Motion was made by Alan Tatom, seconded by Bill Bergfield, that the following Ordinance by passed:

ORDINANCE NO. 99-246

AN ORDINANCE PROVIDING FOR THE VACATION, RELOCATION OF OCCUPANTS, SECURING, REPAIR, REMOVAL OR DEMOLITION OF SUBSTANDARD BUILDINGS; ADOPTION OF THE STANDARD UNSAFE BUILDING ABATEMENT CODE, 1985 EDITION AND ALL SUBSEQUENT EDITIONS; PROVIDING PROCEDURES FOR NOTICE OF DEFECTS AND ESTABLISHING PROCEDURES FOR ACTION ON SUBSTANDARD BUILDINGS AND OTHER STRUCTURES; PROVIDING CIVIL PENALTIES; PROVIDING FOR LIENS ON PROPERTY TO RECOVER CITY EXPENSES AND CIVIL PENALTIES; PROVIDING OBLIGATIONS OF PROPERTY OWNER AND RIGHTS OF CITY TO SECURE A BUILDING THAT VIOLATES MINIMUM STANDARDS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING SAVINGS CLAUSE; AND EFFECTIVE DATE.

WHEREAS, numerous complaints have been made to the City Council of Panorama Village involving unsafe, unsanitary and health hazard conditions existing in the City concerning buildings that are dilapidated, substandard, or unfit for human habitation; and

WHEREAS, the City of Panorama Village has authority granted to it under TEXAS LOCAL GOVERNMENT CODE, Section 214.001, et seq., to require by ordinance the vacation, relocation of occupants, securing, repairing, removal, or demolition of a building that is:

1. Dilapidated, substandard, or unfit for human habitation; and a hazard to public health, safety, and welfare;
2. Regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
3. Boarded up, fenced, or otherwise secured in any manner if:
    a. the building constitutes a danger to the public even though secured

from entry; or

b. the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by Subdivision 2, and

WHEREAS, the City Council of the City of Panorama Village has adopted the Standard Building Code, 1997 Edition, and all amendments thereto, as prepared by the Southern Building Code Congress International, Inc.;

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANORAMA VILLAGE, TEXAS THAT:

## ARTICLE I.

## UNSAFE BUILDINGS

SECTION 1. Minimum Standards for Use and Occupancy

That the Standard Unsafe Building Abatement Code, 1985 Edition and all subsequent amendments and editions thereto, as prepared by the South Building Code Congress International, Inc. (hereinafter referred to as the "the Code") is adopted as a minimum standard for continued use and occupancy of all buildings regardless of the date of their construction and for procedures of compliance.

SECTION 2. Conditions Constituting a Hazard to Public Health, Safety and Welfare

A. Regardless of the date of construction, the continued use or occupancy of any building which by virtue of one (1) or more of the following conditions constitutes a hazard to the public health, safety and welfare is hereby prohibited:

1. Any means of egress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.

2. Any means of egress or portion thereof, such as but not limited to fire doors, closing devices and fire restrictive ratings, is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic.

3. The stress in any material, member or portion thereof, due to all

imposed loads including dead loads exceeding the stresses allowed in the building code provisions applicable to new buildings.

4. The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirement established by the building code for new buildings.

5. Any exterior appendage or portion of the building or structure is not securely fastened, attached or anchored such that it is not capable of resisting wind, seismic or similar loads as required by the building code for new buildings.

6. If, for any reason, the building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.

7. The building, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.

8. The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the building code or of any applicable federal, state or local law.

9. Any building, structure or portion thereof that is in such a condition as to constitute a public nuisance.

10. Any building, structure or portion thereof that is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

B. Regardless of its structural condition, each building which is unoccupied by its owners, lessees, or other invitees must be secured from unauthorized entry or use by children, or by vagrants or other persons as a place of harborage.

C. Any building possessing one (1) or more of such conditions or characteristics is a substandard building.

SECTION 3. Provisions Adopted

The provisions of Texas Local Government Code, Chapter 54, Subchapter C, are hereby implemented and adopted and the provisions thereof are hereby incorporated herein by reference, the same as if fully set out herein.

SECTION 4. Building and Standards Commission Established

A. There is hereby established a Building and Standards Commission which shall meet at the direction of the City Council as required to hear and determine cases concerning alleged violations of this ordinance.

B. The Commission shall consist of a single panel of five (5) members, such members to be appointed for a term of two (2) years. The terms of such members shall be staggered so as to provide for the appointment of two (2) members in one (1) year and three (3) members in the following year.

C. There may be appointed not more than eight (8) alternate members, such alternate members to be appointed for a term of two (2) years and who shall serve in the absence of one (1) or more regular members when requested to do so by the mayor.

D. Each member and alternate of the Commission shall be a resident of the city and shall be appointed by the mayor, subject to the approval of the city council.

E. All cases to be heard by the Commission must be heard by at least four (4) members or alternates. The concurring vote of four (4) members of the Commission is necessary to take any action.

SECTION 5. Notice of Defects.

A. At the direction of the City Council the City Attorney or the City Secretary shall make a diligent effort to discover the owner of a building, each mortgagee and lienholder having an interest in the building or in the property on which the building is

located. The City shall send to each identified owner, mortgagee and lienholder notice containing:

1. An identification, which is not required to be a legal description, of the building and the property on which it is located;

2. A description of the violation of the city standards that is present at the building;

3. A statement that the city will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered actions is not taken within a reasonable time;

4. 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 ordinance and the time it will take to reasonably perform the work.

5. A public hearing date, time, and location.

B. Notice of the public hearing shall be given as provided by Texas Local Government Code, Section 54.035.

SECTION 6. Public Hearing.

A. That within 30 days of notice to ascertainable owners, mortgagees and lienholders, the Building and Standards Commission shall conduct a hearing to determine whether a building complies with minimum standards for continued use and occupancy established by this Ordinance.

B. The City Attorney shall present all cases before the Commission. The City Attorney may be assisted in the presentation of such cases by any other municipal officer or employee.

SECTION 7. Orders of the Commission

That after the public hearing if a building is found in violation of the standards set out above, the Commission may order that the building be vacated, secured, repaired, removed, or demolished, and the occupants be relocated, as provided by Section No.

214.01 of the Texas Local Government Code, the provisions of which are incorporated herein by reference.

SECTION 8. City May Take Action

If the building is not vacated, secured, repaired, removed or demolished or the occupants are not relocated within the allotted time, the City may vacate, secure, repair remove, demolish or relocate the occupants at its own expense, as provided in Sections 214.001(n), and 214.0015, of the Texas Local Government Code.

SECTION 9. Civil Penalty

As an alternate to the repair of the building at the expense of the City as provided in Section 8 hereinabove, the City may assess and recover a civil penalty against the property owner for failure to repair, remove, or demolish the building or structure after receiving the notice prescribed hereinabove and after notification to the property owner that he has committed an act in violation of this Ordinance or failed to take action necessary for compliance with the Ordinance. The civil penalty under this section shall be an amount not to exceed One Thousand Dollars ($1,000.00) per day for violation of the ordinance, or if the property is the owner's lawful homestead, an amount not to exceed $10.00 per day for each violation.

SECTION 10. Expense or Civil Penalty Becomes Lien on Property

If the City incurs expenses under Subsection 8, or if a civil penalty is assessed under Section 9, the City may assess the expenses or civil penalty on, and the City has a lien against, unless it is a homestead protected by the Texas Constitution, the property on which the building was located. 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 expense or pays the civil penalty. The lien arises and attaches to the property at the time the notice of the lien is promptly recorded and indexed in the office

of the County Clerk of Montgomery County. Texas. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the City or civil penalty assessed, and the balance due.

## ARTICLE II

## SECURING OF SUBSTANDARD AND UNOCCUPIED BUILDINGS

SECTION 1. Minimum Standands For Use and Occupancy.

The Standard Unsafe Building Abatement Code, 1985 edition, and all subsequent amendments and editions thereto, as prepared by the Southern Building Code of Congress International, Inc. (hereinafter referred to as "the code") is adopted as a minimum standard for continued use and occupancy of all buildings within the city, regardless of their date of construction.

SECTION 2. Obligation of Owner to Secure Building.

An owner of a substandard building which is either unoccupied, or occupied only by persons who do not have a right of possession to the building, shall ensure that the building is not left unsecured so that a person can enter into it without the use of force through unlocked doors or unsecured openings.

SECTION 3. City's Right to Secure Building.

Whenever it is determined by the city building inspector, fire chief or a peace officer of the city that a building violates the minimum standards of the code and this Ordinance, and is unoccupied or is occupied only by persons who do not have a right of possession to the building, the building inspector, fire chief or peace officer of the city may secure the building subject to the provisions set out hereinafter.

SECTION 4. Notice to Owner.

Before the eleventh (11th) day after the date the building is secured, the city building inspector, fire chief or police department shall give notice to the owner by:

1. Personally serving the owner with written notice;
2. Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
3. Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in Montgomery County if personal service cannot be obtained and the owner's post office address is unknown; or
4. 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.

SECTION 5. Content of Notice.

1. An identification, which is not required to be a legal description, of the building and the property on which it is located;
2. A description of the city standards that is present at the building;
3. A statement that the city will secure or has secured, as the case may be, the building; and
4. An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing of the building.

SECTION 6. Public Hearing.

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 requested is filed. The hearing shall be conducted by the Building and Standards Commission.

SECTION 7. Authority to Assess Expenses and File Line.

The city has the authority to assess expenses under this article as it has to assess expenses under Article One of this Ordinance. A lien is created under this article in the same manner that a lien is created under Article One of this Ordinance and is subject to the same conditions as a lien created under that article.

SECTION 8. Cumulative Remedies.

The remedies provided in this article shall be available in addition to those provided in Article One of this Ordinance. The issuance of a notice under this article shall not be required as prerequisite to initiation of abatement or condemnation proceedings.

## ARTICLE III
## Miscellaneous Provisions

SECTION 1. Savings Clause

That the City Council of the City of Panorama Village, Texas, does hereby declare that if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event it would have passed and ordained any and all remaining portions of this Ordinance without the inclusion or that portion or portions which may be so found to be unconstitutional or invalid, and declares its intent is to make no portion of this Ordinance dependent upon the validity of any other portion thereof, and that all said remaining portions shall continue in full force and effect.

SECTION 2. Repealing Clause

That all ordinance or parts of ordinances, in conflict with the provisions of this Ordinance are hereby expressly repealed.

SECTION 3. Effective Date

That this Ordinance and each section hereof shall take effect and be in full force from and after its passage and publication.

PASSED AND APPROVED this 26 day of April, 1999.

Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney