

91201

ORDINANCE 249

AN ORDINANCE OF THE CITY OF COMANCHE, TEXAS, PRESCRIBING
MINIMUM URBAN STANDARDS; DEFINITIONS; FACILITIES REQUIRED;
GENERAL REQUIREMENTS FOR THE EXTERIOR AND INTERIOR OF
STRUCTURES; POWERS AND DUTIES OF HOUSING OFFICIAL;
DESIGNATION AND NOTIFICATION OF UNSAFE OR SUBSTANDARD BUILDING
OR STRUCTURE; URBAN STANDARDS BOARD OF ADJUSTMENTS AND APPEALS;
GROUNDS FOR APPEAL, HARDSHIPS; PERMITS; PROCEDURE FOR REQUIRING
VACATION, RELOCATION, SECURING REPAIR, REMOVAL OR DEMOLITION OF
SUBSTANDARD OR UNSAFE BUILDING; APPEALS TO STATE DISTRICT
COURT, SUBSTANTIAL EVIDENCE RULE; REPEAL; VIOLATION
FINE, TERMS OF ORDINANCE ARE SEVERABLE; AND PROVIDING FOR
PUBLICATION AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMANCHE, TEXAS:

SECTION I

In general.

(a) Title. The provisions embraced within the following section shall constitute and be known and may be cited as "The Minimum Urban Standards Code," hereinafter referred to as "the code."

(b) Code remedial. 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 from fire and other hazards incident to the construction, alteration, repair, removal and demolition of unsafe buildings.

(c) Application. The provisions of this code and the minimum standards for occupancy set forth herein shall apply to all commercial, industrial, or residential buildings within the corporate limits, to garages and other accessory structures, or to any portions thereof.

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 contrary to the provisions of this code.

Buildings or structures moved into or within the City Limits shall comply with the requirements in this Code.

(d) Existing buildings. The provisions of this code establish minimum standards for the continued use and occupancy of all buildings or structures within the corporate limits regardless of when such buildings may have been originally constructed and regardless of when such premises may have been annexed into the City.

(e) Maintenance. 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. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures and premises.

(f) Application of zoning ordinance. Nothing in this code shall be construed to cancel, modify or set aside any provision of the zoning ordinance of the authority having jurisdiction.

(g) Violations and penalties. Any person, firm, corporation or agent who shall violate any provisions of this chapter, or fail

to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish, or move any structure or has erected, constructed, altered, repaired, moved, or demolished a building or structure in violation of this Code, shall be guilty of a misdemeanor and punished by a fine not to exceed \$200.00. Each and every day or portion thereof that any violation of the provision of this chapter shall continue shall constitute a separate offense.

SECTION II

Definitions.

(a) General. For the purpose of this code, certain abbreviations, terms, phrases, words and their derivatives, shall be construed as set forth in this section.

(b) Tense, gender and number. Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and the plural number includes the singular.

(c) Words and phrases defined. The following definitions shall apply in the interpretation and enforcement of this article.

Addition is an extension or increase in floor area or height of a building or structure.

Alter or alteration means any change or modification in construction or occupancy.

Apartment shall mean a dwelling unit as defined in this code.

Apartment house is any building or portion thereof used as a multiple dwelling for the purpose of providing three (3) or more separate dwelling units which may share means of egress and other essential facilities.

Applicable governing body shall mean a city, county, state, state agency or other political government subdivision or entity authorized to administer and enforce the provisions of this code, as adopted or amended.

Basement means that portion of a building between floor and ceiling, which is partly below and partly above grade (as defined in this section), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling, provided, however, that the distance from grade to ceiling shall be at least four (4) feet six (6) inches.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind which has enclosing walls for fifty (50) percent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." (For the purpose of this code each portion of a building separated from other portions by a fire wall shall be considered as a separate building.)

Cellar means that portion of a building, the ceiling of which is entirely below grade or less than four (4) feet six (6) inches above grade.

Dwelling unit is a single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Extermination shall mean the control and extermination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve

as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

Family means one (1) person or two (2) or more persons related by blood, marriage or legal adoption, or a group of not more than three (3) unrelated persons occupying a dwelling unit.

Floor area shall mean the total area of all habitable space in a building or structure.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room is a space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

Hotel is any building containing six (6) or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

Housing official shall mean the officer, or other person, charged with the administration and enforcement of this article or his duly authorized representative.

Infestation shall mean the presence within or around a dwelling, of any insects, rodents, or other pests.

Lien holder is any person(s), firm, business, corporation, or other entity holding a substantial legal property interest or claim on property for payment of some debt, obligation or duty, either acquired by contract or by operation of law.

Multiple dwelling shall mean any building, or portion thereof, which is occupied as the home or residence of more than two (2) families living independently of each other and doing their own cooking in the said building, and shall include flats and apartments.

Nuisance shall be defined as any of the following:

- (1) Any public nuisance known at common law or in equity jurisprudence.
- (2) Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or upon a lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.
- (3) All substandard or dilapidated buildings or structures within the terms of this article which shall constitute a menace, hazard, and/or threat to the health, safety, comfort or general welfare of the public generally, and which are unfit for human habitation or use.

Openable area (window) shall mean that part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

- Operator shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Owner shall mean the holder of the title in fee simple and any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted. It shall also mean any person, who, alone or jointly or severally with others:

- (1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Shall have charge, care or control of any dwelling or dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possessions, or assignee of rents, lessee, or other person, firm or corporation in control of a building; or their duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner. It is his responsibility to notify the actual owner of the reported infractions of these regulations pertaining to the property which apply to the owner.

Person shall mean and include any individual, firm, corporation, association or partnership.

Plumbing shall mean the practice, materials, and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: Sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building, structure, or conveyance; also the practice and materials used in the installation, maintenance, extensions or alteration of stormwater, liquid waste, or sewerage, and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

Premises shall mean a lot, plot or parcel of land including the buildings or structures thereon.

Public areas, as used in this code, means an unoccupied open space adjoining a building and on the same property, that is permanently maintained accessible to the fire department and free of all incumbrances that might interfere with its use by the fire department.

Repair means the replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the building, or that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations, or that would be in violation of a provision of law or ordinance. The term "repair or repairs" shall not apply to any change of construction.

Required means required by some provision of this code.

Residential buildings shall mean buildings in which families or households live or in which sleeping accommodations are provided, and all dormitories, shall be classified as "residential occupancy." Such buildings include, among others, the following: Dwellings, multiple dwellings, and rooming houses.

Rooming house shall mean any dwelling, or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rooming unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rubbish shall mean combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke, or other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass, crockery and dust.

Substandard Building.

(1) Any building that is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare.

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

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

(a) The building constitutes a danger to the public even 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 Section IV(2) above.

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

Stairway means one (1) or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

Story is that portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."

Supplied shall mean paid for, furnished, or provided by or under control of the owner or operator.

Temporary housing shall mean any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.

Valuation or value, as applied to a building, means the estimated cost to replace the building in kind.

Ventilation means the process of supplying and removing air by natural or mechanical means to or from any space.

Yard means an open unoccupied space on the same lot with a building extending along the entire length of a street, or rear, or interior lot line.

Meaning of certain words. Whenever the words "dwelling," "dwelling units," "rooming house," "rooming units," "premises," are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

SECTION III

Facilities required.

(a) Required sanitary facilities. Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.

SECTION IV

General requirements for the exterior and interior of structures.

(a) Foundation. The building foundation system shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.

(b) Exterior walls. Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain, or dampness to the interior portions of the walls or to the occupied spaces of the building. All siding material shall be kept in repair.

(c) Roofs. Roofs shall be structurally sound and maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.

(d) Means of egress. Every dwelling unit shall have safe, unobstructed means of egress with minimum ceiling height of seven (7) feet leading to a safe and open space at ground level. Stairs shall have minimum headroom of six (6) feet eight (8) inches.

(e) Stairs, porches and appurtenances. Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(f) Windows and doors. Every window, exterior door and basement or cellar door and hatchway shall be substantially weathertight, watertight and rodentproof; and shall be kept in sound working condition and good repair.

(g) Windows to be glazed. Every window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes.

(h) Window sash. Window sash shall be properly fitted and weathertight within the window frame.

(i) Windows to be openable. Every window required for light and ventilation for habitable rooms shall be capable of being easily opened and secured in position by window hardware.

(j) Hardware. Every exterior door shall be provided with proper hardware and maintained in good condition.

(k) Door frames. Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building.

(l) Accessory structures. Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition.

(m) Interior floors, walls and ceilings. Every floor, interior wall and ceiling shall be substantially rodentproof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(n) Structural supports. Every structural element of the dwelling shall be maintained structurally sound and show no evidence of deterioration which would render them incapable of carrying loads which normal use may cause to be placed thereon.

SECTION V

Powers and duties of housing official.

(a) Enforcement officer. There is hereby established by the City of Comanche provisions for the enforcement of this code by the housing official.

(b) Restrictions on employees. An officer or employee connected with the department, except one whose only connection is a member of the board, established by this act, shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, or in the making of plans or of specifications therefor, unless he is the owner of such building. Such officer or employee shall not engage in any work which is inconsistent with his duties or with the interests of the department.

(c) Records. The housing official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection.

(d) Inspections. The building official and the fire marshall or their designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this Ordinance.

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

(f) Liability. Any officer of employee, or member of the housing board of adjustments and appeals, charged with the enforcement of this code, in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of this code shall be defended by the department of law until the final termination of the proceedings.

(g) Reports. The housing official shall annually submit a report to the chief administrator covering the work of the department during the preceding year. He shall incorporate in said report a summary of the decisions of the housing board of adjustments and appeals during said year.

(h) Letter of compliance. A letter indicating compliance with the provisions of this code may be issued by the housing official.

(i) Occupancy of buildings. No building or structure which has been condemned and placarded as unfit for human habitation, occupancy, or use shall again be used for such habitation, occupancy, or use until approval is secured from the housing official and such placard is removed by the housing official.

(j) Removal of placard or notice. No person shall deface or remove from the placard from any building or structure which has been condemned as unfit for human habitation, occupancy, or use and placarded as such except as provided in Section V (i) hereinabove.

(k) Requiring owner to secure condemned structures. Whenever a structure is condemned and placarded as unfit for human habitation or occupancy, all windows, doors, or other structural openings must be secured immediately to prevent access by unauthorized persons. A structure shall be considered as properly secured hereunder when access to the interior is prevented by:

- (1) The use of window locks, door locks, padlocks, or other appropriate locking mechanisms; or
- (2) Completely enclosing or boarding over structural openings with plywood, lumber, or other building materials; or
- (3) Totally enclosing the structure with a temporary chain link construction fence at least six (6) feet in height that is locked during nonconstruction periods; or
- (4) Other acceptable means of securing the structure approved by the board upon the written petition of the owner, contractor, or other person in control of the premises.

It shall remain the owner's responsibility to keep it secured throughout any repair or appeal period. Upon the owner's failure to prevent access, the City may secure the building and either charge the owner or add the costs to its demolition lien. The owner's failure to comply is also a Class "C" misdemeanor and with each day a separate offense.

(l) City's right to secure substandard or condemned buildings. When a building or structure violates the minimum standards and is unoccupied or occupied only by persons who do not have a right of possession to the building, the City may, at its discretion, secure the building:

- (1) Before the eleventh day after the date the building is secured, the City shall give notice to the owner by:
 - a. Personally serving the owner with written notice;
 - b. Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
 - c. Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owner's post office is unknown; or
 - d. Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.
- (2) The notice must contain:
 - a. An identification, which is not required to be a legal description, of the building and the property on which it is located;
 - b. A description of the violation of the municipal standards that is present at the building;
 - c. A statement that the municipality will secure or has secured, as the case may be, the building; and
 - d. An explanation of the owner's entitlement to request a hearing about any matter relating to the City's securing of the building.
- (3) The City shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the City's securing of the building if, within thirty (30) days after the date the City secures the building, the owner files with the City a written request for the hearing. The City shall conduct the hearing within twenty (20) days after the date the request is filed.
- (4) The City reserved the right to assess expenses under this section and a lien created under this section shall be a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens.

SECTION VI

Designation and notification of unsafe or substandard building or structure.

- (a) All buildings or structures which are determined to create a hazard, menace, and/or threat to the health, safety, comfort or general welfare of the public generally and which are unfit for human habitation or use, are substandard buildings. All such unsafe buildings are hereby declared public nuisances and illegal and shall be so designated and placarded. Such buildings or structures shall be abated by repair and rehabilitation or by demolition in accordance with the procedures set forth in this

article and pursuant to authority provided by Chapter 214 of the Texas Local Government Code.

(b) Whenever the housing official determines that there are reasonable grounds to believe that there has been a violation of any provisions of this article or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation(s) to the owner responsible under state and/or local law, and, at the City's discretion, to the known lienholders and/or mortgagor. Such notice shall:

- (1) Be put in writing;
- (2) Contain a statement of the violations of municipal standards that are present at the building or structure;
- (3) Contain an identification, which is not required to be a legal description of the building and the property on which it is located;
- (4) Allow thirty (30) days' time to initiate the actual construction of improvements to correct the deficiencies as enumerated in such notice;
- (5) The notice shall further state that, if such repairs, reconstruction, alterations, vacation, securing, relocation of occupants, removal or demolition are not voluntarily completed within the stated time as set forth in the notice, the City can proceed to repair, demolish, etc., pursuant to state law.
- (6) Service of notice shall be as follows:
 - a. By delivery to the owner personally, or by certified mail, return receipt requested, to the last known address of the property owner; or
 - b. In the event an address is not known, by posting a copy of the written notice in a conspicuous place on the premises to be repaired and publishing the notice in at least one newspaper of general circulation.

(c) When a building or structure is to be demolished, it shall be done in accordance with the provisions of Section X of this Code of Ordinances.

SECTION VII

Urban standards board of adjustments and appeals.

- a. Appointment.
 1. There is hereby created by the City Council a board to be known as the urban standards board of adjustments and appeals which shall consist of not less than three (3) members appointed by the City Council. The members shall be residents of the City of Comanche. Members shall include: one (1) realtor; one (1) building materials dealer; and one (1) member-at-large. In the event it is not possible to fill the membership of the board in all the

categories listed above, the City Council may select the remaining membership from business and professional residents of the city.

2. The members of the board shall organize by electing a vice-chair and secretary. Thereafter, officers shall be elected by the members of the first annual meeting of the board.

b. Meetings. The board shall meet at regular intervals to be determined by the presiding officer, but in any event, the board shall meet within sixty (60) days after notice of appeal has been received. Reasonable notice of the place, time and date of such meetings shall be given all the members of the board and all interested parties in each case to be heard by the board. Two (2) members shall constitute a quorum.

c. Duties. The duties of the board shall be:

1. To consider and determine appeals whenever it is claimed that the true intent and meaning of this code or any of the regulations thereunder have been misconstrued or wrongly interpreted.
2. To permit, in appropriate cases where the application of the requirement of this code in the allowance of the stated time for the performance of any action required hereunder would appear to cause undue hardship on an owner, the board may grant one (1) or more extensions of time, not to exceed one hundred twenty (120) days each, from the date of such decision by the board. Applications for additional extensions of time shall be heard by the board. Such requests for additional extensions of time shall be filed with the housing official prior to the expiration of the current extension.
3. An appeal should not be considered where an appeal case has been previously decided involving the same premises.

d. Procedure. The board shall establish its own rules of procedure for accomplishment of its duties and functions, provided that such rules shall not be in conflict with the provisions of this code and the laws of the state.

e. Responsibility to conduct public hearings.

1. The urban standards board of adjustments and appeals shall have the authority to conduct public hearings, to review the evidence, and to order substandard buildings be vacated, secured, repaired, removed, or demolished within a reasonable time pursuant to the procedure set out at Section X.
2. All decisions of the board to vary the application of any provision of this code or to modify an order of the housing official shall specify in what manner such variance or modification is made, the condition upon which it is made, and the reasons therefor. Every decision shall be in writing and shall indicate the vote upon the decision. A copy of all decision shall be promptly filed in the office of the housing official and shall be open to public inspection. The secretary

shall notify the appellant in writing of the final action of the board.

SECTION VIII

Grounds for appeal; hardships.

a. Where the literal application of the requirements of this code cause undue hardship on an owner or when it is claimed that the true intent and meaning of this code or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the housing official to the urban standards board of adjustments and appeals.

b. Appeals. Any person receiving written notice from the housing official of deficiencies in his property under this code may within thirty (30) days following the date of such notice enter an appeal in writing to the board. Such appeal shall state the location of the property, the date of the notice of violations, and the number of such notice. The appellant must state the variance or modification requested, the reasons therefor, and the hardship or conditions upon which the appeal is made.

SECTION IX

Permits.

Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish or change an unsafe building or structure or to cause any such work to be done, shall first make application for and obtain any required permits.

SECTION X

Procedure for requiring vacation, relocation, securing repair, removal or demolition of substandard or unsafe building.

If at the end of time period designated by the housing official, pursuant to Section 7, no construction or attempt to begin construction for the repair of the unsafe building has been made, the housing official shall institute the following procedure authorized by Chapter 214 of the Local Government Code.

- (a) A date for public hearing before the urban standard board of adjustments and appeals shall be set;
- (b) Notice of this hearing shall be sent by first class mail, postage prepaid, certified, Return Receipt Requested, to the last known address of the property owner at least ten (10) days prior to the date of the public hearing;
- (c) The City may also notify the mortgagors or lienholders to provide all interested parties with an opportunity to comment at the public hearing;
- (d) The notice should contain the following:
 - i. A statement of violations constituting a nuisance;
 - ii. The date, time and place of hearing;
 - iii. The name of the owner(s) and lienholder(s), if known; and
 - iv. An explanation that they must appear and show cause why the owner or lienholder should not be ordered to vacate, repair, or destroy the

building or structure.

- (e) In the event the owner's address is unknown, a copy of the written notice shall be posted in a conspicuous place on the structure thereby constituting constructive notice of the hearing;
- (f) At the public hearing, the owner and notified lienholders shall have the right to appear and present evidence concerning the condition of the building or structure, the work, if any, required to render the building or structure safe, sanitary or fit for human habitation, occupancy, or use, or a reasonable time schedule for completion of such repairs or demolition;
- (g) After the public hearing, if so determined, the board shall issue an order stating the building or structure is in violation of standards set out in this chapter and ordering that the building be vacated, secured, repaired, removed or demolished within a reasonable time by the owner. A time schedule for accomplishing the repair of such debts or recommending to the City Council that the building or structure be demolished should also be contained in this order.

This order shall be sent by certified mail, return receipt requested, to the last known address of the property owner and to the address of any lienholder or mortgagor within twenty (20) days after the public hearing conducted by the board.

- i. Additionally, each lienholder or mortgagor not previously notified as set forth in Section 7 shall be mailed a copy of the notice letter prepared pursuant to Section 7 contemporaneously with the order issued after the public hearing.
- ii. If the City has previously notified lienholders or mortgagors and those parties have had an opportunity to be present at the public hearing, then the order may specify a reasonable time for the building to be vacated, secured, repaired, removed or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time for the ordered action to be taken by any of the mortgagors or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner. In this case, the City is not required to furnish any notice to a mortgagor or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.
- iii. If the order requires that the building or structure be repaired, secured, removed, vacated, etc., the matter will again be reviewed by the board at the conclusion of the period of time stated in the order for completion of those repairs. The owner will be given notice of this consideration by first class mail, postage prepaid. Following this hearing, the board shall enter any additional order which it determines necessary to cause the building or structure or portion thereof to become safe, sanitary, and fit for human

habitation, occupancy, or use or to have the building or structure demolished.

- iv. If the order requires demolition, it shall state the date of the City Council meeting at which the matter will be considered if the owner or lienholder has failed to demolish the building within the time schedule provided. In such cases, the demolition order will be mailed at least fifteen (15) days before City Council meeting at which the matter will be finally considered. Where the owner or lienholder has failed to act, the City may demolish the building or structure upon such a finding by City Council and pursuant to Section 10(h).

(h) Action by City Council.

- i. If the board recommends demolition of the structure or building, it shall have the matter placed on the agenda of a meeting of the City Council for further action. The City Council shall either order demolition of the building or structure or refer the matter back to the board for further action directed toward obtaining compliance with this code. If the City Council orders the demolition of the building or structure, it shall enter a written order of demolition. A copy of this order shall be sent certified mail, return receipt requested, to the last known address of the property owner, agent or person in control of such structure. The order may provide that the building or structure be demolished immediately by a contractor employed in the manner prescribed by law.
- ii. It shall be the responsibility of the housing official to carry out the terms and conditions of the demolition order as directed by the City Council. In so doing, he is authorized to contract the work at City expense. The housing official shall prepare a certified statement of charges incurred by the City to repair or demolish the building or structure. All costs of demolition or repairs shall be the personal obligation of the person who owns the building at the time the demolition order was issued and shall also be assessed as a lien against the land. An affidavit of lien shall be filed with the Comanche County Clerk and a demand for payment issued to the owner. Where notice is given pursuant to Section 11(g)i. or ii. above, the lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens.
- iii. The City reserves the right, pursuant to authority granted under Chapter 214 of the Local Government Code, to assess a civil penalty against the property owner for failure to repair, remove, or demolish the building and may provide for that assessment. Such penalties shall be assessed and set out in a written notice to be sent to the owner certified mail, return receipt requested, after the expiration of time allotted under Section 11(g)ii.
- iv. If timely payment does not follow the issuance of the demand, the City Attorney is authorized to bring an action in District Court for collection of all amounts due, for foreclosure of the lien and a judicially authorized sale of the property to pay demolition costs, or for such other and further

relief as the City Attorney shall deem appropriate. Any money received at the sale of the property in excess of demolition costs and cleaning of lot and costs of sale shall be credited to the owner of the property.

- v. Before selling any building, structure or portion thereof upon which a notice has been posted pursuant to Subsection 7, the owner is required to give the following notices in writing:
 - (1) To the buyer, a notice stating, "The Housing Official of the City of Comanche has determined that the building on ____ (Lot and Block)____(street address)____ is unsafe for occupancy. Occupancy of this building is prohibited and administrative proceedings are in progress to require repair or demolition of this building to be accomplished at the expense of the owner."
 - (2) To the City Housing Official, _____, (address) Comanche, Texas, a notice stating, "I am selling the property located at ____ (Lot and Block) ____ (street address)____ to _____ (name of buyer)____ whose address is _____ (mailing address and street address) _____. The date of the sale is ____ (month, day and year) _____."
- vi. If the owner fails to give the notices required by this section, he shall be deemed guilty of a misdemeanor and upon conviction be punished by a fine of not less than two hundred (\$200.00).
- vii. Before selling any building, structure, or portion thereof upon which notice has been posted pursuant to Section 11(b) or (e), the owner is required to give the following notices in writing:
 - (1) To the buyer, a notice stating, "The Housing Official of the City of Comanche has determined that the building on ____ (Lot and Block)____ (street address)is unsafe for occupancy. Occupancy of this building is prohibited and administrative proceedings are in progress to require repair or demolition of this building to be accomplished at the expense of the owner."
 - (2) To the City Housing Official, _____ Comanche, Texas, a notice stating, "I am selling the property located at ____ (Lot and Block)____ (street address)____ to _____ (name of buyer)____ whose address is _____ (mailing address and street address). The date of the sale is ____ (month, day and year)."
- viii. If the owner fails to give the notices required by this section, he shall be deemed guilty of a misdemeanor and upon conviction be punished by a fine of not less than two hundred dollars (\$200.00).
- ix. Any repair or demolition work, or securing of the building shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided.
- x. When any work of repair, removal, demolition or securing is to be performed by the City pursuant to the provisions of any order of the City Council or

the Board, the work may be accomplished by City personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.

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

- xi. The building official shall keep an itemized account of the expenses incurred by the City in the securing, repair, removal or demolition of any building pursuant to this Ordinance. Upon completion of the work, the Building Official shall prepare and file with the City Secretary a sworn account and Notice of Lien containing the following information.
- (a) The name and address of the owner if that information can be determined with a reasonable effort;
 - (b) A legal description of the real property on which the building is or was located;
 - (c) The type of work performed; and
 - (d) The amount of expenses incurred by the city in performing the work and the balance due.

SECTION XI

Appeals to State District Court; substantial evidence rule.

Once the decision of City Council has become final under this chapter, the person affected by an order may appeal the decision to the State District Court. Appeal to the District Court must be filed within twenty (20) days from the date of receipt of notice of an order of demolition given pursuant to Section 10. Appeal in the District Court shall be limited to a hearing under the substantial evidence rule.

SECTION XII

REPEAL.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION XIII

TERMS OF ORDINANCE ARE SEVERABLE

That the terms and provisions of this Ordinance are severable. If any portion of this Ordinance be declared invalid or unenforceable, the balance of said Ordinance not declared invalid or unenforceable, will remain in full force and effect.

SECTION XIV


EFFECTIVE DATE

That this Ordinance shall take effect on *September 13*, 1999, after its passage and publication as required by law.

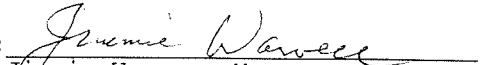
PASSED, APPROVED AND ADOPTED at a regular meeting of the Comanche City Council, on this 13th day of September, 1999.

ATTEST:

CITY OF COMANCHE, TEXAS



William A. Flannery, Jr.
City Manager

By: 

Jimmie Warren, Mayor