

ORDINANCE NO. 332

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTHMAYD, REPEALING ORDINANCE NO. 241 OF THE CITY OF SOUTHMAYD, TEXAS; ESTABLISHING STANDARDS FOR THE STRUCTURAL CONDITION OF ALL BUILDINGS; PROVIDING FOR THE DECLARATION OF A SUBSTANDARD BUILDING AS A PUBLIC NUISANCE; PROVIDING FOR NOTICE TO PROPERTY OWNERS, OCCUPANTS, MORTGAGEES, AND LIENHOLDERS OF SUBSTANDARD BUILDINGS; PROVIDING FOR A PUBLIC HEARING ON A SUBSTANDARD BUILDING; PROVIDING FOR THE ABATEMENT OF NUISANCES; PROVIDING FOR THE RECOVERY OF COSTS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, chapter 214 of the Texas Local Government Code, as amended, authorizes the City Council of the City of Southmayd, Texas, by ordinance to adopt regulations regarding substandard buildings and to require the vacation, relocation of occupants, repair, removal, or demolition of a building that is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare; and

WHEREAS, chapter 214 of the Texas Local Government Code requires that the ordinance establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; provide for giving proper notice to the owner of a building; and provide for a public hearing to determine whether a building complies with the standards set out in the ordinance; and

WHEREAS, the following ordinance establishes minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; provides for giving proper notice to the owner of a building; and provides for a public hearing to determine whether a building complies with the standards set out in the ordinance; and

WHEREAS, the City Council of the City of Southmayd finds that the following ordinance is necessary to protect the public health, safety, and welfare of the citizens of the City.

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

Section 1. FINDINGS INCORPORATED

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. REPEAL OF ORDINANCE NO. 241 OF THE CITY OF SOUTHMAYD

Ordinance No. 241 of the City of Southmayd, Texas, is repealed in its entirety.

Section 3. MINIMUM STANDARDS FOR THE CONTINUED USE AND OCCUPANCY OF ALL BUILDINGS REGARDLESS OF THE DATE OF THEIR CONSTRUCTION; NOTICE TO THE OWNER OF A BUILDING; AND PUBLIC HEARING TO DETERMINE WHETHER A BUILDING COMPLIES WITH THE MINIMUM STANDARDS

Sec. 1. Adoption of chapter 214, subch. A, Texas Local Government Code.

The City of Southmayd hereby adopts chapter 214, subchapter A, of the Texas Local Government Code, as amended, and the following minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; the following provisions for giving proper notice to the owner of a building; and the following provisions for a public hearing to determine compliance of real property, buildings, structures, premises, and vacant lots. In the event that any provisions of this ordinance conflict with said chapter 214, subchapter A, or in the event that any of the provisions of said chapter 214, subchapter A have been omitted from this ordinance, the City shall be entitled to pursue its remedies in conformity with said State law, as hereafter amended.

Sec. 2. Alterations, Additions, and Repairs.

All buildings or structures which are required to be repaired under provisions of this Ordinance shall be subject to all applicable sections of the Building Code, as amended, and as adopted by the City Council.

Sec. 3. Declaration of Public Nuisance.

Any real property, building, structure, or any portion thereof, or any premises, including a vacant lot, in or on which there exists a condition not in compliance with this Ordinance shall be deemed and is hereby declared to be a public nuisance, a violation of this Ordinance, and subject to the penalty clauses and remedies available to the City of Southmayd hereunder and under the common law or equity jurisprudence of the State of Texas.

Sec. 4. Definitions.

Terms, words, phrases, and their derivatives used, but not specifically defined in this Ordinance, shall have the meanings defined in Webster's New Collegiate Dictionary. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. For purposes of this Ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

City means the City of Southmayd, Texas.

City Council means the City Council of the City of Southmayd, Texas.

Enforcement Officer means the Chief of Police, Code Enforcement Officer, Health Officer, or their designated representatives, charged with any enforcement and administration of this Ordinance.

Inspection means the examination of property by the Enforcement Officer or his authorized representative for the purpose of evaluating its condition as provided for in this Ordinance.

Owner means any person, agent, firm, corporation, association, or other entity having legal or equitable interest in a property as shown on the most recent tax roll.

Person means any person, agent, firm, corporation, association, or tenant.

Public Nuisance means any act, condition, or thing existing, done, or in being, which act, condition, or thing endangers the peace, property, health, or safety of the citizens of the City.

Tenant means any person, agent, firm, corporation, or association who occupies a property or premises and who is not the owner.

Sec. 5 Specific Nuisances.

Without limiting the power of the City Council to hereafter declare as public nuisances any other act, condition, or thing by ordinance, the following specific acts, conditions, and things are each and all of them are hereby declared to be and constitute public nuisances:

- (A) Any building, structure, or portion thereof that is:
- (1) dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;
 - (2) regardless of its structural condition, unoccupied by its owners, tenants, 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.

(B) Any building or structure that has any or all of the conditions or defects hereinafter described, which shall also be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or its occupants are endangered:

- (1) Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- (2) Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (3) Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose, or location.
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such a catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose, or location.
- (5) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- (6) Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the Building Code for such buildings.
- (7) Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to wind or earthquakes than is required in the case of similar new construction.
- (8) Whenever the building or structure, or any portion thereof, because of:
 - (a) dilapidation, deterioration, or decay;
 - (b) faulty construction;
 - (c) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building;
 - (d) the deterioration, decay, or inadequacy of its foundation; or
 - (e) any other cause is likely to partially or completely collapse.

- (9) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (10) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.
- (11) Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its nonsupporting members, enclosing, or outside walls or coverings.
- (12) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children, or (b) a harbor for vagrants, criminals, or immoral persons; or as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
- (13) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location, or structure of buildings.
- (14) Whenever any building or structure that, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member, or portion less than fifty percent (50%), or in any supporting part, member, or portion less than sixty-six percent (66%) of the
 - (a) strength,
 - (b) fire-resisting qualities or characteristics, or
 - (c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.
- (15) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.
- (16) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
- (17) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

- (18) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
- (19) Whenever a building or structure fails to comply with any minimum standard provided by the Housing Code, Building Code, or the Uniform Fire, Mechanical, Plumbing, or Electrical Codes, as amended, and as adopted by the City Council.

Sec. 6. Minimum Standards.

The minimum standards for the continued use and occupancy of all buildings, regardless of the date of construction thereof, shall be those established by the Uniform Housing Code, which standards are hereby adopted, as well as those standards established by the Uniform Building Code as promulgated by the International Conference of Building Officials as heretofore previously adopted or hereafter adopted or amended by the City Council, and those standards established by this Ordinance.

Sec. 7. Notice to Property Owners and Others of Public Hearing.

- (A) If the building official determines that the nuisance requires the vacation, securing, repair, or removal of a building, structure, or nuisance condition on the property, or the relocation of the occupants of the property, the building official shall:
 - (1) give notice of the nuisance to the owner of the property as well as any one known tenant or occupant, by personal service or by certified mail (with a duplicate copy addressed to such owner, tenant or occupant as shown in the most recent tax roll or utility records of the City and deposited in the U. S. Mail, postage paid);
 - (2) provide detail in such notice of the standard(s) violated under this Ordinance and the necessary action to abate the nuisance –a copy of the building official's report is sufficient for this purpose;
 - (3) advise such owner, tenant, or occupant of the date and time of the public hearing at which a determination will be made by City Council as to whether the nuisance exists and whether the real property, building, structure, premises, or any portion thereof complies with the standards of this Ordinance;
 - (4) include a statement in such notice that the owner, lienholder, or mortgagee will be required to submit proof of the scope of any work that

may be required to comply with this Ordinance and the time it will take to reasonably perform the work; and

- (5) provide a copy of such notice of nuisance, details thereof, the required action necessary to abate the nuisance, and the date and time of the public hearing to any mortgagee or lienholder of record after a diligent effort to discover such mortgage or lienholder.

(B) If the City mails a notice in accordance with this Ordinance to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

(C) The City satisfies the requirements of this Ordinance to make a diligent or reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the City searches the following records:

- (1) Grayson County real property records;
- (2) Grayson County appraisal district records;
- (3) records of the Secretary of State;
- (4) assumed name records of Grayson County;
- (5) tax records of the City; and
- (6) utility records of the City.

Sec. 8. Date of Public Hearing.

The date of the public hearing before the City Council shall not be less than 30 days from the date of personal service of the date of the public hearing or depository of the same in the U.S. Mail, whichever is earlier.

Sec. 9. Filing of Notice in Public Records.

The City Secretary shall file a notice of the public hearing in the Grayson County Real Property Records at least ten days before the date of hearing. The notice must contain the name and address of the owner of the affected real property, if that information can be determined from a reasonable search of the instruments on file with the County Clerk; a legal description of the property; and a description of the hearing.

Sec. 10. Effect of Filing of Notice in Public Records.

The filing of the notice under section 9 shall be binding upon subsequent grantees, lienholders, or other transferees of any interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any

subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

Sec. 11. Conduct of Public Hearing.

The City Council shall conduct the public hearing to determine compliance with the standards set out in this Ordinance. At the public hearing, the owner, lienholder, or mortgagee shall have the burden of proof to demonstrate the scope of any work that may be required to comply with this Ordinance and the time it will take to reasonably perform the work.

Sec. 12. Orders and Notice After Public Hearing.

(A) After a public hearing, if the City Council finds that a nuisance exists pursuant to this Ordinance, the City Council shall require the owner, lienholder, or mortgagee of the real property, building, structure, or premises to, within 30 days:

- (1) secure the offending building or structure from unauthorized entry; or
- (2) abate the nuisance or repair, remove, or demolish the building, unless the owner, mortgagee, or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days; if additional time is allowed by the City Council, the City Council shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.

(B) After the public hearing, if a building, structure, or premises is found in violation of the standards set forth in this Ordinance, the City Council may order that the building, structure, or premises be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this section. The City Council also may order that the occupants be relocated within a reasonable time, at the cost of the owner. The City Council reserves the right to determine what is a reasonable amount of time to perform the ordered work or what is a reasonable amount of time to relocate occupants. In the event the owner fails to comply with the order within the time provided for action by the owner, the City Council may order the building, structure, or premises to be vacated, secured, repaired, removed, or demolished by any of the mortgagees or lienholders within a reasonable time as provided by this section. The City Council also may order that the occupants be relocated within a reasonable time, at the cost of any of the mortgagees or lienholders. Under this section, if the owner fails to timely take the ordered action, the City is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order.

(C) If the owner, lienholder, or mortgagee establishes at the hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work, and if the owner, lienholder, or mortgagee has submitted at the hearing a detailed plan and time schedule, and the City Council allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to abate the

nuisance or to repair, remove, or demolish the building or structure, the City Council shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the City Council through the building official to demonstrate compliance with time schedules for commencement and performance of the work and may require appearance before the building official, the City Council, or their designees to demonstrate compliance. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the City boundaries that exceeds \$100,000 in total value, the City Council may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the City Council may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the City Council. The bond must be posted, or the letter of credit or third-party guaranty provided, not later than the 30th day after the date the City issues the order.

- (D) Within ten days after the date that the order is issued, the City Secretary shall:
- (1) file a copy of the order in the City Secretary's office; and
 - (2) publish in a newspaper of general circulation in the City a notice containing:
 - (a) the street address or legal description of the property;
 - (b) the date of the hearing;
 - (c) a brief statement indicating the results of the order; and
 - (d) instructions stating where a complete copy of the order may be obtained.
- (E) After the public hearing, the City Secretary shall promptly mail by certified mail, return receipt requested, or have a copy of the order personally delivered to the owner of the building and to any lienholder or mortgagee of the building. The City shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.
- (F) 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, remove, or demolish the building or relocate the occupants at its own expense. This subsection does not limit the ability of the City to collect on a bond or other financial guaranty that may be required by subsection (C).

Sec. 13. Repair, Vacation, or Demolition.

The following standards shall be followed by the City Council in ordering the repair, vacation, or demolition of any building, structure, or premise, and any building, structure, or premise declared a nuisance under this Ordinance shall be made to comply with one or more of the following:

- (A) The building, structure, or premise shall be repaired in accordance with the

current Building Code or other current codes applicable to the type of conditions requiring repair.

- (B) Repairs shall be deemed feasible only if less than fifty percent (50%) of the building or structure must be repaired or replaced, and the repairs amount to less than fifty percent (50%) of the building or structure's value.
- (C) If the building or structure is in such a condition as to make it dangerous to the health, safety, and welfare of the occupants, it shall be ordered vacated and secured from unlawful entry.
- (D) If the building or structure requires repairs over greater than fifty percent (50%) of its surface or amounting to greater than fifty percent (50%) of its value, it shall be demolished. Furthermore, if a building cannot be repaired so that it will be brought into compliance with this Ordinance, it shall be demolished. Additionally, if the building as it stands presents an incurable fire hazard in violation of the terms of this Ordinance or any ordinance of the City or statute of the state, it shall be demolished. For the purpose of this Ordinance, the term "demolished" includes the cleaning and grading of the property and the removal of all debris and trash.
- (E) If the building or structure is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove, or demolish the building or structure or relocate the occupants at its own expense, and may thereafter assess expenses, and establish a lien, against the property.
- (F) If, after the expiration of the time allotted under section 12, the owner, lienholder, or mortgagee fails to comply, the City may do or cause to be done the repairs necessary to bring the building into compliance with this Ordinance, but only if the building is a residential building with ten or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds the minimum standards, as defined by this Ordinance, and expenses may be assessed as provided in section 13(E).

Sec. 14. Designation of Enforcement Officer.

The Chief of Police, Health Officer and Chief Code Enforcement Officer or their designated representatives are hereby directed and authorized to administer and enforce the provisions of this Ordinance. Nothing contained herein is meant to limit discretion of any Enforcement Officer in evaluating and directing compliance with this Ordinance.

Sec. 15. Enforcement Authority and Liability.

The Enforcement Officer and his authorized representatives, acting in good faith and without malice in the discharge of their duties, shall not thereby render themselves personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of their duties. Any suit

brought against the Enforcement Officer or his authorized representatives because of such act or omission performed in the enforcement of any provision of this Ordinance shall be defended by legal counsel provided by the City until final resolution of such proceedings.

Sec. 16. Twenty-four Hour Abatement Under Certain Circumstances.

Nothing in this Ordinance shall prohibit the requirement for abatement within 24 hours, or a period of time less than as prescribed herein for public hearings, notice thereof, or the recovery of costs and establishment of liens, when a nuisance has been declared an immediate threat to health and safety by any enforcement personnel.

Sec. 17. Remedies.

To enforce any requirement of this Ordinance, any enforcement personnel may gain compliance by any or all of the following:

- (A) Taking such action as the Enforcement Officer deems appropriate within the authorization provided for in this Ordinance or any other ordinances of the City.
- (B) Causing appropriate action to be instituted in a court of competent jurisdiction.
- (C) Ordering the abatement of the nuisance and assessing the costs of abatement against the property if the owner of the property does not abate same after the required notice.
- (D) Any other remedies permitted by law or equity.

Sec. 18. Contracting for Abatement.

Whenever the property owner, agent, or tenant fails to abate the nuisance within the time allowed, the Enforcement Officer is hereby authorized to contract with a contractor to perform such work as may be required to abate the nuisance.

Sec. 19. Recovery of Costs.

- (A) Whenever the City enters upon the premises and causes any work to be performed to abate a nuisance, or if the building or structure is not vacated, secured, repaired, removed, or demolished, or if the occupants are not relocated within the allotted time, the City may take such action at its own expense, and a charge will be made to the property owner, agent, or tenant to recover the costs associated with the abatement. The charge shall be the actual cost of abatement, plus applicable fees and taxes.
- (B) An administrative fee of \$200.00 shall be assessed for each such charge.

(C) If the actual charge and the administrative fee is not paid to the City within 30 days after billing, the City shall file a lien against the property. Said lien shall be filed in the Deed Records of Grayson County, Texas. The charges shown on the lien shall bear interest at the rate of eight percent (8%) per annum, or the maximum allowed by law, whichever is less, from the due date until paid. The lien shall be collected under the same terms and provisions of law as on City ad valorem taxes. The lien may be extinguished prior to foreclosure if the owner or other person having an interest in the legal title to the property reimburses the City for all incurred and outstanding expenses. If the notice is given pursuant to this Ordinance and the opportunity to abate the nuisance or to repair, remove, or demolish the building or structure is afforded to each mortgagee or lienholder, the lien is a privileged lien subordinate only to tax liens as authorized by section 214.001(o) of the Texas Local Government Code.

Sec. 20. Penalty Clause.

(A) Any person violating or failing to comply with any provision, requirement, or order issued pursuant to this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$2,000 for each offense. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.

(B) In addition to any other remedies or penalties contained in this section, the City may enforce the provisions of this Ordinance pursuant to the applicable provisions of chapter 54 of the Texas Local Government Code.

(C) Allegation and evidence of a culpable mental state is not required for the conviction of an offense defined by this Ordinance.

Sec. 21. Judicial Review.

Any owner, lienholder, or mortgagee aggrieved by an order of the City Council issued under this Ordinance shall be entitled to review by a District Court of Grayson County pursuant to section 214.0012 of the Texas Local Government Code, as amended, and the City of Southmayd shall be entitled to an award of fees, costs, and expenses, and judgment therefore, pursuant to subsection (h) of said section 214.0012.

Sec. 22. Municipal Court Proceedings Not Affected.

Action taken by the City pursuant to this Ordinance shall not affect the ability of the City to proceed under the jurisdiction of the City's municipal court.

Section 4. SAVINGS CLAUSE

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the Ordinance or any other ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not

be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 5. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance 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 6. REPEALER CLAUSE

Any provision of any prior ordinance of the City, whether codified or uncodified, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

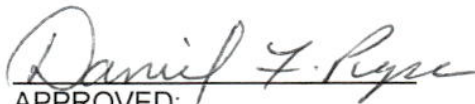
Section 7. PENALTY CLAUSE

Any person, firm, or corporation violating any provision or term of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$2,000 for each offense. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.

Section 8. EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Southmayd, Texas, on this the 12th day of April, 2011.




APPROVED:
Daniel F. Pepe, Mayor



ATTEST:
Lisa Stewart, City Secretary

APPROVED AS TO FORM:


Mark Goldstucker, City Attorney

BROWN & HOFMEISTER, L.L.P.

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April 14, 2011

Lisa Stewart, City Secretary
City of Southmayd
P.O. Box 88
Southmayd, Texas 76268

Re: Ordinance No. 332

Dear Lisa:

I have signed and enclosed the original of City of Southmayd Ordinance No. 332.
Thanks.

Yours very truly,



Mark E. Goldstucker

MEG:dl
enclosure