

**ORDINANCE NO. #306- BUILDING AND BUILDING REGULATIONS**

**AN ORDINANCE OF THE CITY OF SHEPHERD, TEXAS, REPEALING ARTICLES II THROUGH XI OF CHAPTER 4, ENTITLED “BUILDINGS AND BUILDING REGULATIONS,” OF THE CODE OF ORDINANCES OF THE CITY OF SHEPHERD, TEXAS; ADDING ARTICLE III RELATED TO REGULATIONS OF UNSAFE AND SUBSTANDARD BUILDINGS AND OTHER STRUCTURES, PUBLIC NUISANCES, AND OTHER REGULATIONS REGARDING PUBLIC HEALTH AND SAFETY; PROVIDING FOR NUISANCE ABATEMENT PROCEDURES AND THE ASSESSMENT OF COSTS AND LIENS; PROVIDING FOR INSPECTIONS; PROVIDING A REPEALING AND SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION AS REQUIRED BY LAW.**

**WHEREAS**, the City of Shepherd, Texas is a Type-A general-law municipality; and

**WHEREAS**, it is the intent of the City Council for the City of Shepherd to promote the public health, safety and welfare of its citizens related to unsafe, dangerous and substandard buildings, as it is authorized under Chapters 214, 217 and 342 of the Texas Local Government Code; and

**WHEREAS**, Chapter 214 of the Texas Local Government Code authorizes municipal regulation of dangerous structures; and

**WHEREAS**, Section 217.002 of the Texas Local Government Code authorizes a municipality to define what constitutes a public nuisance; authorizes a municipality to abate and remove a public nuisance; and authorizes a municipality to punish by fine a person responsible for such nuisance; and

**WHEREAS**, Section 342.002 of the Texas Local Government Code authorizes a municipality to regulate and prohibit the construction, location, relocation, or repair of wooden buildings for the purpose of preventing calamitous fires; and

**WHEREAS**, the City Council finds that the health, safety and general welfare of the City and its inhabitants will be improved by adopting this Ordinance, which will provide for a more expeditious abatement of public nuisances;

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

**SECTION 1. FINDINGS:** The facts and recitations stated in the preamble of this Ordinance are hereby found to be true and correct, and they are hereby approved and incorporated into the body of this Ordinance.

**SECTION 2. AMENDMENT TO CITY CODE OF ORDINANCES:** Articles II through Article III of Chapter 4, “Buildings and Building Regulations,” of the Shepherd City Code of Ordinances are hereby repealed and replaced by adding Article III, “Unsafe and Substandard Buildings” to the Code of Ordinances to read as follows:

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**ARTICLE III. – UNSAFE AND SUBSTANDARD BUILDINGS**

**Sec. 4-41. - Adoption of Texas Local Government Code Ch. 214, Subchapter A.**

The City hereby adopts Texas Local Government Code chapter 214, subchapter. A, 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. If any provision of this article conflicts with said chapter 214, subchapter A, or in the event that any provision of said chapter 214, subchapter A has been omitted from this article, the City shall be entitled to pursue its remedies in conformity with said state law, as hereafter amended.

**Sec. 4-42. - Building standards commission.**

(a) Created. There is hereby created a building standards commission, which shall consist of the city council. All cases to be heard by the commission shall be heard by a panel of at least four members.

(b) Ex officio members. The City enforcement officer, fire marshal, building official, city engineer and the City law enforcement officer of the City shall be *ex officio*, nonvoting members of the building standards commission. It shall be the duty of the *ex officio* members of the building standards commission to inspect all buildings or structures reported to be or believed to be substandard and present a report of such inspection to the city secretary.

(c) Officers of the commission. The City mayor shall serve as the presiding officer of the commission and the city secretary shall serve as the secretary of the commission.

(d) Rules and procedures.

- (1) Four members of the commission shall be required to constitute a quorum, and the concurring vote of four members of the commission is necessary to take any action under this article.
- (2) A commission member having a personal or financial interest in any matter before the commission shall excuse himself/herself from the discussion and the vote on that matter.

- (3) The city secretary, acting as secretary to the commission, shall make a record of all proceedings of the commission, which shall set forth the particulars of the matter before the commission, the decision rendered by the commission, the reason for the said decision and the vote of each member participating therein.
- (4) The mayor or city secretary may call meetings of the commission when necessary to rule on any case brought before it regarding substandard building nuisances.
- (5) The commission shall establish such other rules and procedures it deems necessary to conduct its business.

(e) Duties. The commission shall hear any case dealing with substandard building nuisances and make a ruling as to whether such building is a public nuisance and whether such building or structure should be repaired, vacated and/or demolished.

**Sec. 4-43. - Alterations, additions, and repairs.**

All buildings or structures that are required to be repaired under provisions of this article shall be subject to all applicable sections of the building codes, as amended, and as adopted by the city council.

**Sec. 4-44. - 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 article shall be deemed and is hereby declared to be a public nuisance, a violation of this article and subject to the penalty clauses and remedies available to the City hereunder and under the common law or equity jurisprudence of the state.

**Sec. 4-45. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agricultural structure* means any building or structure which is used solely for farming or ranching uses. The term "agricultural structure" includes, but is not limited to, barns, wind breaks, or silos. An agricultural structure may not be an accessory structure.

*Building* means a structure with walls and a roof, or a structure that was originally constructed with walls and a roof, e.g., a house or factory, but does not include any agricultural structure. A building typically includes, but is not limited to, residential or commercial structures and includes any accessory structures on the same property. The term "building" includes the term "structure."

*City* means the City of Shepherd, San Jacinto County, Texas.

*City engineer* means the registered professional engineer employed or designated by the City to provide professional engineering services for and on behalf of the City.

*Enforcement officer* means the City law enforcement officer, building official, code enforcement officer, or their designated representatives, charged with any enforcement and administration of this article.

*Inspection* means the examination of property by the enforcement officer or his/her authorized representative for the purpose of evaluating its condition as provided for in this article.

*Manifestly unsafe* means a building that is a public nuisance, as that term is defined in this section, or unsafe for human occupation, whether temporary or permanent, and a hazard to the public health, safety and welfare.

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

*Person* means any person, agent, firm, corporation, association or other legal entity, or tenant as that term is defined in this section.

*Public nuisance* means:

- (1) The physical condition or use of any premises regarded as a public nuisance at common law or as defined elsewhere in this article;
- (2) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures;
- (3) Any premises that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecure as to endanger life, limb or property;
- (4) Any premises from which the plumbing, heating and/or facilities required by the city's ordinances have been removed, or from which utilities have been disconnected, destroyed, removed, or rendered ineffective, or the required precautions against unauthorized use or entry have not been provided.
- (5) Any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction, or is overcrowded, open, vacant or abandoned, damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and dangerous to anyone on or near the premises;
- (6) Any physical condition, use or occupancy of any premises or its appurtenances that is dangerous to the physical health or safety of an occupant or other person; or
- (7) Because of violations of this article, the state of disrepair is such that it could reasonably cause injury, damage, or harm to a considerable portion of the community in the use and enjoyment of property, materially interfering with the proper use or comfort and enjoyment of surrounding property, taking into consideration the nature and use of the

properties in the area and the character of the community in which they are situated, which condition would be substantially offensive and annoying to persons of ordinary sensibilities living in the community.

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

**Sec. 4-46. - 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, hereby declared to be and constitute public nuisances:

- (1) Any building, or any portion thereof, that is:
  - a. Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;
  - b. 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
  - c. Boarded up, fenced or otherwise secured in any manner if:
    1. The building constitutes a danger to the public even though secured from entry; or
    2. The means used to secure the building are inadequate to prevent unauthorized entry or use of the building.
  
- (2) Any building that has any or all of the conditions or defects hereinafter described shall 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 is endangered:
  - a. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not arranged to provide safe and adequate means of exit in case of fire or panic.
  - b. 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.
  - c. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than 1½ times the working stress or stresses allowed in the City building codes for new buildings of similar structure, purpose or location.
  - d. Whenever any portion of a building 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 City building code for new buildings of similar structure, purpose or location.

- e. Whenever any portion of a building, 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.
- f. 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.
- g. Whenever any portion of a building has cracked, 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.
- h. Whenever the building, or any portion thereof, is manifestly unsafe because of:
  - 1. Dilapidation, deterioration or decay;
  - 2. Faulty construction;
  - 3. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
  - 4. The deterioration, decay or inadequacy of its foundation; or
  - 5. Any other cause or is likely to partially or completely collapse.
- i. Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- j. 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.
- k. Whenever the building, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting members, or 50 percent or more damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
- l. Whenever the building has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to:
  - 1. Become an attractive nuisance to children;
  - 2. Become a harbor for vagrants, criminals or immoral persons; or
  - 3. Enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
- m. Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of this jurisdiction, as specified in the City building codes

or of any law or ordinance of the state or jurisdiction relating to the condition, location or structure of buildings.

- n. Whenever any building which, whether erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the:
  - 1. Strength;
  - 2. Fire-resisting qualities or characteristics; or
  - 3. 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.
- o. Whenever a building, 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 enforcement officer to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease.
- p. Whenever any building, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electrical wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal or City enforcement officer to be a fire hazard.
- q. Whenever any building is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
- r. Whenever any portion of a building remains on a site after the demolition or destruction of the building or whenever any building is abandoned for a period of more than six months to constitute such building or portion thereof an attractive nuisance or hazard to the public.
- s. Whenever water heating facilities are not properly installed or maintained in a safe and good working condition and/or such water heating facilities are not capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120 degrees Fahrenheit. Such water heating facilities shall can meet the requirements of this subsection when the dwelling or dwelling unit heating facilities required under the provisions of this subsection are not in operation.
- t. Whenever any minimum standards provided by the International Building Code, the International Residential Code, the International Fire Code, the International Mechanical Code, the International Plumbing Code, or National Electrical Code, as amended, and as adopted by the city council, are not met for any building.

- (3) Any agricultural structure that fails to meet the minimum standards required for such agricultural structure adopted pursuant to the Occupational Safety and Health Standards for Agriculture, 29 CFR Part 1928, as amended.

**Sec. 4-47. - Minimum standards.**

(a) 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 International Building Code, the International Residential Code, the International Fire Code, the International Mechanical Code, the International Plumbing Code, or National Electrical Code, as heretofore previously adopted or hereafter adopted or amended by the city, and those standards established by this article.

(b) Those standards specified and enumerated Section 4-46 of this article.

**Sec. 4-48. - Notice to property owners and others of public hearing.**

(a) If the enforcement officer 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 enforcement officer 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 United States mail, postage paid);
- (2) Provide detail in such notice of the standard violated under this article, and the necessary action to abate the nuisance (a copy of the enforcement officer'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 the building standards commission as to whether the nuisance exists and whether the real property, building, structure, premises or any portion thereof complies with the standards of this article;
- (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 article 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 mortgagee or lienholder.

(b) If the City mails a notice in accordance with this article 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 article to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the City searches the following records:

- (1) County real property records;
- (2) County appraisal district records;
- (3) Records of the Secretary of State;
- (4) Assumed name records of the county;
- (5) Tax records of the city; and
- (6) Utility records of any utility doing business in the city.

**Sec. 4-49. - Date of public hearing.**

The date of the public hearing before the building standards commission shall not be fewer than 30 days from the date of personal service or deposit of same in the United States mail, whichever is earliest.

**Sec. 4-50. - Filing of notice of public hearing in public records.**

The city secretary shall file a notice of public hearing in the county real property records at least ten days before the date of the public hearing. The notice of public hearing shall contain:

- (1) 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;
- (2) A legal description of the property; and
- (3) A description of the hearing.

**Sec. 4-51. - Effect of filing of notice in public records.**

The filing of the notice of public hearing under section 4-50 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. 4-52. - Conduct of public hearing.**

The building standards commission shall conduct the public hearing to determine compliance with the standards set out in this article. 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 article and the time it will take to reasonably perform the work.

**Sec. 4-53. - Orders and notice after public hearing.**

(a) If, after a public hearing, the building standards commission finds that a nuisance exists pursuant to this article, the building standards commission 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 agricultural 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 the 30 days allowed. The building standards commission 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) If, after the public hearing, a building, structure or premises is found to be in violation of the standards set forth in this article, the building standards commission 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 building standards commission also may order that the occupants be relocated within a reasonable time, at the cost of the owner. The building standards commission 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 building standards commission may order any of the mortgagees or lienholders of the building, structure, or premises to be vacated, secured, repaired, removed, or demolished to comply with the order within a reasonable time as provided by this section. The building standards commission 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, the City is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

(c) If the owner, lienholder or mortgagee establishes at the public 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 building standards commission allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to abate the nuisance or repair, remove or demolish the building or agricultural structure, the building standards commission shall require the owner, lienholder or mortgagee to regularly submit progress reports to the building standards commission 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 building standards commission, or their designees, to demonstrate compliance. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the City's boundaries that exceeds \$100,000.00 in total value, the building standards commission 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 building standards commission 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 building standards commission. 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 buildings standards commission 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 with return receipt requested, deliver by the United States Postal Service using signature confirmation service, 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 use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building, structure or premises.

(f) If the building, structure or premises 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) of this section.

**Sec. 4-54. - Repair, vacation or demolition.**

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

- (1) The building, structure, or premises shall be repaired in accordance with the current building codes or other current codes applicable to the type of substandard conditions requiring repair.
- (2) Repairs shall be deemed feasible only if less than 50 percent of the building or agricultural structure must be repaired or replaced, and the repairs amount to less than 50 percent of the building or agricultural structure's value.

- (3) If the building or agricultural 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.
- (4) If the building or agricultural structure requires repairs over greater than 50 percent of its surface or amounting to greater than 50 percent of its value, it shall be demolished. Further, if a building or agricultural structure cannot be repaired so that it will be brought into compliance with this article, it shall be demolished. Additionally, if the building or agricultural structure as it stands presents an incurable fire hazard in violation of the terms of this article or any ordinance of the City or statute of the state, it shall be demolished. For the purpose of this article, the term "demolished" includes the cleaning and grading of the property and the removal of all debris and trash.
- (5) If the building or agricultural 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 agricultural structure or relocate the occupants at its own expense, and may thereafter assess expenses, and establish a lien against the property, as set forth in section 4-60.
- (6) If, after the expiration of the time allotted under section 4-53, 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 article, and 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 article, and expenses may be assessed as provided in section 4-60.

**Sec. 4-55. - Designation of enforcement officer.**

The enforcement officer, or his designated representative, is hereby directed and authorized to administer and enforce the provisions of this article. Nothing contained herein is meant to limit discretion of any enforcement officer in evaluating and directing compliance with this article.

**Sec. 4-56. - Enforcement authority and liability.**

The enforcement officer, or his designated representative, acting in good faith and without malice in the discharge of his duties, shall not thereby render himself 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 his duties. Any suit brought against the enforcement officer, or his designated representative, because of such act or omission performed in the enforcement of any provision of this article, shall be defended by legal counsel provided by the City until final termination of such proceedings.

**Sec. 4-57. - Twenty-four-hour abatement under certain circumstances.**

Nothing in this article 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. 4-58. - Remedies.**

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

- (1) Taking such action as the enforcement officer deems appropriate within the authorization provided for in this article or any other ordinances of the City.
- (2) Causing appropriate action to be instituted in a court of competent jurisdiction.
- (3) 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.
- (4) Any other remedies permitted or authorized at law or in equity.

**Sec. 4-59. - 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. 4-60. - 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 agricultural 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 sales taxes.

(b) An administrative fee shall be assessed for each such charge as currently established or as hereafter adopted by resolution of the city council from time to time.

(c) If the actual charge and the administrative fee are 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 the county. The charges shown on the lien shall bear interest at the rate of eight percent (8%) per annum, 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 its expenses. If the notice is given pursuant to section 4-48, and the opportunity to abate the nuisance or repair, remove, or demolish the building or agricultural structure is afforded to each mortgagee or lienholder under section 4-53, the lien is a privileged lien subordinate only to tax liens as authorized by the Texas Local Government Code § 214.001(o).

**Sec. 4-61. - Penalty clause.**

(a) Any person violating or failing to comply with any provision, requirement or order issued pursuant to this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined up to \$500.00. 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 article pursuant to the applicable provisions of the Texas Local Government Code, Chapter 54, which chapter provides for the enforcement of municipal ordinances.

(c) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this article.

**Sec. 4-62. - Judicial review.**

Any owner, lienholder, or mortgagee aggrieved by an order of the building standards commission issued under this article shall be entitled to review by a state district court pursuant to Texas Local Government Code § 214.0012, and the City shall be entitled to an award of attorney's fees, costs and expenses, and judgment therefor, pursuant to and as authorized by Texas Local Government Code § 214.0012(h).

**Sec. 4-63 - Municipal court proceedings not affected.**

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

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**SECTION 3. SAVINGS CLAUSE:** If any provision, section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this Ordinance. It is the intent of the City in adopting this Ordinance that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision and to this end all provisions of this Ordinance are declared to be severable.

**SECTION 4. HEADINGS:** Titles and headings of the sections herein shall be read as part of the sections used in determining the meaning thereof.

**SECTION 5. REPEALING CLAUSE:** Any city ordinances in conflict with the provisions of this Ordinance are hereby expressly repealed.

**SECTION 6. TEXAS OPEN MEETINGS CLAUSE:** It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**SECTION 7. EFFECTIVE DATE:** This Ordinance shall become effective upon its publication as provided by law.

**PASSED AND APPROVED** after a second reading on this, the 19TH day March 2018.



Earl Brown, Mayor

ATTEST:

  
Debra Hagler, City Secretary