ORDINANCE NO. 735

AN ORDINANCE OF THE CITY OF GEORGE WEST ADOPTING A PROPERTY MAINTENANCE CODE AS THE MINIMUM HOUSE CODE FOR THE CITY; PROVIDING FOR THE ESTABLISHMENT OF A HOUSING BOARD; BUILDING OFFICIAL, DUTIES AND POWERS; MINIMUM STANDARD FOR BUILDINGS AND STRUCTURES; PROCEDURES FOR ELIMINATING SUBSTANDARD CONDITIONS; HARDSHIPS; APPEALS; PROVIDING FOR PENALTY; REPEAL OF CONFLICTS; SAVINGS AND SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GEORGE WEST, THAT:

SECTION I. ENACTMENT.

The Code of the Ordinances of the City of George West, Texas is hereby amended and specifically the 2006 International Property Maintenance Code is amended by the repeal of Sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110 and 111 of the 2006 International Property Maintenance Code, and the adoption of the following Sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110 and 111 which shall hereafter be referred to as the Property Maintenance Code as follows:

Section 101. Title and Scope

- The provisions embraced within this ordinance shall constitute and be known and may be cited as the Maintenance Code, hereinafter referred to as "this Code."

- This Code is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof which are public safety, health and general welfare, through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property, prevention of fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings or structures.

Section 102. Applicability

- This Code shall apply to the buildings, structures, substructures or otherwise herein mentioned and shall be administered in conjunction with other codes.

- Every building or structure used in whole or in part as a dwelling unit or multiple dwelling, or as a rooming house, shall conform to the requirements of this Code irrespective of the primary use of such building and irrespective of when such building may have been constructed, altered or repaired.

- This Code establishes minimum standards for occupancy and does not replace or modify standards otherwise established for construction, replacement or repair of buildings except such as are less restrictive than the provisions of this Code.

- This Code shall cover all unsafe buildings whether vacant or used for human habitation, or used for some other purpose.

- The provisions of this Code shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

- The provisions of this Code shall apply to any building or structure irrespective of when such building or structure was constructed, altered or repaired.

- All buildings or structures, both existing and new, and all parts thereof shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this Code in a building when erected, altered or repaired shall be maintained in good working order.

- No provision of this Code shall be held to deprive any federal or state agency or any municipal authority having jurisdiction of any power or authority which it had on the effective date of this ordinance or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

Section 103. ***Establishment of Building Standards Board and Building Official to Enforce Code***

- There is hereby established in the City, a Building Standards Board and Building Official for the enforcement of this Code:

  - Building Standards Board.

    - There is hereby created a Building Standards Board hereinafter referred to as "the Board" to be composed of seven (7) members, each of whom shall be a resident of the City. This Board shall be appointed by the City Council. Additionally,

the City Council may appoint two alternates who shall serve in the absence of one or more regular members and who shall serve for terms of three (3) years.

- Of the members first appointed, three shall be appointed for a term of one (1) year, two for a term of two (2) years, two for a term of three (3) years, and thereafter they shall be appointed for terms of three (3) years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. The unexcused absence of any member from three (3) consecutive official meetings of the Board shall automatically terminate such membership on the Board.

- Four (4) members of the Board shall constitute a quorum. In varying the application of any provisions of this Code or in making any decision, affirmative votes of the majority present, but not less than four (4) affirmative votes, shall be required. No Board member shall act in a case in which he has a personal interest.

- The Board shall establish rules and regulations for its own procedures, not inconsistent with the provisions of this Code. The Board shall meet at regular intervals to be determined by the chairperson, and shall meet for such hearings as are required to be held upon complaints filed by the Building Official and for such hearings as are requested in writing by a citizen whose property is, or may be, affected adversely by the application of any provisions of this Code.

- There is hereby created the office of the Building Official whom the City Manager shall designate.

- No member of the Board shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building which is the subject of an issue before the Board. No such Member of the Board shall engage in any work which is inconsistent with the duties or with the interests of the Board.

Section 104. ***Powers and Duties of Building Official***

- The Building Official shall keep or cause to be kept a record of the business of this office. The records of the office of the Building Official shall be open to public inspection.

- The Building Official shall enforce the provisions of this Code, such duties shall include: Make or cause to be made, inspections to determine the condition of the buildings, dwellings, dwelling units, rooming units and premises in the interest of safeguarding the health and safety of the occupants of dwellings, the neighborhood, and of the general public. For the purpose of making such inspection of the Building Official or his agent shall have the authority, upon presentation of proper identification to the owner, agent or person in charge of the property, to request permission to enter the building, structure, dwelling, apartment, apartment house or premises, during all reasonable hours. In cases of emergency where extreme hazards are known to exist which may involve the potential loss of life or severe property damage, no request is necessary. In either case entry may be requested at any reasonable time. In the event of refusal, he shall use any lawful means to obtain entry and inspect the premises.

- If a building, premises or property is unoccupied, vacant, or otherwise uninhabited by humans, but which is otherwise open and may be entered by derelicts, vagrants or children, the Building Official shall have the same power of inspection as aforementioned, including the right of inspection without requesting permission of the owner or other person in charge, and if found to be in violation of this Code, may placard it so as to prevent any occupancy of the building, premises or property for human use or habitation, or any other use.

- It shall be the duty of the Building Official or designated representative to inspect all buildings or structures reported to be or believed to be substandard. The Building Official shall make a record of every such inspection and of all violations of this Code.

- Any requirement, not specifically covered by this Code, found necessary for the safety, health and general welfare of the occupants of any building or structure shall be determined by the Building Official subject to appeal to the Building Standards Board.

- Neither the City nor any authorized agent acting under the terms of this Code in the discharge of his duties shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this Code.

Section 105. Minimum Standards for Buildings

All buildings or structures which have any or all of the following defects or lack of facilities shall be deemed substandard buildings:

- All buildings or structures not in conformity with this Code.

- All buildings or structures which have pit privies where the same are not permitted by law or which are not connected to the city sewer when required by law, or where inadequate and unsanitary pit privies or septic tanks exist.

- All buildings or structures that have become deteriorated through accident or lack of repair or natural causes or by damage through exposure to the elements, especially winds, hail or rain, or damage through fire to the extent that the roof, windows and doors or portions of the building or structure which protect from the weather will no longer protect from the weather.

- All buildings or structures which constitute or in which are maintained fire hazards as that term is defined in the International Fire Code.

- All buildings or structures which are so structurally deteriorated that they are in danger of collapse or which cannot be expected to withstand winds of hurricane force.

- All buildings or structures so constructed or permitted to be so constructed as to constitute a menace to health or safety, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects reasonably calculated to spread disease and including such conditions hazardous to safety as inadequate bracing or the use of deteriorated materials.

- All buildings or structures, whether or not in use, which are unsafe, unsanitary, unfit for human habitation, or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to the existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment are unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the procedures set forth in this Code.

Section 106. ***Procedures for Eliminating Substandard Conditions***

- *Notification of violation.* Whenever the Building Official determines that there are reasonable grounds to believe that there has been or continues to be a violation of any provision of this Code or of any rule or regulation concerning the health, safety, or general welfare adopted by the City as it relates to structures or premises. The Building Official shall give notice of such alleged violation to the owner of the property as per subsection (c) below. Such notice shall:

- Be in writing.
- State the nature of the violation or violations.
- State the provision or provisions of this Code or any other relevant code of the City that is being violated.
- State the penalty and penalty provision of this Code or any other relevant code of the City.
- State that the Building Official will take further action pursuant to the building standards code if the violation is not cured within thirty (30) days of receipt of the notice specified in this subsection.

- *Notification of hearing.* Whenever the owner, after notification as per subsection (a), informs the Building Official that he refuses to voluntarily comply with the requirements of this Code or to voluntarily cure the defect or defects brought to his attention by the Building Official, or whenever the alleged violation or violations are not cured within thirty (30) days of receipt of the notice described in subsection (a), or within such further time as may be agreed between the Building Official and the owner or occupant, or whenever the notice pursuant to subsection (a) is given as per subsection (c) (3) and thirty (30) days have elapsed from the date of first publication, the Building Official may proceed to enforce the penalty provision of this section in municipal court and, alternatively or additionally, the Building Official shall present a complaint to the Building Standards Board and alternatively or additionally file suit in district court seeking relief as provided by Sections 110 and 111. In the event a complaint is presented to the Building Standards Board, the Board shall hold a hearing upon the complaint not less than ten (10) days nor more than forty-five (45) days after the complaint is filed with the chairman, and the Building Official shall give reasonable notice of at least ten (10) days, as per subsection (c) below, of said hearing, to the owner, and, if the premises are to be vacated, to the occupant, if different from the owner. Such notice shall:

  - Be in writing.
  - State the time, date, and place of the hearing.
  - State the nature of the violation.
  - State the provision of this Code or of any other relevant code that is being violated.

- State the remedy to be sought at the hearing by the Building Official.

- State that the owner, or the occupant, if the premises are to be vacated, shall come before the Board at the hearing and show cause why the remedy to be sought by the Building Official should not be granted.

- *Method of Notice.* Service of any notice required by this Code shall be accomplished by any of the following enumerated methods:

  - By delivery to the owner or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; and

  - By depositing the notice in the United States post office by certified mail, return receipt requested, addressed to the owner, agent, or person in control of said structure or premises at his last known address, postage prepaid thereon; and

  - Where the owner is unknown or his whereabouts is unknown, or where service of notice has failed under subsections (1) and (2), by an official notice in a generally circulated and recognized George West newspaper, to be published twice within a ten-day period.

  - *Determination of Owner.* The identity and address of a property owner, lienholder or registered agent shall be determined by searching the following records:

    - county real property records of Live Oak County; and
    - appraisal district records of the Live Oak Appraisal District; and
    - records of the Secretary of State, if the property owner, lienholder or registered agent is a corporation, partnership or other business association; and
    - assumed name records of Live Oak County; and
    - tax records of the City; and
    - utility records of the City.

  5) *Lis Pendens.* The City may file a notice of hearing in the official public records of Live Oak County. Such notice shall contain the requisite information, including the name and address of the owner of the property, a legal description of the property and a description of the proceeding to be held by the Building Standards Board.

- The provisions of subsection (b) do not preclude a person who has received notice under subsection (a) from requesting and receiving a hearing before the Board prior to, or instead of, a complaint being filed by the Building Official. Said request shall be in writing and directed to the

chairperson of the Building Standards Board. A hearing requested under this subsection shall be held as soon as possible and in any event no later than thirty (30) days from date written request for hearing is received by the chairperson.

- *Provision for emergency.* Notwithstanding the foregoing provisions of this section, when a structure or premises, or the manner of its use constitutes an immediate and serious danger to human life or health or to property, the Building Official may issue orders to promptly cause such structure or premises to be made safe. Any person to whom such order is directed shall comply therewith immediately, but may appeal such order as provided by Section 108 herein.

- *Building code applicable.* Where a structure or premises is requested or ordered, after hearing, to be repaired pursuant to this Code, such repair, rehabilitation or restoration shall become subject to the provisions of the International Building Code as such provisions pertain to the repair of existing buildings, including but not restricted to the requirement of obtaining a permit from the Building Official under said International Building Code.

- *Hearings and orders.*

    - The following decisions may be made by the Building Standards Board upon the hearing in ordering the repair, vacation, or demolition of any building or structure:

        - If the substandard building or structure can reasonably be repaired so as to be in compliance with this Code, it shall be ordered repaired within thirty (30) days, or such longer time period as the Board may decide in the circumstances. Such order must state that the repairs be in compliance with Section 106 (f) herein.

        - If the substandard building or structure is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health or safety of the occupants or the public, it shall be ordered to be vacated within a prescribed time and shall be placarded to prevent occupancy until the building or structure is brought up to all minimum standards of this Code within thirty (30) days or such longer time period as the Board may decide in the circumstances at the hearing.

        - If the structure or premises cannot be repaired because of the refusal of owner or its intrinsic state of disrepair or both and is dilapidated or substandard, it shall be ordered removed or demolished and removed from the premises within thirty (30) days

or such longer time period as the Board may decide in the circumstances at the hearing. The Board's decision shall be in writing and shall indicate the vote upon it. Every decision shall be promptly filed in the office of the Building Official and shall be open to public inspection; notice of their decision shall be sent as per Section 106 (c) and a copy of said notice shall be kept posted in the office of the Building Official for two (2) weeks after filing. The Board shall in every case reach a decision without unreasonable or unnecessary delay.

- If, after the decision of the Board as per (i) above, to either repair, rehabilitate, remove or demolish any building or structure, the owner refuses or fails to comply with the decision of the Board within thirty (30) days of the date of the Board's decision, or such longer time period as the Board may have allowed at the hearing, or within such extension of time as may be authorized by the Board in writing pursuant to Section 107 below, the Building Official may repair such building or structure and clean up the premises and remove all related debris by doing work itself or causing the work to be done and paid therefor, and shall charge the expenses incurred in or having such work done to the owner of such property as herein provided. The City, in addition to the foregoing remedy, has the power to cause the expense thereof to be assessed on the real estate of the lot or lots upon which such expense is incurred on filing with the county clerk of Live Oak County a statement by the Mayor, city health official of the City, of such expenses. The City shall have a lien thereon to secure the expenditure so made and ten per cent (10%) interest on the amount from the date of such payment. For such expenditures and interest, as aforesaid, suit may be instituted in the name of the city, and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in such work.

- The City may punish any owner or occupant or interested party for violating the provisions of this Code, ordinances and regulations of the City by such proceedings and penalties as are provided for criminal actions.

Section 107. <u>Hardships</u>

Where the literal application of the requirements of this Code would cause undue hardship, exception may be granted by the Board at the hearing held. Such exception shall be made in writing and only when it is clearly evident that reasonable safety and sanitation is assured, and such exception shall be conditioned in such manner as to achieve that end. Such conditions may include restrictions not generally specified by this Code. Exceptions granted in accordance with this subsection may be subject to review by the City Council.

Section 108. Appeals

- Whenever it is claimed that the decision of the Building Standards Board is erroneous, or that the decision of the Board would cause undue hardship, the owner or occupant, or his duly authorized agent, may appeal from the decision of the Board to the City Council. The decision of the Board is final unless notice of appeal to the City Council is given. Notice of appeal from the decision of the Board shall be in writing and filed with the City Secretary within fifteen (15) days after the date of written decision rendered by the Board. The appeal shall state specifically the error alleged to have been committed by the Board.

- When an appeal is pending, all orders of the Board shall be suspended in their operation. The City Council, on appeal, may vary the application of any provision of this Code to any particular case when the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this Code or public interest or when, in its opinion, the decision of the Board should be modified or reversed.

    - A decision of the City Council to vary the application of any provision of this Code or to modify an order of the Board in whole or in part shall specify in what manner such modification is made, the conditions upon which it is made and the reasons therefor.

    - If the decision of the City Council reverses or modifies the refusal, order, or disallowance of the Board or varies the application of any provision of this Code, the Building Official shall immediately take action in accordance with such decision.

- The decision of the City Council shall be final unless the aggrieved party appeals the decision by instituting suit for that purpose in district court having jurisdiction within thirty (30) days from the date on which the decision of the City Council was rendered, such appeal shall be by verified petition stating that the decision is illegal, either in whole or in part, and specifying the grounds for illegality. Upon appeal, the decision issued by the City is stayed and any order therein is suspended until judgment by district court is rendered and is final.

Section 109. Disposition of items of personal property in buildings to be demolished

In the event there are items of personal property in the premises to be demolished, according to the provisions of Section 106, additional notice as per Section 106(c) shall be given to the effect that if such items of personal property are not removed from the premises within thirty (30) days, they shall be placed in storage for a period of ninety

(90) days. During this period they may be redeemed by the owner after all costs incurred in placing the items in storage and all accumulated storage fees have been paid. In the event that the property is not redeemed within ninety (90) days the City may cause the same to be sold at auction. The proceeds of the sale shall be used to pay for any costs incurred in the storage of the property and any excess amount shall be set off against the cost of demolition to be charged to the owner. Upon appeal of the decision of the City as provided in Section 108, the decision issued by the City is stayed and any order therein is suspended until judgment by district court is rendered and is final.

Section 110. Municipal Court Findings and Determination of Substandard by District Court

a) The City may rely on a judicial determination made by the municipal court of the City of George West that a structure is substandard in enforcing this Ordinance.

b) The City may additionally or alternatively file suit in district court of Live Oak County seeking a judicial determination that a structure is substandard and all such other relief provided under Texas law including, but not limited to injunctive relief.

c) Upon such determination by the municipal court or district court that a structure is substandard, the City may proceed with enforcement of this Ordinance as provided herein.

Section 111. Penalty

a) Any person who shall willfully refuse or fail to leave a building which has been ordered vacated under the terms of this Code or who shall enter a building which has been ordered vacated under the terms of this ordinance or who shall enter an area around such building that has been declared to be dangerous and notice of which declaration shall have been posted or any person who shall interfere with or hinder the vacation, repair or demolition of any building under the terms of this Code or who shall procure the violation of any provision of this Code shall be deemed guilty of a misdemeanor and upon conviction shall be fined and each day's violation shall constitute a separate and distinct offense.

b) Any owner or occupant of any substandard building who shall fail to repair, remove or demolish a building which has been ordered repaired, removed or demolished under the terms of this Code shall be deemed guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed $500.00 and each day's violation shall constitute a separate and distinct offense.

d) In case the owner or occupant of any substandard building ordered vacated, repaired or demolished under the terms of this Code shall be a corporation and shall violate or shall procure the violation of any provision of this Code, the president, vice-president, secretary or treasurer of such corporation shall be severally liable for the penalties therein provided.

d) A certified copy of the Order imposing a penalty shall be filed with the District Clerk of Live Oak County.

e) The City may institute a civil action to enforce this Code by seeking the repair, demolition or removal of a structure, and may seek civil penalties, injunctive relief, court costs, attorney's fees, and contempt in accordance with the applicable provisions of Texas Local Government Code Sections 54.012 et seq.

Section 112. 2006 International Property Code.

Subject to the repeal of the Sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 111 and the adoption of new Sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 111 of the 2006 International Property Code as hereinabove provided, all other remaining provisions of the 2006 International Property Code shall remain in full force and effect.

SECTION 2. VALIDITY.

If for any reason any section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance as it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

SECTION 3. CONFLICTS.

Any previously enacted ordinances found to be in conflict herewith are expressly repealed only to the extent that such conflict exists.

SECTION 4. PENALTIES.

Violation of any provision of this Ordinance shall constitute a misdemeanor punishable by a fine not to exceed the maximum permitted by applicable law. Each violation of a separate provision and each day that a violation continues shall be a separate offense. Conviction of an offense under this Ordinance shall be punishable by a fine not to exceed the maximum established by law for each violation. The court shall order abatement and removal of a nuisance upon conviction.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its passage and publication.

PASSED and **APPROVED** this 15TH day of August, 2011.

CITY OF GEORGE WEST, TEXAS

Sylvia Steele, Mayor

ATTEST:

Jacquelyn Harborth, City Secretary

PASSED and **APPROVED** this 16th day of July, 2012.

CITY OF GEORGE WEST, TEXAS

Sylvia Steele, Mayor

ATTEST:

Jacquelyn Harborth, City Secretary

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