

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KELLER, TEXAS, AMENDING THE CITY OF KELLER CODE OF ORDINANCES CHAPTER 4, BUILDINGS, BY REPLACING ARTICLE IV IN ITS ENTIRETY REGARDING THE REGULATION OF SUBSTANDARD STRUCTURES; PROVIDING A REPEALING CLAUSE; PROVIDING A MAXIMUM PENALTY OF \$2,000; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS,** the City of Keller, Texas, is a home-rule municipality having full powers of self-government and may enact ordinances relative to its citizens' health, safety, and welfare that are not inconsistent with the Constitution and laws of the State; and

**WHEREAS,** the City of Keller City Council (the "City Council") finds and determines that the passage of this ordinance is necessary to protect the public, health, safety, and welfare; and

**WHEREAS,** Local Government Code Chapter 214 authorizes the City of Keller to adopt an ordinance that requires the vacation, relocation of occupants, securing, repair, removal, or demolition of substandard structures and other buildings; and

**WHEREAS,** the City Council finds and determines that there exist in the City structures used for human habitation and nonresidential purposes, which are or may become in the future, substandard, dilapidated or unfit for human habitation, and further that such conditions, together with inadequate provision for light and air, insufficient protection against fire hazards, lack of proper heating, unsanitary conditions, and overcrowding, constitute a menace to the health, safety, morals, welfare and reasonable comfort of its citizens; and

**WHEREAS,** the City Council finds and determines the existence of such conditions, factors or characteristics will, if not remedied, create slum or blighted areas, and further that, in the absence of corrective measures, such areas will experience a deterioration of property values, a curtailment of investment and tax revenue, and impairment of economic values; and

**WHEREAS,** the City Council finds and determines that the establishment and maintenance of minimum standards for continued use and occupancy of all buildings and structures is essential to the prevention of blight and decay and the safeguarding of public health, safety, morals and welfare; and

**WHEREAS,** Local Government Code Chapter 54 authorizes the City Council to appoint a Building and Standards Commission to hear and determine cases concerning alleged violations of ordinances; and

**WHEREAS,** the City Council is authorized by law to adopt the provisions contained herein, and has complied with all the prerequisites necessary for the passage of this Ordinance, including but not limited to the Open Meetings Act.

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

Section 1: THAT the above findings are hereby found to be true and correct and are incorporated herein in their entirety.

Section 2: THAT City of Keller Code of Ordinances, Part II, Chapter 4 - Buildings is hereby amended by amending and replacing Article IV, which shall read as follows:

**ARTICLE IV. – SUBSTANDARD STRUCTURES**

**Division 1. - Generally**

**Sec. 4-400. - Title**

This article may be referred to as the City’s “Substandard Buildings Code.”

**Sec. 4-405. – Definitions**

The following terms shall be deemed to have the meanings assigned herein for the purposes of this article:

(a) *Building Official* means the chief inspection officer of the City, the designees of the chief inspection officer, and other individuals designated by the City Manager or Community Development Director to carry out such duties.

(b) *Technical codes* means all codes published by the International Code Council adopted by the City, including amendments thereto, pursuant to this chapter.

**Sec. 4-410. – Penalty**

Any person, firm, or corporation violating any provision of this article shall be guilty of a misdemeanor, and upon final conviction thereof shall be fined in a sum not to exceed two thousand dollars (\$2,000.00). Each day such violation continues shall constitute a separate offense.

**Sec. 4-415. – Effect on Ordinances**

(a) The provisions of this article shall not be deemed to repeal by implication any provisions of the technical codes, and the adoption hereof shall not be deemed to affect or diminish the power or authority of any officer or employee of the City to condemn any building or structure erected or maintained in violation of any provision of the fire prevention ordinance, the building code, or any other ordinance of the City.

(b) The remedies provided in this article are not exclusive, but are cumulative of all other remedies provided by law or ordinance.

**Secs. 4-420 – 4-430. Reserved**

## **Division 2. – Administration**

### **Sec. 4-435. – Enforcement**

- (a) The Building Official, the Building Official's designees, and the City's code compliance officers are hereby authorized and directed to enforce any and all provisions of this article.
- (b) In accordance with Texas Code of Criminal Procedure and Texas Local Government Code, the Building Official and the City's code compliance officers are authorized to make inspections of all buildings, structures, or premises within the City for the purpose of determining compliance with this article.

### **Sec. 4-440. – Building and Standards Commission**

- (a) There is hereby established a Building and Standards Commission of the City.
- (b) The Commission shall consist of five members, each of whom shall be a registered voter and a resident of the City. Each member of the Commission shall be appointed by the City Council. It is the declared policy of the City that the City Council shall consider for appointment to the Commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent and intelligent judgment, understanding of construction, understanding of neighborhood integrity and availability to prepare for and attend meetings, and who by reason of diversity of their occupations, constitute a commission which is broadly representative of the community.
- (c) The regular members of the Commission shall be identified by place numbers one through five.
- (d) Members of the Commission shall be subject to removal at any time by the City Council.
- (e) Members of the Commission in the odd-numbered places shall serve terms expiring November 30 of odd-numbered years. Members of the Commission in the even-numbered places shall serve terms expiring November 30 of the even-numbered years.
- (f) The City Council may appoint two or more alternate members to the Commission who shall serve in the absence of one or more regular members. Alternate members serve for the same period and are subject to removal in the same manner as the regular members. An alternate member vacancy is filled in the same manner as a vacancy among the regular members.
- (g) Meetings of the Commission shall be held at the call of the chairperson and at other times as determined by the Commission. All meetings of the

Commission shall be open to the public. The chairperson, or in the chairperson's absence the acting chairperson, may administer oaths and compel the attendance of witnesses.

- (h) A quorum of the Commission shall consist of a simple majority, which may consist of a combination of regular and alternate members. Matters before the Commission may be decided by a simple majority of those members present.

**Sec. 4-445. – Authority of Commission**

The Building and Standards Commission is hereby authorized, after proper notice and hearing, to hear and determine cases concerning violations of ordinances:

- (1) for the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits, including, but not limited to, the building codes as adopted and the minimum standards for buildings in this chapter;
- (2) relating to the fire safety of a building or improvement, including, but not limited to, provisions in the technical codes, relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
- (3) relating to substandard, dangerously damaged, or deteriorated buildings or improvements;
- (4) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
- (5) relating to technical code violations; and
- (6) relating to the condition, use, or appearance of structures and property including, but not limited to, provisions regarding the minimum standards for buildings in this chapter.

**Secs. 4-445 – 4-455. Reserved**

**Division 3. – Violations and Procedures**

**Sec. 4-460. – Minimum Standards**

- (a) This section establishes the minimum standards for the use and occupancy of buildings in the City regardless of the date of their construction.

- (b) It shall be unlawful for any owner or occupant to occupy or maintain a building or premises that is deemed under this section to be substandard, dilapidated, or unfit for human habitation under this section.
- (c) Any building or premise, or portion thereof, is deemed to be substandard, dilapidated, unfit for human habitation, and a hazard to the public health, safety, and welfare if there exists therein any of the following conditions:
  - (1) *Faulty materials of construction*, which is defined as all materials of construction except those which are specifically allowed or approved by the technical code or other City ordinance, and which have been adequately maintained in good and safe condition.
  - (2) *Faulty weather protection*, which includes, but is not limited to:
    - a. deteriorated, crumbling, loose plaster, EIFS, or stucco;
    - b. deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken or missing windows or doors;
    - c. defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering; and
    - d. broken, rotted, split, or buckled exterior wall coverings or roof coverings.
  - (3) *Fire Hazard*, which is defined as any building, premises, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the chief of the fire department or the chief's designee, is in such condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
  - (4) *Hazardous mechanical equipment*, which is defined as all mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.
  - (5) *Hazardous or unsanitary premises*, which is defined as those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute health or safety hazards in the opinion of the Building Official.
  - (6) *Hazardous plumbing*, which is defined as all plumbing except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

- (7) *Hazardous Wiring*, which is defined as all wiring except that which conformed with all applicable laws in effect at the time of installation and has been maintained in good and safe condition and working properly.
- (8) *Improper occupancy*, which occurs when buildings, or portions thereof, are being occupied for living, sleeping, cooking, or dining purposes when the buildings, or portions thereof, were not designed or intended to be used for such purposes.
- (9) *Inadequate exits*, which is defined as buildings that do not provide the minimum number of exit facilities required by the technical codes or other City ordinance except those buildings whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.
- (10) *Inadequate fire-protection*, which is defined as any building, or portion thereof, that does not provide the fire-resistive construction or fire-extinguishing systems or equipment required by the technical codes or ordinances of the City, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.
- (11) *Inadequate sanitation*, which includes, but is not limited to:
  - a. lack of, defective, or improper water closet, lavatory, bathtub or shower in a dwelling unit;
  - b. lack of, defective, or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel;
  - c. lack of, defective, or improper kitchen sink;
  - d. lack of hot and cold running water to plumbing fixtures in a hotel or motel;
  - e. lack of hot and cold running water to plumbing fixtures in a dwelling unit;
  - f. lack of adequate heating facilities;
  - g. lack of, defective, or improper ventilating equipment;
  - h. lack of minimum amounts of natural light and ventilation required by the technical codes or other City ordinance;

- i. room and space dimensions less than required by this Chapter or other City ordinance;
  - j. lack of required electrical lighting and power;
  - k. dampness of habitable rooms;
  - l. infestation of insects, vermin or rodents as determined by the Building Official or health officer;
  - m. general dilapidation or improper maintenance;
  - n. lack of any required connection to sewage disposal system; and
  - o. lack of adequate garbage and rubbish storage and removal facilities as determined by the Building Official.
- (12) *Structural Hazard*, which include, but is not limited to the following:
- a. deteriorated or inadequate foundations;
  - b. defective or deteriorated flooring or floor supports;
  - c. partial destruction or damage that is caused by fire and remains unrepaired for more than ninety (90) days;
  - d. flooring or floor supports of insufficient size to carry imposed loads with safety;
  - e. members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
  - f. members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety;
  - g. members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split or buckle due to defective material or deterioration;
  - h. members of ceiling, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety;
  - i. fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration; and
  - j. fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety;

- (13) *Nuisance*, which is defined as buildings or premises in which there exists any nuisance as defined by the City ordinance.

**Sec. 4-465. – Notice and orders of Building Official**

- (a) The Building Official and/or Fire Marshal are authorized to commence proceedings to cause the vacation, relocation of occupants, securing, repairing, removal, or demolition of a building whenever the Building Official and/or Fire Marshal has inspected such building and found that it is:
  - (1) dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;
  - (2) unoccupied by its owners, lessees, or other invitees and 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, regardless of the building's structural condition; or
  - (3) boarded, 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).
- (b) The municipal court is authorized to issue a warrant for the purpose of allowing the Building Official and/or Fire Marshal to inspect specified structures and premises in order to determine the presence of a fire or health hazard or unsafe building condition that is identified by this article. The Building Official and/or Fire Marshal are deemed to be code enforcement officials of the City to whom a search warrant may be issued pursuant to Texas Code of Criminal Procedure Article 18.05.
- (c) To commence proceedings authorized by this section, the Building Official and/or Fire Marshal shall issue a notice of violation directed to the record owner of the building or premises. Such notice shall contain:
  - (1) the street address and legal description sufficient for identification of the premises;
  - (2) a statement that the Building Official and/or Fire Marshal has found the building and/or premises to be substandard with a brief and concise description of the conditions found to render the building and/or premises substandard;
  - (3) a statement of the action required to be taken as determined by the Building Official and/or Fire Marshal;



- (4) a requirement that the owner or person in charge of the building or premises secure required permits and commence the required action within fifteen (15) days from the date of such notice;
  - (5) a requirement that the owner or person in charge of the building or premises complete the required action within the timeframe the Building Official and/or Fire Marshal determines is reasonable;
  - (6) if the Building Official and/or Fire Marshal has determined that the building or structure must be vacated, a requirement that the building be vacated within the timeframe the Building Official and/or Fire Marshal determines is reasonable;
  - (7) a statement advising that, if the required repair or demolition work is not commenced within the time specified, the Building Official and/or Fire Marshal may, without further notice, order the building vacated and posted to prevent further occupancy until the work is completed; and
  - (8) a statement advising that if the required repair or demolition work is not commenced or completed within the time specified, proceedings will be commenced to have the building repaired or demolished and the cost of such assessed as a charge against the land.
- (d) The Building Official and/or Fire Marshal are authorized to issue an order to vacate immediately when the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or of the occupants. Every notice to vacate shall, in addition to being served as provided by this section, be posted at or upon each exit of the building, and shall be in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building

or to remove or deface this notice.

Building Official/Fire Marshal  
City of Keller, Texas

- (e) No person shall remain in or enter any building which has been posted as provided by this section, except that entry may be made:
- (1) to repair, demolish, or remove such building under permit; or
  - (2) to evaluate the premises for the purpose of submitting a proposal to undertake, or manage the undertaking, of the repair, demolition, or removal of such building under permit.

- (f) No person shall remove or deface any notice provided by this section after it is posted until the required repairs, demolition, or removal have been completed and:
  - (1) in the case of residential structures, all final inspections have been passed; or
  - (2) in the case of commercial structures, a certificate of occupancy issued.
- (g) File notice of hearing

**Sec. 4-470. – Hearing before the Commission**

- (a) If the property owner fails to comply with a notice of violation within the time specified, the Building Official is authorized to commence proceedings before the Building and Standards Commission as authorized by this article.
- (b) Upon request of the Building Official, the chairperson of the Commission may set a date and time for a public hearing where the Commission may make determinations, assess civil penalties, and issue orders authorized by state law and this article.
- (c) The Building Official shall issue notice of the hearing as follows:

- (1) *Form.* The notice of hearing shall be substantially in the following form, but may include additional information:

“You are hereby notified that the Building Official has made an inspection of the building or structure located on the premises described as:

[address and legal description of property]

The Building Official has found the above building and/or premises to be substandard and not in compliance with the standards set out in the substandard buildings code of the City of Keller and has recommended action to the City’s Building and Standards Commission to remedy the violations, all of which are detailed in the attached Building Official's report.

A hearing will be held before the Building and Standards Commission, at [location] on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at the hour of \_\_\_\_\_, to consider whether said building and/or premises complies with the said standards and, if not, to order the owner to vacate, secure, repair, remove, and/or demolish said building within a specified period of time, and if applicable, to specify additional time for any ordered action to be taken by a lienholder or mortgagee, in the event of failure of the owner to comply. The board may further consider the assessment of a civil

penalty up to \$1,000 a day for each violation against the property owner for failure to repair, remove, or demolish the building. If a civil penalty is assessed, state law requires the City to file against the property, unless it is a homestead protected by the Texas Constitution.

You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by filing an affidavit with the Building and Standards Commission. At the hearing, the owner, lienholder, or mortgagee will be required to submit proof of the expense and scope of any work that may be required to comply with the ordinances and the time it will take to reasonably perform the work."

(2) *Manner.* Notice of the hearing before the Building and Standards Commission shall be given in the following manner:

a. Before the tenth day before the date of the hearing before the Commission, notice of hearing as provided above shall be given:

1. by certified mail, return receipt requested, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk, if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in such office;
2. by posting a copy of the notice on each door of each improvement situated on the affected property; and
3. by filing the notice of the hearing in the real property records of the Tarrant County Clerk's office.

b. Notice of the date, time, place and purpose of the hearing shall also be published in a newspaper of general circulation in the City one (1) occasion before the tenth day before the date fixed for the hearing.

#### **Sec. 4-475. – Hearing before the Commission**

(a) After a public hearing, if a building or structure is found to be in violation of this chapter, the Commission may enter into the minutes its findings any of the following findings as applicable:

- (1) the building is in violation of this chapter;

- (2) the building is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare;
- (3) the building is unoccupied by its owners, lessees, or other invitees and 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;
- (4) that building is boarded up, fenced, or secured, but;
  - a. 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 by vagrants, children, or other uninvited persons.
- (5) the materials or methods used to construct the building or improvement, or parts thereof, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances or exits do not meet the standards set forth in this article;
- (6) the building or improvement does not meet fire safety standards as designated in the International Fire Code as adopted by the City;
- (7) the building or use thereof is in violation of any ordinance or considered a public nuisance in that there exist conditions caused by accumulations of refuse, vegetation or other matter that creates breeding and living places for insects and rodents;
- (8) the condition, use, or appearance of the property is in violation of the minimum standards set forth by Sec. 4-460;
- (9) the amount and duration of final civil penalties the City may recover upon failure to comply with Commission order; and
- (10) the building fails to meet the requirements necessary to retain a certificate of occupancy.

(b) The Commission may after notice and hearing:

- (1) order the repair or removal, within a fixed period, of violations of an ordinance and further order that the City may repair or remove the violation if the Commission's order is not complied with within the allotted time;
- (2) order the repair or removal of a nuisance, within a fixed period, of property found to be in violation of an ordinance related to a building code or condition, use or appearance of property in a municipality;

- (3) order the assessment of civil penalties the City may recover upon failure to comply with Commission order;
- (4) order, in appropriate cases, the immediate removal of persons or property found on private property;
- (5) order the entrance on private property to secure the removal of conditions if it is determined that current conditions on the property constitute a violation of an ordinance; and
- (6) issue orders or directives to the chief of police of the municipality, to enforce and carry out the lawful orders or directives of the Commission.

(c) Time Limits.

- (1) Unless the owner or lienholder establishes at the hearing that the compliance with the Commission's order cannot reasonably be performed within 30 days, the Commission shall require the owner, lienholder, or mortgagee of the building or structure to within 30 days:
  - a. secure the building from unauthorized entry; or
  - b. repair, remove, or demolish the building or structure.
- (2) If the Commission allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building or structure, 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 hearing official.
- (3) The Commission may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or structure 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 reasonably be 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 or structure, the Commission shall include in any order a requirement that the owner, lienholder, or mortgagee submit progress reports to the Building Official at least every two weeks to demonstrate compliance with the time schedules established for commencement and performance of the work. Such

order may require that the owner, lienholder, or mortgagee appear before the Commission to demonstrate compliance with the time schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the City of Keller that exceeds \$100,000 in total value, the Commission may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building or structure. In lieu of a bond, the Commission may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the City. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the order is issued.

- (d) 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 article and the time it will take to reasonably perform the work.
- (e) Commission Decision Final. If no appeal is taken from the decision of the Commission pursuant to Local Government Code Sec. 54.039, the decision of the Commission is, in all things, final and binding.

**Sec. 4-480. – Notice of Commission Order**

- (a) Within ten (10) days after the date the Commission order is issued, the City shall:
  - (1) file a copy of the order in the office of the City secretary; and
  - (2) publish in a newspaper of general circulation in the City a notice containing:
    - a. the street address or legal description of the property;
    - b. the date of the hearing;
    - c. a brief statement indicating the results of the order; and
    - d. instructions stating where a complete copy of the order may be obtained.
  - (3) file a copy of the order in the real property records of the Tarrant County Clerk's office.
- (b) The City shall promptly mail by certified mail with return receipt requested, deliver by the United States Postal Service using signature confirmation service, or personally deliver a copy of the Commission's order to the owner of the building and to any lienholder or mortgagee of the building. The City shall use its best efforts to determine the identity and address of any owner, lienholder or mortgagee of the building.

**Sec. 4-485. – Performance of repairs; expenses and penalties**

- (a) If a building or structure is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time pursuant to Commission order, the Building Official may vacate, secure, remove, and/or demolish the building or structure or relocate the occupants at City expense. The Building Official is authorized to cause such work to be done by City personnel or by private contract under the supervision of the Building Official.
- (b) Civil penalties may be assessed by the Commission in amounts not to exceed one thousand dollars (\$1,000.00) per day for each day a property owner is in noncompliance with an order of the Commission or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed ten dollars (\$10.00) a day for each violation, if the City proves:
  - (1) the property owner was notified of the requirements of the chapter and the owner's need to comply with the requirements; and
  - (2) after notification, the property owner committed an act in violation of the chapter or failed to take an action necessary for compliance with the chapter.
- (c) The Building Official shall keep an itemized account of the expenses incurred by the City in the demolition, removal, vacation, securing or repair of any building done pursuant to this article and the entire costs of demolition, less any salvage value recovered, removal, vacation, securing or repair, and any civil penalty. The total amount of expenses and civil penalties shall be assessed and a lien created against the real property upon which the building is located, unless it is a homestead protected by the Texas Constitution.
- (d) A determination of civil penalties made by the Commission is final and binding and constitutes prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the City for final judgment in accordance with the established penalty.
- (e) Civil penalties and expenses assessed by this article shall constitute a personal liability of the property owner and a lien against the property, unless the property is a homestead protected by the Texas Constitution.
- (f) All civil penalties and assessments for expenses to repair a building accrue interest at the rate of ten (10) percent per annum.

Section 3: THAT the following provision in City of Keller Code of Ordinances Chapter 4 – Buildings, Sec. 4-105 – Definitions is hereby amended as set forth below. The remainder of Sec. 4-105 shall remain unchanged except as provided by this ordinance.

Sec. 4-105. - Definitions.

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

*Substandard or dilapidated building.* Any building or premise, or portion thereof, that is deemed to be substandard, dilapidated, unfit for human habitation, and a hazard to the public health, safety, and welfare pursuant to 4-460 of this chapter.

- Section 4: THAT this Ordinance shall be cumulative of all provisions of the City Code and other ordinances of the City of Keller, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in such event the conflicting provisions of the other ordinances are hereby repealed.
- Section 5: THAT any person, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall, upon final conviction thereof, be fined in an amount not to exceed tow thousand dollars (\$2,000.00). Each day any such violation continues shall constitute a separate offense and shall be punishable as such hereunder.
- Section 6: THAT if any section, paragraph, clause, phrase, or provision of this Ordinance, shall for any reason be held to be invalid or unenforceable, the validity or unenforceability of such section, paragraph, clause, phrase, or provision shall not effect any of the remaining provisions of this Ordinance.
- Section 7: THAT this Ordinance shall become effective upon its adoption and publication provided by law.

**AND IT IS SO ORDAINED.**

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CITY OF KELLER, TEXAS

\_\_\_\_\_  
Armin Mizani, Mayor

**Attest:**

\_\_\_\_\_  
Kelly Ballard, City Secretary

**Approved as to Form:**

\_\_\_\_\_  
L. Stanton Lowry, City Attorney