



CITY OF BRADY CITY COUNCIL WORK SESSION AGENDA JANUARY 17, 2017 AT 4:00 PM

NOTICE is hereby given of a meeting of the City Council of City of Brady, McCulloch County, State of Texas, to be held at 4:00pm on January 17, 2017, at the City of Brady Municipal Court Building, located at 207 S. Elm Street, Brady, Texas, for the purpose of considering the following items. The City Council of the City of Brady, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5. Chapter 551. of the Texas

1. Call to Order, Roll Call and Certification of a Quorum

Tony Groves
Mayor

Kathy Gloria
Mayor Pro Tem, Place 1

Shelly Perkins
Council Member, Place 2

Marilyn Gendusa
Council Member, Place 3

Jane Huffman
Council Member, Place 4

Jim Griffin
Council Member, Place 5

Kim Lenoir
City Manager

Tina Keys
City Secretary

Lisa Remini
Director of Finance

Steve Miller
Director of Public Works

Peter Lamont
Director of Community Services

Lyle Daniel
Chief of Fire/EMS

Steve Thomas
Chief of Police

Shannon Kackley
City Attorney

2. Review and Discuss Code Compliance Division:

Demolition and Code Compliance Process
Illegal Dumping
In-fill Ordinance and possible incentives
Substandard Building Ordinance with ZBA - Draft

3. Review and Discuss Solid Waste Division:

FY17 Solid Waste Budget
Review 3 month dump pass use
Discuss upcoming clean-up projects

4. Review and Discuss Parking Issues / Complaints:

Paved parking lots in Industrial, Commercial Districts
On-street parking & off-street parking requirements

5. Discuss and plan future work session dates and topics

6. Announcements

7. Adjournment

I certify that this is a true and correct copy of the City of Brady City Council Meeting Agenda and that this notice as posted on the designated bulletin board at Brady City Hall, 201 E. Main St., Brady, Texas 76825; a place convenient and readily accessible to the public at all times, and said notice was posted on _____ by 6:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.

Tina Keys, City Secretary

In compliance with the American with Disabilities Act, the City of Brady will provide for reasonable accommodations for persons attending public meetings at City Facilities. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 325-597-2152 or citysec@bradytx.us.

Attendance by Other Elected or Appointed Officials: It is anticipated that members of other governmental bodies, and/or city boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or committee. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a possible meeting of the other body, board, commission and/or committee, whose members may be in attendance, if such numbers constitute a quorum. The members of the boards, commissions and/or committees may be permitted to participate in discussion on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless item and action is specifically provided for on an agenda for that body, board, commission or committee subject to the Texas Open Meetings Act.

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes written interpretation of the Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.114(c) and the meeting is conducted by all participants in reliance on this opinion.



Dilapidated Building Timeline Checklist

- 1) Inspect. The Code Enforcement Officer should inspect each building to determine if it is in violation of the standards set in City Code Section 3.202. Code Enforcement Officer should take pictures and document date and specific standards of Section 3.202 that are not met.
- 2) Notice of Hearing. Whenever a violation of this article has been discovered and reported by the building inspector or his/her designee, a public hearing shall be held by the city council to determine whether a building complies with the standards set out in this article.

 - a) Send a letter to inform of date of hearing to:

 - (1) The occupant, if any; and
 - (2) Record owner; and
 - (3) Every Lien holder or Mortgagee; and
 - (4) All persons that have legal interest in the property at last known address
 - (b) Publish a notice in the newspaper that includes:

 - (1) Street address or legal description of the property;
 - (2) Date of Hearing
 - (3) Brief statement indicating the violation
- 3) Hold the hearing before City Council. At the hearing, the City Council must be presented with evidence of the violation and a recommendation for remediation. Any person or entity with interest in the property must be given the opportunity to present contrary evidence. Building can only be demolished if City Council issues order.
- 4) After Hearing. File the order to demolish or repair with the City Secretary and send a letter and copy of the order to the following:

 - A) The occupant, if any; and
 - B) Record owner; and
 - C) Every Lien holder or Mortgagee; and
 - D) All persons that have a legal interest in the property at their last known address
- 5) Appeal. The owner can appeal decision to district court if petition is filed within 30 days after the date the order was received.
- 6) Abatement. Whenever it is discovered upon re-inspection that the owner, mortgagee or lienholder has failed to repair, remove or demolish the building or take other ordered action within the allotted time, the city, or its authorized agent, may repair, remove or demolish and remove said building or cause the same to be done and charge the expenses incurred in doing such work or having the same done to the owner, mortgagee or lienholder of said land or otherwise assess the expenses against the property on which the building is located.

Timeline for Code Enforcement

- 1) Investigate. Upon receipt of complaint, or through proactive search, if there is suspicion of a code violation the code enforcement department will investigate.
- 2) Contact. If investigation reveals a violation of city code exists then code department will try to make contact with property owner and make them aware that they are in violation. If a verbal warning is given it will include an agreed upon timeline for compliance.
- 3) Notice of Violation. If contact with owner cannot be made, or the discussed time from verbal warning has passed with no compliance, the code department will issue a Notice of Violation stating all code violations and a statement that they will 10 days to bring property into compliance.
- 4) Citation If after the 10 days the violation still exists, the property owner will be issued a citation and the matter will be decided in Municipal Court.

***If any time before the citation is issued the owner makes contact with the code enforcement department and ask for additional time to come into compliance, a code enforcement officer will meet with them and discuss reasonable time line for compliance.**



Ronnie Roberts - 325-597-1808 Ext. 202

REQUEST FOR SERVICE

Address: _____ Date: _____

Electrical Violations:

Electrical Permit required
Grounding required
Main Disconnect
Exterior Disconnect (6 breakers max.)
Exposed/deteriorated wire exterior
Breaker Panel Cover
Double lugged breakers
Service clearance from ground
Service head 24 inches above roof min.
Meter base 5 ft. 5 in. from ground, req.
GFCI outlet required in wet areas
Exposed wiring (interior)
Open breaker spaces
Cover plates missing outlets/switches
Globe missing at light fixture
Breakers not labeled

Plumbing Violations:

Plumbing Permit required
Bathtub/shower not functional
Toilet not functional
Sinks not functional
Kitchen not functional
Tub/Shower not present
Backflow valve missing
Gray water discharge
Sewer Connect - confirm
Septic system - test or pump

Gas Violations:

Gas Pressure test required
Plumbing Permit required
Water heater combustion air
Pan with drain not present
Pressure relief valve not piped
Water heater located in bath or sleeping
Flue not functional
Sealed door if required
Furnace heat exchanger - check
Old type gas valves, replace
Unused gas piping not capped
Copper, brass, cast iron, gas pipe, replace
Unvented Gas Heater
Gas pipe not Coated or wrapped
Ground or building movement
Removal abandoned gas piping

Nuisance Violations:

Junk and Unsightly Matter
Grass too tall
Limbs
Tires
Household Furniture in yard
Dead Trees Remove
Dog or Animals Excess or Loose
Junk Vehicle

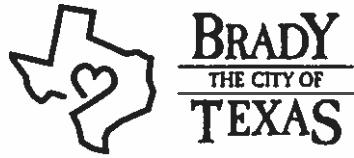
Other Violations:

Smoke detectors
Window or exhaust missing at bathroom
Window not present in bedroom
Accessible exit from house
Siding cracks, holes, decayed, missing
Roofing weather tight condition,
Zoning violations, setback, trees, sight
Not Habitable

Licensed electricians/plumbers may have additional requirements that must be met.

* Items marked require correction prior to utility activation

*Violation items marked require repair or abatement but not required for utility activation



MEMORANDUM

TO: KIM LENOIR, CITY MANAGER
FROM: PETER LAMONT, DIRECTOR OF COMMUNITY SERVICES
DATE: 13 JANUARY 2017
SUBJECT: ILLEGAL DUMPING IN BRADY

As has been discussed, illegal dumping is a significant issue in Brady. With numerous empty/abandoned lots and a significant length of unpatrolled lake shore, the opportunity for someone to dump trash, household items and other refuse is abundant. The ability of any one agency within the City to catch a significant percentage of illegal dumping is small at best, the numbers work against us.

At this time, our options are limited. Unless City staff sees the individual actually dumping the material and can call the police, there are only two ways to successfully cite someone. The first is to search the trash and look for identifying information. This has worked before when mail, with a name and address was found in the dumped material. The second is if someone, staff or concerned citizen for example, see the dumping and take a photograph of the action and it has some identifying information in it. We have had at least one case where a photo was taken of the dumping and included a license plate for identification.

The issue of illegal dumping within Brady will not be a simple one to solve. Until the mindset that it is alright to dump trash on someone else's property is changed, it will continue to be a problem. Staff can step up patrolling efforts around the lake, but the biggest source of citations will be citizens being willing to take action and report dumping when they witness it.

ORDINANCE NO. 1199

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADY, TEXAS
AMENDING THE CITY OF BRADY ZONING ORDINACE ADOPTED ON MAY 7, 2003
BY AMENDING ORDINANCE 933, SUBDIVISIONS**

WHEREAS, the City of Brady has numerous undeveloped properties within established neighborhoods; and,

WHEREAS, the City of Brady wishes to promote construction of new homes in these neighborhoods; and,

WHEREAS, the City of Brady wishes to allow new homes to reflect the character and architecture of the established neighborhood.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
BRADY, TEXAS; that an Infill Ordinance grant variance from City Building Code be
established, permitting for exempted setback and exterior construction material requirements.**

7.9 Infill of existing neighborhoods

The overlay district shall be in effect in all areas of the City of Brady and made a part hereof.

It is provided that within said area, the existing (or as then amended) base zoning will remain in effect, and will control the USE of the property. This section does not change the USE of the property, only the structures that may be placed on it. The base zoning still applies to structures, except as amended by this ordinance.

Property, in order to qualify under this Section 26.B, must consist of lots initially platted prior to 1980 or transferred by metes and bounds before 1980, AND be located within the Single-Family Residential and Manufactured Home District.

The following is allowed on qualifying property:

1. The front yard setback must be within five (5) feet of the average of each structure that is within fifty (50) feet from the buildable lot, as measured from the front building plane, and not including porches.
2. Maximum lot coverage is eighty percent (80%).
3. Side yards will be ten percent (10%) of lot width.
4. The massing, scale, and materials shall be appropriate to the neighborhood and porches may be required, which requirements can be set with the City staff by written approval; however, their ruling may be appealed to the Planning and Zoning Commission. (P&Z)
5. In no situation will a house be less than ten (10%) percent of the average of square footage area of houses to each side and directly across the street, but not less than 800 square feet.

6. Two off-street parking areas behind the front building plane are required, any garage that is built shall not have a door facing the right-of-way, unless set back from the front of the building plane at least five (5') feet.
7. Garages will not be required if three bedrooms or less.
8. Material for driveway may be permeable behind the front building plane with approved driveway section and material.
9. Minimum lot size—Similar sizing to adjacent lots, flexible depending on surrounding lots. In no situation will a lot be less than ten (10%) percent less than the square footage area of adjacent lots on each side and directly on the other side of the street.
10. A residential Planned Development District (PDD) may be any size in this overlay district, if approved for a Specific Use Permit (SUP).
11. Garage Dwelling Units may be allowed with SUP in SF-5 and SF-10.
12. Duplexes on corner lots must have entrances facing one to each street.

PASSED AND APPROVED THIS _____ DAY OF _____, 2016

Anthony Groves, Mayor
CITY OF BRADY

ATTEST:

Tina Keys, City Secretary
STATE OF TEXAS
COUNTY OF MCCULLOCH
CITY OF BRADY

ARTICLE 3.200 DANGEROUS PREMISES*

Sec. 3.201 Definitions

As used in this article, the following terms are defined as follows:

Appraised value. The value given the structure by the county tax assessor's office.

Building. Any structure of any kind or any part thereof, erected for the support, shelter or enclosure of persons, animals, chattel or property of any kind.

Building Inspector. The person appointed by the city to conduct periodic inspections of buildings and structures to insure that the same are being maintained in a manner consistent with prescribed building codes of the city and not in violation of this article.

City. The City of Brady, Texas.

City Council. The governing body of the City of Brady.

Diligent Effort. Best or reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee including a search of the following records:

- (1) County real property records of the county in which the building is located;
- (2) Appraisal district records of the appraisal district in which the building is located;
- (3) Records of the secretary of state;
- (4) Assumed name records of the county in which the building is located;
- (5) City tax records; and
- (6) City utility records.

Minimum Housing Standards. Those standards found in the city's adopted standard building, electrical, plumbing, gas, mechanical, existing building and fire prevention codes and any other housing and structure regulations adopted under Chapter 214, Local Government Code.

Owner. Any person, agent, firm, corporation, or other entity named in the real property records of the county where the building is located as owning the property.

Structure. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner, or any part thereof.

Sec. 3.202 Purpose

This dangerous premises article is adopted so that the city council may promote the public health, safety, and general welfare within the city through the regulation of substandard and dangerous buildings or structures. By requiring the repair or demolition of substandard and dangerous buildings and structures, the city council seeks to protect property values and prevent bodily injury, death, and property damage within the city limits.

Sec. 3.203 Declaration of Nuisance

Any building or structure requiring repair, removal or demolition, as described and defined in this article and all buildings or structures within the city which because of their condition are unsafe, unsanitary or otherwise dangerous to the health, safety and general welfare of the citizens of the city are hereby declared to be a public nuisance and unlawful and subject to the provisions of this article in addition to the other provisions in this code of ordinances. Such unsafe, unsanitary and dangerous conditions include, but are not limited to the other portions of Chapter 3 of the city code of ordinances regarding building, electrical and plumbing regulations, Chapter 8 of the city code of ordinances regarding repair, removal or demolition of nuisances, Chapter 13 of the city code of ordinances regarding utilities, and any other provision in the city code of ordinances.

Sec. 3.204 Inspection

An inspection shall be made of every building located within the city which is suspected of being in violation of this article. The building inspector, or his or her official designee, is hereby authorized to conduct inspections of buildings suspected of being in violation of this article and take such actions as may be required to enforce the provisions of this article.

Sec. 3.205 Adoption of the Uniform Code for the Abatement of Dangerous Buildings

The Uniform Code for the Abatement of Dangerous Buildings, 1994 edition published by the International Conference of Building Officials is adopted, incorporated by reference into this section in its entirety, and the city secretary will make available relevant provisions at the request of any citizen of the city.

Sec. 3.206 Duties of Building Inspector

The building inspector shall perform the following duties:

- (1) Inspect or cause to be inspected periodically all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial manufacturing or loft buildings or tents for the purpose of determining whether conditions exist which render any such place a dangerous premises within the terms of this article;

- (2) Inspect any premises, building, wall or structure about which complaints have been filed by any person to the effect that such premises or building, wall or structure is or may be existing in violation of this article;
- (3) Inspect any premises, building, wall or structure reported by the health, fire or police department of this city as possibly existing in violation of the terms of this article;
- (4) Inspect any premises, building wall or structure which he has reason to believe may be in violation hereof;
- (5) Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in such premises, at their last known address as shown by the records of the assessor and collector of taxes of the city, of any premises found by him to be dangerous premises within the standards set forth in this article, that:
 - (A) The owners shall vacate, repair or demolish such building in accordance with the terms of the notice and this article;
 - (B) The occupant or lessee shall vacate such building or have it repaired in accordance with the notice and remain in possession;
 - (C) The mortgagee, agent or other person having an interest in such building may at his own risk repair, vacate or demolish the building or have such work or act done; provided that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided herein.
- (6) Set forth in the notice provided for in subsection (5) of this section a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building; and a statement requiring the building to be put in such condition as to comply with the terms of this article within such time as is reasonable, as long as that time is not longer than 30 days;
- (7) If the owner, occupant, mortgagee or lessee fails to comply with the notice provided for in subsection (5) above within 30 days, report the condition to the city attorney giving him or her a copy of the notice described in subsections (5) and (6) hereof. The city attorney shall then take any necessary action to secure compliance with the order of the building inspector provided in subsection (1) of this section, and in particular shall proceed as provided in Sections 3.211 and 3.212, taking additional steps to determine the names and addresses of persons having an interest in the premises.

Sec. 3.207 Determination

The following standards shall be utilized in determining whether a building should be ordered repaired, removed or demolished:

- (1) The building or structure is liable to partially or fully collapse.
- (2) The building or structure was constructed or maintained in violation of any provision of the city's building code, or any other applicable ordinance or law of the city, county, state, or federal government.
- (3) Any wall or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle one-third (1/3) of its base.
- (4) The foundation or the vertical or horizontal supporting members are twenty-five (25) percent or more damaged or deteriorated.
- (5) The nonsupporting coverings of walls, ceilings, roofs, or floors are fifty (50) percent or more damaged or deteriorated.
- (6) The structure has improperly distributed loads upon the structural members, or the structural members have insufficient strength to be reasonably safe for the purpose used.
- (7) The structure of any part thereof has been damaged by fire, water, earthquake, wind, vandalism, or other cause to such an extent that it has become dangerous to the public, health, safety and welfare.
- (8) The structure does not have adequate light, ventilation, or sanitation facilities as required by the city.
- (9) The structure has inadequate facilities for egress in case of fire or other emergency or has insufficient stairways, elevators, fire escapes or other means of ingress or egress.
- (10) The structure, because of its condition, is unsafe, unsanitary, or dangerous to the health, safety or general welfare of the city's citizens including all conditions conducive to the harboring of rats or mice or other disease carrying animals or insects reasonably calculated to spread disease.
- (11) The structure is unsafe, unsanitary or dangerous to the health, safety and general welfare of the city's citizens due to failure to comply with any provision in Chapter 13 of the city code ("Utilities").

(12) The structure is unsafe, unsanitary or dangerous to the health, safety and general welfare of the city's citizens due to a nuisance that constitutes an unsanitary condition on property as defined in Section 8.106 of the city code.

Sec. 3.208 Standard for Vacation

If a dangerous premises is in such condition as to make it dangerous to the health or safety of its occupants, it shall be ordered to be vacated.

Sec. 3.209 Standard for Repair

If a dangerous premises can be feasibly repaired or the condition remedied so that it will no longer exist in violation of the terms of this article, it shall be ordered remedied or repaired. Repairs will only be deemed feasible if less than 50% of the value or structure of the building is required to be repaired or replaced.

Sec. 3.210 Standard for Demolition

In any case where a dangerous building is fifty (50) percent or more damaged, decayed or deteriorated from its value or structure, it shall be demolished, and in all cases where a building cannot be repaired to meet the standards and provisions in this article, it shall be demolished.

Sec. 3.211 Notice of Violation

(a) Whenever a violation of this article has been discovered and reported by the building inspector or his/her designee, a public hearing shall be held by the city council to determine whether a building complies with the standards set out in this article.

(b) A notice of the hearing shall be sent to the occupant, if any, and record owner, lienholder or mortgagee. Such notice shall be in writing and shall be served by personal delivery or by certified mail return receipt requested. Additionally, a copy of the notice shall be posted on the front door of each affected structure situated on the property or as close to the front door as practicable. It is not necessary that the notice to the occupant of the property list an occupant by name. Service of the notice may be accomplished by the first class U.S. mail or by personal delivery to any occupant of the property who is above the age of eighteen (18) years.

(c) The notice shall contain:

- (1) The names of all persons to whom notice is being served;
- (2) The street address or legal description of the premises;
- (3) The date of inspection;
- (4) The nature of the violation;

(5) The date, time and location of the hearing; and

(6) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the article and the time it will take to reasonably perform the work.

Sec. 3.212 Hearing

(a) The date of the hearing shall not be less than 10 days after notice is made (as described in Section 3.211).

(b) If a building is found to be in violation of this article, the city shall require the owner, lienholder, or mortgagee of the building to, within 30 days repair, remove or demolish the building, unless it is proven at the hearing that the work cannot reasonably be done in 30 days.

(c) If the city allows more than 30 days for the building to be repaired, removed or demolished, the city shall establish specific time schedules for the work to be commenced and performed 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.

(d) The city shall not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless a detailed plan and time scheduled for the work are submitted at the hearing and it is proven at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work. Additionally, the owner, lienholder, or mortgagee must submit work progress reports to demonstrate compliance with the time schedule established.

(e) In any case where repairs are estimated to cost 50 percent or more of the appraised value, a building shall be demolished or removed, and in all cases where a structure cannot be repaired so that it will no longer exist in violation of the provisions of this article, it shall be demolished or removed.

(Ordinance 999 adopted 6/6/07)

Sec. 3.213 Order of Repair or Demolition

(a) After the public hearing, if a building is found to be in violation of the standards set out in this article, the city may order that the building be repaired, removed or demolished within a reasonable time, as established under this article.

(b) If the building is ordered to be repaired, removed or demolished, the city shall promptly mail by certified mail, return receipt requested, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The city shall make a diligent effort to discover each owner, mortgagee and lienholder having an interest in the building or property on which the building is located.

(Ordinance 999 adopted 6/6/07; Ordinance 1036 adopted 1/7/08)

 **Sec. 3.214 Notice of Repair or Demolition**

(a) In addition to the order, each identified mortgagee or lienholder shall be sent a notice containing:

- (1) An identification of the building and property on which it is located (this does not have to be a legal description);
- (2) A description of the violation of the article; and
- (3) A statement that the municipality may demolish the building if the ordered action is not taken.

(b) If the notice is returned "refused" or "unclaimed," the validity of the notice is not affected and the notice shall be deemed delivered.

(c) Within ten (10) days after the date that the order is issued, the city shall:

- (1) File a copy of the order in the office of the city secretary; and
- (2) Publish a notice in a newspaper of general circulation in the city (and where the building is located) stating:
 - (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 as to where a complete copy of the order may be obtained.

 **Sec. 3.215 Appeal**

The owner, lienholder, or mortgagee shall have the right to appeal the decision made at the hearing to a district court. A notice of appeal must be filed with the district court within thirty (30) calendar days from the date the order is mailed to the owner, lienholder or mortgagee, as provided herein.

 **Sec. 3.216 Demolition and Repair Expenses**

(a) Whenever it is discovered upon reinspection that the owner, mortgagee or lienholder has failed to repair, remove or demolish the building or take other ordered action within the allotted time, the city, shall make a diligent effort to discover each mortgagee and lienholder having an

interest in the building or in the property which the building is located and shall personally deliver or send by certified mail, return receipt requested, to each a notice containing:

- (1) An identification of the building and property on which it is located (this does not have to be a legal description);
- (2) A description of the violation of the article; and
- (3) A statement that the municipality will remove or demolish the building if the ordered action is not taken.

(b) Whenever it is discovered upon reinspection that the owner, mortgagee or lienholder has failed to repair, remove or demolish the building or take other ordered action within the allotted time, the city, or its authorized agent, may repair, remove or demolish and remove said building or cause the same to be done and charge the expenses incurred in doing such work or having the same done to the owner, mortgagee or lienholder of said land or otherwise assess the expenses against the property on which the building is located.

If such work is done at the expense of the city, then the said expense shall be assessed against any salvage resulting from the demolition of the building and against the lot, tract, or parcel of land, or the premises upon which such expense was incurred.

(c) For the purposes of this section, any repair, alteration or improvement made to a building by the city will only be to the extent necessary to bring the building into compliance with the minimum housing standards and only if the building is a residential building with ten (10) or fewer dwelling units; provided, however, the city may elect to obtain a judicial determination by a decree of a court of competent jurisdiction of the existence, in fact, of a public nuisance in cases contemplated by this article. Such judicial determination may include any available remedy for the abatement of such a nuisance.

Sec. 3.217 Assessment of Lien

(a) When the city incurs expenses to repair, remove or demolish a building, the city may assess the expenses on and obtain a lien against the property on which the building is located, unless it is a homestead as protected by the Texas Constitution. The lien arises and attaches to the property when the city has the lien recorded and indexed with the county clerk in which the property is located. The notice shall contain:

- (1) The name and address of the owner, if that information can be determined with a reasonable effort;
- (2) A legal description of the real property on which the building was located;
- (3) The amount of expense incurred by the city;
- (4) The balance due; and

(5) The date on which said work was done or improvements made.

(b) The city shall have a privileged lien on such lot, lots, or other premises or real estate upon which said building was located, to secure the expenditure so made, second only to other liens as provided by law. It is further provided that for any such expenditure suit may be instituted and foreclosure of said lien may be made 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 for such work or expense.

(c) The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the city for the expenses.

Sec. 3.218 Penalty for Violation of This Article

The city shall have the power to administer and enforce the provisions of this article as may be required by governing law.

(1) Civil Remedies.

(A) A property owner violating any provision of this article shall, upon conviction, be fined a sum not exceeding one thousand dollars (\$1,000.00) for each and every day of violation, or, if the owner shows the property is the owner's lawful homestead, in an amount not to exceed ten dollars (\$10.00) per day for each violation, provided that:

(i) The owner was notified of the requirements of the article and the owner's need to comply with the requirements; and

(ii) After notification, the owner committed an act in violation of the article or failed to take action necessary for compliance with the article.

(B) If such a civil penalty is assessed, the city secretary shall file a certified copy of the order containing such amount and duration of the penalty with the county district clerk's office no later than three (3) working days after such order.

(2) Other Remedies.

(A) The remedies provided in this section shall be available to the city in addition to any penal or other remedy provided by law or equity which the city, state, or any other person may provide to remedy the unsafe building condition.

(B) The city may bring a civil action in a court of competent jurisdiction to collect the amount due plus all associated costs and fees.

Sec. 3.219 Emergency Cases

In cases where it reasonably appears that there is an immediate danger to the life or safety of any person unless a dangerous building as defined in this article is immediately vacated, repaired or demolished, the building inspector shall make a finding that there is an immediate danger and cause the immediate vacation, repair or demolition of such dangerous building. The cost of such emergency repairs vacation or demolition of such dangerous building shall be collected in a manner consistent with the procedures in this article.

Sec. 3.220 Administrative Liability

Neither the city nor any authorized agent acting under the terms of this article shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this article. Any suit brought against any officer, agent or employee of the city as a result of any act required or permitted in the discharge of his duties under this article shall be defended by the city attorney until the final determination of proceedings therein.

Sec. 3.221 Duties of Other Departments

The heads of the fire, police, public health and other city departments shall make prompt reports in writing to the building inspector of all buildings or structures which are, may be or are suspected to be dangerous premises within the terms of this article and the code of ordinances of the city.

(Ordinance 999 adopted 6/6/07)

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADY,
TEXAS AMENDING THE CITY OF BRADY CODE OF ORDINANCES
CHAPTER 3 BUILDING REGULATIONS BY AMENDING ARTICLE
3.200, TITLED DANGEROUS PREMISES; PROVIDING FOR A
CUMULATIVE & CONFLICTS CLAUSE; PROVIDING A
SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; **AND**
**PROVIDING AN EFFECTIVE DATE; AND DIRECTING THE CITY
SECRETARY TO PUBLISH THE CAPTION IN ACCORDANCE WITH
THE CITY CHARTER.****

WHEREAS, Section 1.04 of the City's Charter permits the City to pass and enforce ordinances, not inconsistent with the Charter and State law, to make and enforce all police, health, and sanitary regulations as may be expedient for the protection and maintenance of good government, for peace and welfare of the City for the performance of the functions of the City and the order and security of its residences, and to provide suitable penalties for the violations of any ordinance enacted by the City; and

WHEREAS, Chapter 214 of the Texas Local Government Code allows the City to require the vacation, relocation of occupants, securing, repair, removal, and demolition of a building that is dilapidated, substandard, unfit for human habitation, or a hazard to the public health, safety, and welfare; and

WHEREAS, Article 3.200 of the City's Municipal Code of Ordinances regulates dangerous and substandard premises and establishes procedures to remove and demolish dangerous and substandard premises; and

WHEREAS, the City Council has determined that the safety, health and welfare of the citizens and general public require amendments to Article 3.200 of the Code of Ordinances to regulate dangerous and substandard premises; and

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADY, TEXAS THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendment to Municipal Code of Ordinances. The City of Brady's Municipal Code of Ordinances, Chapter 3 (entitled "*Building Regulations*"), Article 3.200 (entitled "*Dangerous Premises*") is hereby amended and replaced with Article 3.200 contained in Exhibit A.

Section 3. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance (including Exhibit A) are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City

Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

Section 4. Savings. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed offense, nor shall the repeal prevent a prosecution from being commenced for any violation occurring to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

Section 5. Remedies. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the Code of Ordinances in effect on the effective date of this Ordinance and modified by this Ordinance or any other ordinances in effect on the effective date of this Ordinance and modified by this Ordinance and requiring the payment of fees for licenses, permits, and other services provided by the City which have accrued on the effective date of this Ordinance; and any and all accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 6. Effective Date. This Ordinance shall ~~take effect ten (10) days after the City Secretary causes this Ordinance, or its Caption, to be published in the Official Newspaper~~ ~~be in full force and effect on~~ _____, 2016, as required by Section 3.16 of the City Charter.

PASSED AND APPROVED ON FIRST READING on this _____ day of _____
2016.

PASSED AND APPROVED ON SECOND READING on this _____ day of
_____ 2016.

Anthony Groves, Mayor

ATTEST:

Tina Keys, City Secretary

APPROVED AS TO FORM:

M. Shannon Kackley, Asst. City Attorney
DENTON NAVARRO ROCHA BERNAL HYDE & ZECH, P.C.

EXHIBIT A

ARTICLE 3.200 DANGEROUS PREMISES

Sec. 3.201 Definitions

As used in this article, the following terms are defined as follows:

Appraised value. The value given the structure by the county tax assessor's office.

Building. Any structure of any kind or any part thereof, erected for the support, shelter or enclosure of persons, animals, chattel or property of any kind.

Building Inspector. The person appointed by the city to conduct periodic inspections of buildings and structures to insure that the same are being maintained in a manner consistent with prescribed building codes of the city and not in violation of this article.

City. The City of Brady, Texas.

City Council. The governing body of the City of Brady.

Diligent Effort. Best or reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee including a search of the following records:

- (1)(A) County real property records of the county in which the building is located;
- (2)(B) Appraisal district records of the appraisal district in which the building is located;
- (3)(C) Records of the secretary of state;
- (4)(D) Assumed name records of the county in which the building is located;
- (5)(E) City tax records; and
- (6)(F) City utility records.

Minimum Housing Standards. Those standards found in the city's adopted standard building, electrical, plumbing, gas, mechanical, existing building and fire prevention codes and any other housing and structure regulations adopted under Chapter 214, Local Government Code.

Owner. Any person, agent, firm, corporation, or other entity named in the real property records of the county where the building is located as owning the property.

Structure. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner, or any part thereof.

Sec. 3.202 Purpose

This dangerous premises article is adopted so that the city council may promote the public health, safety, and general welfare within the city through the regulation of substandard and dangerous buildings or structures. By requiring the repair or demolition of substandard and dangerous buildings and structures, the city council seeks to protect property values and prevent bodily injury, death, and property damage within the city limits.

Sec. 3.203 Securing vacant structures.

No owner or person having charge of any unoccupied building or structure within the city shall leave said building or structure unlocked, un-boarded, or otherwise unsecured so that unauthorized persons may enter said building or structure. An unsecured building or structure shall constitute *prima facie* (based on the first impression; accepted as correct until proved otherwise) evidence of a condition of immediate danger to the building or structure and adjoining buildings or structures, and the building inspector shall immediately notify the owner of said the unsecured building or structure to secure the same, and if said the building or structure is not secured within seventy-two (72) hours after the date of issuance of notice to the owner or person in charge of the building or structure, the building inspector is authorized to secure the building or structure at the expense of the owner or person in charge of said building or structure, the cost of expense of the work required to secure such the building or structure to be charged against the owner of the property as provided by state law.

Sec. 3.204 Substandard premises

A premises is substandard under this article if any one or more, in any combination, of the following conditions exists on the premises:

(A.) Inadequate sanitation.

(a1.) Lack of a bathroom or the existence of an improper bathroom lacking connections to an approved water supply and adequate sanitary sewer or septic system.

(a2.) Lack of or an improper kitchen including running water, drainage, and UL Listed equipment for cooking or warming.

(a3.) Lack of hot and cold running water to plumbing fixtures.

(a4.) Lack of or improper required heating, mechanical ventilation or electric facilities.

(e5.) Lack of required amounts of natural light and ventilation.

(6.) Lack of adequate and means of egress so as to that constitute a fire hazard.
(if accepted, will need to renumber the remaining items).

(f6.) Lack of or improper space or floor area as required defined by Zoning
Building Codes at the time of construction.

(g7.) Lack of required electrical lighting.

(h8.) Dampness of habitable space as evidenced by condensate dripping, mold,
and or mildew [sk1].

(i9.) Infestation of insects, vermin or rodents.

(j10.) The existence of dead trees, tree limbs, holes, excavations or other
conditions reasonably capable of causing injury to a person.

(k11.) Lack of or improper connection to required sewage disposal.

(l12.) Lack of or improper garbage and rubbish storage and removal facilities.

(m13.) Lack of or improper drainage so as to prevent standing or stagnant water
on the premises that allows the breeding or the attraction of insects, vermin, or
rodents.

Sec. 3.205 Violations; application; penalty and report of inspections

(A.) The owner of a premises that is substandard commits an nuisance offense. The occupant of a substandard premises commits an offense if the occupant causes or has caused the premises to be substandard.

1. An owner of a premises remains liable for violations of this article even though an occupant of those premises is responsible for the premises and regardless of any agreement between the owner and another that imposes or attempts to delegate responsibility for the premises to the other.

(B.) It shall be a violation for an owner or occupant of a premises or multifamily dwelling to occupy, or allow the occupation of, any structure or building that has been placarded as substandard by the city as described in section 3.215 B. of this Ordinance.

1. Unless otherwise specified in this article, no culpable mental state is required for the commission of an offense under this article.

(D.C.) In addition to imposing a criminal penalty, the city shall have the power to enforce any provision of this article and any applicable provision of this Code under the provisions of subchapters B and C of chapter 54 of the Texas Local Government Code. No enforcement remedy shall be exclusive of any other remedy the city may have under state law or city ordinances.

4. Whenever a routine inspection is made for an alleged violation at a premises or multifamily dwelling, the findings shall be recorded on a form approved by the city. The owner or property manager or other person in charge of the property shall be provided a copy of the inspection report, either in person or by mail. Notice of the alleged violations has been given to an owner when a copy of the inspection report: (1) is delivered in person to any owner, manager, or person in charge of the property; or (2) two days after the copy of the inspection report is deposited with the US Postal Service, addressed to any owner, manager, or person in charge of the property, with proper postage affixed. The inspection report may establish violation categories as defined in Section 3.204, which shall be corrected within a time as established in subsection 3.205EF.

(F.E.D.) The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(F.E.) A violation listed in a notice of violation shall be corrected in accordance with the time specified in the notice of violation, subject to the following:

(1.) A life-safety violation, one that could result in injury or death of an occupant, shall be corrected within 24 hours of the issuance of the notice of violation;

(2.) A minimum of 72 hours shall be allowed for the correction of a critical violation, any condition that could result in imminent failure of the structure; and

(3.) A minimum of 30 days shall be allowed for the correction of a noncritical violation, a situation in which the structure is considered substandard for the purposes of this ordinance, but not in danger of imminent failure [sk2].

Sec. 3.206 Termination of utility services

The city may initiate termination of utility services, or place a hold on reconnecting or reinstating utility services that have been terminated, as the case may be, to or for a dwelling unit or premises that is substandard, or unfit for human occupation by certifying, in writing, that the dwelling unit or premises is substandard or unfit for human occupation.

Sec. 3.207 Declaration of Nuisance

Any building or structure requiring repair, removal, or demolition, as described and defined in this article and all buildings or structures within the city which because of their condition are unsafe, unsanitary, substandard, or otherwise dangerous to the health, safety, and general welfare of the citizens of the city are hereby declared to be a public nuisance and unlawful and subject to

the provisions of this article in addition to the other provisions in this code of ordinances. Such unsafe, unsanitary, substandard, and dangerous conditions include, but are not limited to the other portions of Chapter 3 of the city code of ordinances regarding building, electrical and plumbing regulations, Chapter 8 of the city code of ordinances regarding repair, removal or demolition of nuisances, Chapter 13 of the city code of ordinances regarding utilities, and any other provision in the city code of ordinances.

Sec. 3.208 Inspection

An inspection shall be made of every building located within the city which is suspected of being in violation of this article. The building inspector, or his or her official designee, is hereby authorized to conduct inspections of buildings suspected of being in violation of this article and take such actions as may be required to enforce the provisions of this article.

Sec. 3.209 Adoption of the Uniform Code for the Abatement of Dangerous Buildings

The Uniform Code for the Abatement of Dangerous Buildings, 1994 edition published by the International Conference of Building Officials is adopted, incorporated by reference into this section in its entirety, and the city secretary will make available relevant provisions at the request of any citizen of the city.

Sec. 3.210 Duties of Building Inspector

The building inspector shall perform the following duties:

- (1)A. Inspect or cause to be inspected periodically all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial manufacturing or loft buildings or tents for the purpose of determining whether conditions exist which render any such place a dangerous premises within the terms of this article;
- (2)B. Inspect any premises, building, wall or structure about which complaints have been filed by any person to the effect that such premises or building, wall or structure is or may be existing in violation of this article;
- (3)C. Inspect any premises, building, wall or structure reported by the health, fire or police department of this city as possibly existing in violation of the terms of this article;
- (4)D. Inspect any premises, building wall or structure which he has there is reason to believe may be in violation hereof;
- (5)E. Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in such premises, at their last known address as shown by the records of the assessor and collector of taxes of the city, of any premises found by him to be dangerous premises within the standards set forth in this article, that:

(A)1. The owners shall vacate, repair or demolish such building in accordance with the terms of the notice and this article ordinance;

(B)2. The occupant or lessee shall vacate such building or have it repaired in accordance with the notice and remain in possession;

(C)3. The mortgagee, agent or other person having an interest in such building may at his their own risk repair, vacate or demolish the building or have such work or act done; provided that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided herein.

(6)E. Set forth in the notice provided for in subsection (5E) of this section a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building; and a statement requiring the building to be put in such condition as to comply with the terms of this article within such time as is reasonable, as long as that time is not longer than 30 days;

(7)G. If the owner, occupant, mortgagee or lessee fails to comply with the notice provided for in subsection (5) above within 30 days, report the condition to the city attorney giving him or her a copy of the notice described in subsections (5E) and (6F) hereof. The city attorney shall then take any necessary action to secure compliance with the order of the building inspector provided in subsection (1A) of this section, and in particular shall proceed as provided in Sections 3.211 and 3.212, taking additional steps to determine the names and addresses of persons having an interest in the premises.

Sec. 3.211 Determination

The following standards shall be utilized in determining whether a building should be ordered repaired, removed or demolished:

(1)A. The building or structure is liable to partially or fully collapse.

(2)B. The building or structure was constructed or maintained in violation of any provision of the city's building code, or any other applicable ordinance or law of the city, county, state, or federal government.

(3)C. Any wall or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle one-third (1/3) of its base.

(4)D. The foundation or the vertical or horizontal supporting members are twenty-five (25) percent or more damaged or deteriorated.

(5)E. The nonsupporting coverings of walls, ceilings, roofs, or floors are fifty (50) percent or more damaged or deteriorated.

(6)F. The structure has improperly distributed loads upon the structural members, or the structural members have insufficient strength to be reasonably safe for the purpose used.

(7)G. The structure of any part thereof has been damaged by fire, water, earthquake, wind, vandalism, or other cause to such an extent that it has become dangerous to the public, health, safety and welfare.

(8)H. The structure does not have adequate light, ventilation, or sanitation facilities as required by the city.

(9)I. The structure has inadequate facilities for egress in case of fire or other emergency or has insufficient stairways, elevators, fire escapes or other means of ingress or egress.

(10)J. The structure, because of its condition, is unsafe, unsanitary, or dangerous to the health, safety or general welfare of the city's citizens including all conditions conducive to the harboring of ~~rats or mice evermin varmints~~ ^(ska), ~~reptiles or birds, not kept as pets,~~ or other disease carrying animals or insects reasonably calculated to spread disease.

(11)K. The structure is unsafe, unsanitary or dangerous to the health, safety and general welfare of the city's citizens due to failure to comply with any provision in Chapter 13 of the city code ("Utilities").

(12)L. The structure is unsafe, unsanitary or dangerous to the health, safety and general welfare of the city's citizens due to a nuisance that constitutes an unsanitary condition on property as defined in Section 8.106 of the city code.

(13)M. The structure or premises is substandard.

Sec. 3.212 Standard for Vacant

If a dangerous or substandard premise is in such condition as to make it dangerous to the health or safety of its occupants, it shall be ordered to be vacated.

Sec. 3.213 Standard for Repair

If a dangerous or substandard premise can be feasibly repaired or the condition remedied so that it will no longer exist in violation of the terms of this article, it shall be ordered remedied or repaired. Repairs will only be deemed feasible if less than 50% of the appraised value as determined by the McCulloch County Appraisal District value or structure of the building is required to be repaired or replaced.

Sec. 3.214 Standard for Demolition

In any case where a dangerous or substandard building is fifty (50) percent or more damaged, decayed or deteriorated from its value or structure, it shall be demolished, and in all cases where a building cannot be repaired to meet the standards and provisions in this article, it shall be demolished.

Sec. 3.215 Notice of Violation

(aA.) *Notice to property owner.* Whenever the building inspector determines that there has been a violation of this article or has grounds to believe that a violation has occurred, notice shall be given to the property owner in the manner prescribed in section 3.218(c) for the violation. The notice and order shall:

_____ (1.) Inform the property owner of the right to appeal, specifically:

_____ (ia) that any person having recorded title or legal interest in the building or structure may appeal from the notice and order or any action of the building inspector to the zoning board of adjustment; provided the appeal is made in writing as provided in this article and filed with the building inspector within thirty (30) days from the date of service of such notice and order; and

_____ (ib) that failure to appeal will constitute a waiver of all rights to an administrative hearing and termination of the matter.

_____ (2.) Include a statement of the city's right to file a lien.

_____ (3.) Include statements advising that if any required repair or demolition work, is not commenced within the specified time, the building inspector may order the building vacated and posted to prevent further occupancy until the work is completed.

(bB.) *Placarding of Structures.* Upon any vacant structure being deemed dangerous by the building inspector, the building inspector shall cause to be posted on each entrance to such structure a placard including, but not limited to, the following language:

"Do Not Enter, Unsafe to Occupy. It shall be unlawful for any person to enter such structure except for persons authorized by the owner to enter for the purpose of securing the structure, making the required repairs therein under permit, and under inspection by inspectors of the city. This notice shall remain on this building until it is repaired or demolished."

It shall be unlawful for any person to enter any structure marked by such placard, except for persons authorized by the owner to enter for the purpose of securing the structure, making the required repairs therein under permit, and under inspection by inspectors of the city. Such placard

shall remain on the structure until it is repaired or demolished, or until removed by the building inspector.

Sec. 3.216 Recordation of notice and order by the building inspector.

If compliance with a notice and order described by section 3.211 is not secured within the time specified therein, and no appeal has been timely and properly filed, the building inspector may file in the deed records of the office of the county clerk a certificate describing the property and certifying that the building or structure has been determined to be a dangerous or substandard building or structure by the building inspector and that the owner has been so notified. Whenever the corrections ordered shall thereafter be completed or the building or structure demolished or that all required corrections have been made so that the building or structure is no longer dangerous, whichever is appropriate.

Sec. 3.217 Emergency measures authorized by the building inspector.

(a)A. *Temporary safeguards.* Notwithstanding other provisions of this division, whenever, in the opinion of the building inspector, there is imminent danger due to an unsafe condition, the building inspector shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the building inspector deems necessary to meet such emergency.

(b)B. *Closing streets.* When necessary for public safety, the building inspector shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures and prohibit the same from being utilized.

(c)C. *Emergency repairs.* For the purposes of this section, the building inspector shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(d)D. *Costs of emergency repairs.* Costs incurred in the performance of emergency work may be paid by the city. The city attorney may institute appropriate action against the owner of the premises for the recovery of such costs.

(e)E. *Hearing.* Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the ~~z~~Zoning ~~b~~Board of ~~a~~Adjustment, be afforded a hearing as described in this article.

Sec. 3.218 Appeals from orders of building inspector.

(a)A. *Form of appeal.* Any person entitled to service of a notice issued pursuant to section 3.211 may appeal from any notice and order or any action of the building

inspector under this division by filing at the office of the building inspector a written appeal and filing fee as determined by the city council and on file in the office of the city secretary. The appeal shall contain the following:

- (1.) A heading in the words: "Before the Zoning Board of Adjustment of the City of Brady, Texas";
- (2.) A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal;
- (3.) A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order;
- (4.) A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;
- (5.) A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside;
- (6.) The signatures of all parties named as appellants and their official mailing addresses; and
- (7.) The verification, by declaration under penalty of perjury, of at least one (1) appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within thirty (30) days from the date of the service of such order or action of the building inspector; ~~provided, h~~ However, ~~that~~ if 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 adjacent property and is ordered vacated and is posted in accordance with sections 3.208 and 3.211, such appeal shall be filed within ten (10) days from the date of the service of the notice and order of the building inspector.

(b)B. *Processing of appeal.* Upon receipt of any appeal filed pursuant to this article and receipt of the filing fee, the building inspector shall present the appeal at the next available regular or special meeting of the zoning board of adjustment.

(c)C. *Scheduling and noticing appeal for hearing.* As soon as practicable after receiving the written appeal, the zoning board of adjustment shall fix a date, time and place for the hearing of the appeal by the zoning board of adjustment. Such date shall be not less than ten (10) days, or more than sixty (60) days, from the date the appeal was filed with the building inspector. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

Sec. 3.219 Scope of hearing on appeal.

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal as provided in this article.

Sec. 3.220 Staying of order under appeal.

Except for vacation orders made pursuant to ~~s~~Section 3.208, enforcement of any notice and order of the building inspector issued under this article shall be stayed during the pendency of an appeal therefrom which is timely and properly filed.

Sec. 3.221 Order to repair, vacate, remove or demolish.

The following standards shall be followed by the building inspector or by the zoning board of adjustment regarding any order to repair, vacate, remove, or demolish substandard or dangerous buildings or structures:

(a)A. When, in the opinion determination of the building inspector;

- (1.)** There is imminent danger of failure or collapse of a building or structure which endangers life;
- (2.)** When any structure or part of a structure has fallen and life is endangered by the occupation of the structure; or
- (3.)** When there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes, or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the building inspector is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith.

(b)B. If the building inspector has determined that the building or structure constitutes an immediate danger and must be vacated, the order shall require that the building or structure to be vacated before a date certain, as determined by the building inspector to be reasonable, but not to exceed ten (10) days.

(c)C. If the building or structure is in a dangerous or substandard condition, but does not present an immediate threat to the life, limb, property or safety of the public or its occupants, the deadline to vacate may be extended to not less than sixty (60) days from the date of the order.

(d)D. Any building or structure declared dangerous or substandard under this article shall be repaired or demolished in accordance with the current building code or current code applicable to the type of substandard condition(s) requiring the repair, or demolition, as follows:

- (1.)** If in the opinion determination of the building inspector, the repair is not feasible, the zoning board of adjustments may issue an order to demolish and remove such structure; or

(2.) If such structure is capable of being made safe by repairs, then the building inspector or the zoning board of adjustment may issue an order to repair and make safe and sanitary, provided that the owner agrees to the following conditions, which will also be listed in the order:

(ia) ~~He or she~~ The owner exclusively assumes all risk, expense, and responsibility for ensuring that all legal requirements and standards are fully and strictly satisfied within the strict time constraints of the order, regardless of whether such standards are required under the code of ordinances or any other law.

(ib) Neither the city, nor its staff, assume any responsibility for identifying these standards, nor for guiding the owner towards a timely, successful, or feasible repair.

(ic) Neither the city, nor its staff, warrant, assure, represent or recommend that timely, compliant, affordable, complete, or satisfactory repairs are feasible, or even possible, whether under ideal circumstances or in the face of hidden, unforeseen, or unforeseeable circumstances.

(3.) Any building permit for repairs is strictly conditioned:

(ia) Upon the limitations set forth in the order;

(ib) Upon application of the current code standards to any repair;

(ic) Upon the owner's expressed assumption of his or her exclusive responsibility for strict, timely, and complete compliance with these restrictions; and

(id) Upon the owner's understanding and acceptance that the order could be strictly applied to authorize demolition of the structure if repairs are not timely ~~and completely~~ completed, regardless of any cause, condition, or circumstance, even if unforeseen or unforeseeable, regardless of any other statement or representation made by the city, or its staff; regardless of time, money or effort already invested into the repairs upon expiration of the time allocated for repairs, and regardless of the amount of progress made toward completion upon expiration of the time allocated for repairs under the order.

(4.) If an order has been issued to allow repairs, the owner still retains the option to demolish or remove the structure for which the order has been issued.

(5.) Upon any structure deemed dangerous and/or substandard by the building inspector, the building inspector shall cause to be posted at each entrance to such structure, a placard including, but not limited to, the following language:

"Do Not Enter, Unsafe to Occupy. It shall be unlawful for any person to enter such structure except for persons authorized by the owner to enter for the purpose of securing the structure, making the required repairs therein under permit and under inspection by inspectors of the City of Brady. This notice shall remain on this building until it is repaired or demolished."

It shall be unlawful for any person to enter any structure marked by such a placard, except for persons authorized by the owner to enter for the purpose of securing the structure or making the

required repairs therein under permit, and inspectors of the city. Such placard shall remain on the structure until it is repaired or demolished, or until removed by the building inspector.

Sec. 3.222 Public hearing required for order of demolition.

(a)A. *Hearing required.* In cases where the building inspector has determined that a building or structure should be demolished, a public hearing before the zoning board of adjustment shall be held, regardless of whether an appeal from such determination has been filed.

(b)B. *Diligent effort must be made to locate the owner, lien holder, or a mortgagee on the property.*

(c)C. *Notice of hearing.* Notice of the hearing shall be given as in cases where an appeal has been filed. In addition, the secretary of the zoning board of adjustment shall cause a notice to be published in the official newspaper of the city at least ten (10) days prior to the scheduled hearing date. The published notice shall be directed to any person having any interest in the property, stating the names of such persons, if known. The notice shall include the following:

- (1.) The names of all persons to whom notice is being served;
- (2.) The street address and a legal description sufficient for identification of the premises upon which the structure is located;
- (3.) The date of inspection;
- (4.) The nature of the violation(s);
- (5.) A statement that the building inspector has found the building or structure located thereon to be dangerous and/or substandard and constitutes a hazard to the health, safety, and welfare of the citizens;
- (6.) A statement that a public hearing will be held before the zoning board of adjustment on a date and time and at a place therein specified to determine whether the building or structure should be demolished in accordance with the notice and order of the building inspector; and
- (7.) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the article and the time it will take to reasonable perform the work.

(d)D. *Nuisance determination required to demolish.* A notice and order to demolish a building or structure shall be issued only in those cases where the ~~z~~Zoning ~~b~~oBard of ~~a~~Adjustment after the hearing has determined that the building or structure is dilapidated, substandard, dangerous, or unfit for human occupancy, does not meet minimum standards, and that the building or structure constitutes a nuisance, in so far as it is a hazard to the health, safety and welfare of the public and the occupants.

(e)E. *Notice of demolition.* Notice of demolition shall be by the following methods within ten (10) days after the date that the order of the zoning board of adjustment is issued:

(1.) *Notice by mail.* Whenever the zoning board of adjustment has determined that a building should be demolished, the zoning board of adjustment's notice and order shall be sent to all record owners, interested parties of record or other persons known to have an interest in the property informing such persons of the zoning board of adjustment's determination and that, pursuant to the determination, the building will be demolished. The notice shall state that the costs of demolition shall be assessed against the property. All notices shall be sent by registered or certified mail, return receipt requested.

(2.) *Notice by publication.* In addition to the notice provided for in subsection **(e)(1)E. 1.** of this section, the building inspector shall cause to be published in the official newspaper of the city, a notice of the zoning board of adjustment's determination. The notice shall contain:

- (i)** The street address or legal description of the property;
- (ii)** The date of the hearing;
- (iii)** A brief statement indicating the results of the order;
- (iv)** Instructions stating where a complete copy of the order may be obtained; and
- (v)** A statement that the building or structure on the premises will be demolished and that the cost of demolition will be assessed against the property.

(3.) A copy of the order shall be filed with the office of the city secretary.

(4) A copy of the order shall be filed with the county clerk.

Sec. 3.223 Appeal

The owner, lienholder, or mortgagee shall have the right to appeal the decision made by the zoning board of adjustment to a district court. A notice of appeal must be filed with the district court within thirty (30) calendar days from the date the order is mailed to the owner, lienholder or mortgagee, as provided herein.

Sec. 3.224 Assessment of Lien

(a)A. When the city incurs expenses to repair, remove, or demolish a building, the city may assess the expenses on and obtain a lien against the property on which the building is located, unless it is a homestead as protected by the Texas Constitution. The lien arises and attaches to the property when the city has the lien recorded and indexed with the county clerk in which the property is located. The notice shall contain:

- (1.) The name and address of the owner, if that information can be determined with a reasonable effort;
- (2.) A legal description of the real property on which the building was located;
- (3.) The amount of expense incurred by the city;
- (4.) The balance due; and
- (5.) The date on which said work was done or improvements made.

(b)B. The city shall have a privileged lien on such lot, lots, or other premises or real estate upon which said building was located, to secure the expenditure ~~so~~ made, second only to other liens as provided by law. It is further provided that for any such expenditure suit may be instituted and foreclosure of ~~said~~ the lien may be made 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 for ~~such~~ the work or expense.

(e)C. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the city for the expenses.

Sec. 3.225 Penalty for Violation of This Article

The city shall have the power to administer and enforce the provisions of this article as may be required by governing law.

(1)A. Civil Remedies.

(A)1. A property owner violating any provision of this article shall, upon conviction, be fined a sum not exceeding one thousand dollars (\$1,000.00) for each and every day of violation, or, if the owner shows the property is the owner's lawful homestead, in an amount not to exceed ten dollars (\$10.00) per day for each violation, provided that:

- (i) The owner was notified of the requirements of the article and the owner's need to comply with the requirements; and
- (ii) After notification, the owner committed an act in violation of the article or failed to take action necessary for compliance with the article.

(B)2. If such a civil penalty is assessed, the city secretary shall file a certified copy of the order containing such amount and duration of the penalty with the county district clerk's office no later than three (3) working days after such order.

(2)A. Other Remedies.

(A)1. The remedies provided in this section shall be available to the city in addition to any penal or other remedy provided by law or equity which the city, state, or any other person may provide to remedy the unsafe building condition.

(B)2. The city may bring a civil action in a court of competent jurisdiction to collect the amount due plus all associated costs and fees.

Sec. 3.226 Administrative Liability

Neither the city, ~~z~~Zoning the ~~b~~Board of ~~a~~Adjustment, nor any authorized agent acting under the terms of this article shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this article. Any suit brought against any officer, agent, board member, or employee of the city as a result of any act ~~required or~~ permitted in the discharge of his duties under this article shall be defended by the city attorney until the final determination of proceedings therein.

Sec. 3.227 Duties of Other Departments

The heads of the fire, police, public health and other city departments shall make prompt reports in writing to the building inspector of all buildings or structures which are, may be or are suspected to be dangerous premises within the terms of this article and the code of ordinances of the city.

DRAFT



CITY OF BRADY
CITY COUNCIL CORRESPONDENCE

TO: MAYOR AND COUNCIL MEMBERS
FROM: LISA REMINI, FINANCE DIRECTOR
JIM KIDD, LANDFILL SUPERENDENT

SUBJECT: UPDATE ON FREE DUMP PASS PROGRAM
DATE: JANUARY 17, 2017

3,100 Red Tag Free Dump passes were issued. 423 or 14% of the passes were activated. The Landfill took in a total of 296.19 tons from the free dump program during the 3 months from October through December 2016 at a forfeited revenue cost of \$12,419.

Compared to the last 2 years, the city took in slightly more, about 17 tons or 3.4 days, or 1.1 day per month of additional consumer mixed trash during the 3 month program. Therefore, based on projected tonnage collections for the current year, it is estimated that we would have about 200 tons of space remaining in the mixed trash pit by year end. Since the majority of consumer disposals during this program appear to be typical, the Red Tag Dump program did not significantly motivate our citizens to go above normal waste disposal habits.

Going forward, two questions must be answered before another "free" dump pass program is initiated.

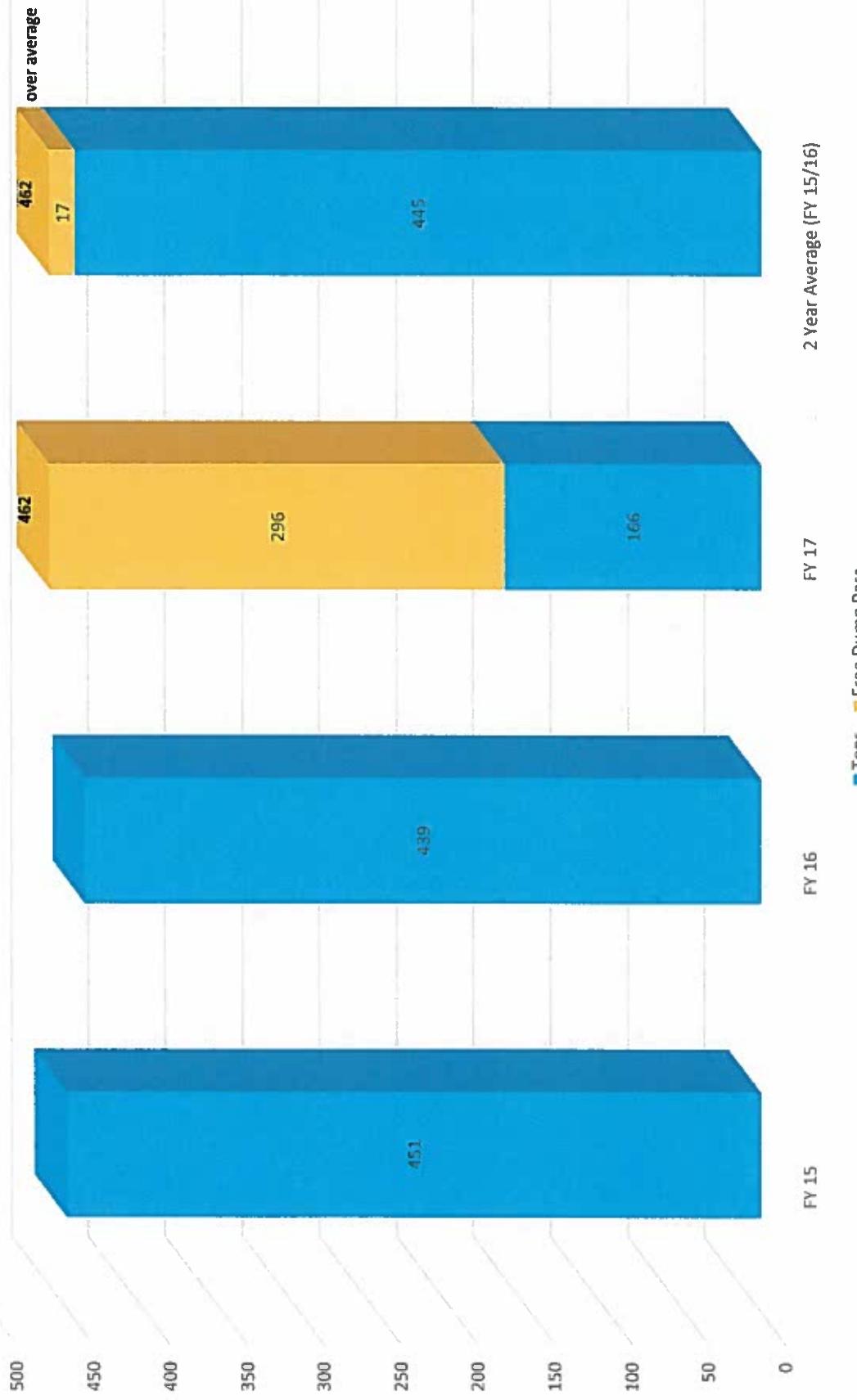
1. Will the expected additional trash collected promote the landfill to exceed the collection limits imposed on our landfill by TCEQ rules and regulations for our type landfill?
2. How will the city support the financial cost of lost revenues from normal business collections?

The city landfill is permitted to receive a limited amount of garbage per pit, per year. Currently, another free dump day is scheduled for late spring to comply with a TCEQ requirement. Once the collection impact from the spring event is tallied, we will have a better idea of available tonnage space remaining.

Therefore, while the landfill could possibly support another free dump day, deciding what budget expense item to reduce to accommodate the lost revenues that are currently expected to support approved expenditure(s) to maintain a balanced budget would be prudent.

Currently, the landfill division is in line with FY 17 budget goals for disposal revenue collections because of commercial demolition trash that has been disposed to the landfill due to the demolition of the old water haven, and curves buildings. The revenue collected for the demolished buildings almost fully offset the lost revenues from the Red Tag Free Dump Pass program. However, we are not aware of any major demolitions in the near future. Therefore, to promote a balanced budget, evaluation of possible expenditure reductions is recommended before another free dump day is considered.

FY 17 FREE DUMP REPORT PIT 1 - MIXED LOAD TRASH



City of Brady
LANDFILL TONNAGE PROJECTION

9-1-16 TO 8-31-17

Period	PIT - 1	PIT - 4
9-1 / 11-30 Actual	1,615.67	1,492.27
12-1 / 2-28**	2,177.67	1,189.38
3-1 / 5-31**	1,622.33	780.00
6-1 / 8-31**	1,673.33	983.33
 Total Projected Tonnage	 7,089.00	 4,444.98
Allowable Tonnage*	7,300.00	7,300.00
Remaining tons available	<u>211.00 Tons</u>	2,855.02 Tons

**Calculation Based on the average tonnage over the past 3 years.

* 365 Days X 20 Tons = 7,300.00 Tons

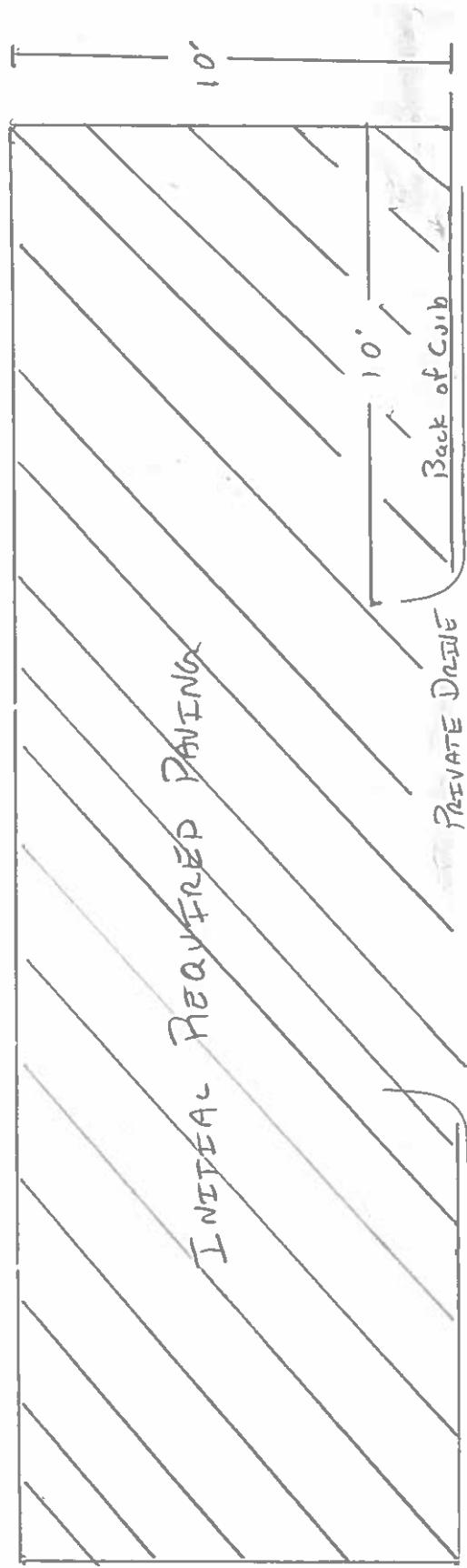


MEMORANDUM

TO: KIM LENOIR, CITY MANAGER
FROM: PETER LAMONT, DIRECTOR OF COMMUNITY SERVICES
DATE: 13 JANUARY 2017
SUBJECT: PARKING LOT PAVING ISSUES TO ADDRESS

Current building codes require parking lots in non-residential and multifamily residential zones be "paved with and all weather surface." (Ordinance 933, section 29.3.B) There are quite a few businesses and industrial areas that are not in compliance with this section and have gravel, dirt or crushed gravel parking areas. A key cause for concern with these unpaved lots is the movement of the parking material to city streets, which then results in damage, thus increased maintenance costs for the City. Also with storm drainage, the loose material fills drainage areas, causing more city maintenance issues.

Considering the cost of paving, either concrete or asphalt, and in order to gain compliance with this ordinance, staff would like to have the authority to negotiate development agreements with the property owners to gain compliance. Staff would like to propose a requirement for all entry ways to be paved ten feet from the back of curb across the entire entry way and ten feet either side of the entry, ten feet deep. After this initial paving, allow a phased approach to paving the remaining parking areas over a two or three year period.



Sec. 12.611 Parallel Parking

Vehicles may be parked on all public streets or alleys in the city, provided the following conditions are met:

- (1) The vehicle shall be headed in the direction of travel of the nearest adjacent traffic lane;
- (2) The wheels nearest the curb shall be approximately parallel to and within eighteen (18) inches of the curb or edge of the roadway;
- (3) The manner of parking such vehicle shall be in compliance with all applicable provisions of this article and state law.

(1975 Code of Ordinances, Chapter 30, Article XII, Sec. 30-276)

Sec. 12.612 Angle Parking

Vehicles may be parked at any angle not to exceed forty-five (45) degrees to the curb or edge of the roadway at those places and angles where signs or markings clearly indicate that it is permissible and that no part or contents of such vehicle shall protrude into or cause a hazard with other vehicles or pedestrians in the nearest adjacent traffic lane, sidewalk or crosswalk. In no case shall this exceed seventeen (17) feet from the curb in a perpendicular direction where thirty (30) degree parking is permitted or nineteen (19) feet from the curb in a perpendicular direction where forty-five (45) degree parking is permitted. (1975 Code of Ordinances, Chapter 30, Article XII, Sec. 30-277)