majority of the total number of appointed board members.

~~**[A] 111.6.1 Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the *building official*.~~

[A] 111.6.2 Administration. The *building official* shall take immediate action in accordance with the decision of the board.

[A] 111.7 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law. ~~following the filing of the decision in the office of the chief administrative officer.~~ Appeals under this section must be filed in the district court within the county where the unsafe structure is located within 30 days of the date the order is issued by the board of appeals or municipal court.

[A] 111.8 Stays of enforcement. Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the ~~appeals board~~ or municipal court.

SECTION 112 STOP WORK ORDER

[A] 112.1 Authority. Whenever the *building official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *building official* is authorized to issue a stop work order.

[A] 112.2 Issuance. A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

[A] 112.3 Emergencies. Where an emergency exists, the *building official* shall not be required to give a written notice prior to stopping the work.

[A] 112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than ~~[AMOUNT]~~ dollars or more than \$2,000.00 dollars per violation.