

ORDINANCE NO. 130718 130815-B
CITY OF CREEDMOOR, TEXAS

AN ORDINANCE OF THE CITY OF CREEDMOOR, TEXAS ADOPTING AN ORDINANCE REGARDING SUBSTANDARD BUILDINGS; ESTABLISHING STANDARDS FOR ALL BUILDINGS AND STRUCTURES; PROVIDING FOR THE DECLARATION OF SUBSTANDARD BUILDINGS AND STRUCTURES AS A PUBLIC NUISANCE; PROVIDING FOR NOTICE TO PROPERTY OWNERS, OCCUPANTS, MORTGAGEES, AND LIENHOLDERS OF SUBSTANDARD BUILDINGS AND STRUCTURES; PROVIDING FOR A PUBLIC HEARING ON THE SUBSTANDARD BUILDING OR STRUCTURE; PROVIDING FOR THE ABATEMENT OF NUISANCES; PROVIDING FOR THE RECOVERY OF COSTS; PROVIDING A PENALTY CLAUSE; PROVIDING FOR JUDICIAL REVIEW; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION OF THE CAPTION THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 214 of the Texas Local Government Code authorizes the City Council of the City of CREEDMOOR, Texas ("Board of Aldermen"), by ordinance 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 also 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, this Ordinance does establish 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 this Ordinance; and

WHEREAS, the Board of Aldermen has determined that the following Ordinance is necessary to protect the public health, safety, and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CREEDMOOR, TEXAS, THAT:

SECTION I.

The recitals set forth above are hereby found to be true and correct and are incorporated into the body of this Ordinance for all purposes as if fully set forth herein.

SECTION II.

This ordinance relative to Substandard Buildings is hereby adopted and shall read as follows:

“SUBSTANDARD BUILDINGS*"

A. Adoption of chapter 214, Subch. A, Texas Local Government Code

The City of CREEDMOOR 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 provision of this Ordinance 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 ordinance, the City shall be entitled to pursue its remedies in conformity with said State law, as hereafter amended.

B. Building Standards Commission

(1) Building Standards Commission Created. There is hereby created a building standards commission, which shall consist of the Board of Aldermen. All cases to be heard by the commission shall be heard by a panel of at least four members.

(2) Ex Officio Members. To the extent that they exist in this City the City Administrator, the code enforcement officer, fire marshal, the building official and the health 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 Administrator.

(3) Officers of the Commission. At its first meeting of each year, the commission shall select from its members a chairperson, vice-chairperson and a secretary of the commission.

(4) Rules and Procedures.

(a) 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 ordinance.

(b) A commission member having a personal or financial interest in any matter before the commission shall excuse himself from the discussion and the vote on that matter.

(c) The person 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.

(d) The chairperson or city secretary may call meetings of the commission when necessary to rule on any case brought before it regarding substandard building nuisances.

(e) The commission shall establish such other rules and procedures it deems necessary for the election of officers and the conduct of its business.

(5) Duties. The commission shall hear any case dealing with substandard building and 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.

C. Alterations, Additions, and Repairs

All buildings or structures that 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 Board of Aldermen.

D. 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 CREEDMOOR hereunder and under the common law or equity jurisprudence of the State of Texas.

E. 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:

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

(2) *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. 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.

(3) *Enforcement Officer* means the City Mayor, City Administrator, chief of police, building official, code enforcement officer, or health officer, or their designated representatives, charged with any enforcement and administration of this Ordinance.

(4) *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.

(5) *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.

(6) *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.

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

(8) *Public Nuisance* means:

(a) The physical condition or use of any premises regarded as a public nuisance at common law or as defined elsewhere in the City's Ordinances;

(b) 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;

(c) Any premises that is manifestly capable of being a fire hazard, or is manifestly unsafe or insecure as to endanger life, limb or property;

(d) 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;

(e) Any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction, 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;

(f) 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

(g) Because of violations of section G. of this ordinance herein below, 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.

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

F. Specific Nuisances

Without limiting the power of the Board of Aldermen 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:

(i) the building constitutes a danger to the public even though secured from entry; or

(ii) 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 so as 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 one and one-half times the working stress or stresses allowed in the Building Code 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 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:

- (i) dilapidation, deterioration or decay;
- (ii) faulty construction;
- (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
- (iv) the deterioration, decay or inadequacy of its foundation; or
- (v) 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 thirty- three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) 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:

- (i) become an attractive nuisance to children;
- (ii) become a harbor for vagrants, criminals or immoral persons;
- or
- (iii) 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 International Building Code or International Property Maintenance Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

(n) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting 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:

- (i) strength;
- (ii) fire-resisting qualities or characteristics; or
- (iii) 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 electric wiring, gas connections or heating apparatus, or other cause, is determined by the 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 in excess of six (6) months so as 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 one hundred twenty degrees Fahrenheit (120°). Such water heating facilities shall be capable of meeting 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 Property Maintenance Code, the International Residential Code, the International Fire Code, the International Mechanical Code, the International Plumbing Code, the International Fuel Gas Code or National Electrical Code, as amended, or any other code adopted by the Board of Aldermen, 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 C.F.R. § 1928, as amended.

G. Minimum Standards

(1) 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 Property Maintenance Code, which standards are hereby adopted, as well as those standards established by the International Building Code as promulgated by the International Conference of Building Officials which are hereby adopted or hereafter adopted or amended by the City of CREEDMOOR, and those standards established by this Ordinance.

(2) Those standards specified and enumerated in section F. of this Ordinance.

H. Notice to Property Owners and Others of Public Hearing

(1) If the enforcement 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 official shall:

(a) give notice of the nuisance to the owner of the property as well as any one (1) 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);

(b) 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);

(c) 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 Ordinance;

(d) 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

(e) 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.

(2) 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.

(3) The City satisfies the requirements of this ordinance 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:

(a) Travis County real property records;

(b) Travis County Appraisal District records;

(c) Records of the Secretary of State;

(d) Assumed name records of Travis County;

(e) Tax records of the City of CREEDMOOR; and

(f) Utility records of any utility doing business in the City of CREEDMOOR.

I. Date of Public Hearing

The date of the public hearing before the building standards commission shall not be fewer than thirty (30) days from the date of personal service or deposit of same in the U.S. Mail, whichever is earliest.

J. Filing of Notice of Public Hearing in Public Records

The City Secretary shall file a notice of public hearing in the Travis County real property records at least ten (10) 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.

K. Effect of Filing of Notice in Public Records

The filing of the notice of public hearing under section J. of this ordinance 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.

L. Conduct of Public Hearing

The building standards commission 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.

M. Orders and Notice After Public Hearing

(1) If, after a public hearing, the building standards commission finds that a nuisance exists pursuant to this ordinance, the building standards commission shall enter an order which shall require the owner, lienholder, or mortgagee of the real property, building, structure or premises to within thirty (30) days:

(a) secure the offending building or agricultural structure from unauthorized entry; or

(b) 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 thirty (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.

(2) If, after the public hearing, a building, structure or premises is found to be in violation of the standards set forth in this ordinance, 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.

(3) If the owner, lienholder or mortgagee establishes at the public hearing that the work cannot be reasonably completed within ninety (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 ninety (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 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 City issues the order.

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

(a) file a copy of the order in the city secretary's office; and

(b) publish in a newspaper of general circulation in the City a notice containing:

- (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; and
- (iv) instructions stating where a complete copy of the order may be obtained.

(5) 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 premise.

(6) If the building, structure or premise 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.

N. 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 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:

- (1) The building, structure, or premise shall be repaired in accordance with the current Building Code or other current codes applicable to the type of substandard conditions requiring repair.
- (2) Repairs shall be deemed feasible only if less than fifty percent (50%) of the building or agricultural structure must be repaired or replaced, and the repairs amount to less than fifty percent (50%) 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 fifty percent (50%) of its surface or amounting to greater than fifty percent (50%) 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 ordinance, 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 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.
- (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 T. of this Ordinance.
- (6) If, after the expiration of the time allotted under section M. of this ordinance, 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 and only if the building is a residential building with ten (10) 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 T. of this Ordinance.

O. Designation of Enforcement Officer

The enforcement officer, which may be referred to occasionally in this ordinance to be the building code inspector or other designations shall be in all cases the City Administrator or his designated representative(s), 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.

P. Enforcement Authority and Liability

The enforcement officer, or his designated representative(s), acting in good faith and without malice in the discharge of his duties, is acting as an agent of the City of CREEDMOOR, and 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(s), 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 of CREEDMOOR until final termination of such proceedings.

Q. Twenty-Four Hour Abatement Under Certain Circumstances

Nothing in this ordinance shall prohibit the requirement for abatement of a nuisance within twenty-four (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 the enforcement official.

R. Remedies

To enforce any requirement of this ordinance, 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 ordinance 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.

S. 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.

T. Recovery of Costs

- (1) 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.

(2) An administrative fee of \$200.00 shall be assessed for each such charge.

(3) If the actual charge and the administrative fee are not paid to the City within thirty (30) days after billing, the City shall file a lien against the property. Said lien shall be filed in the Deed Records of Travis County, Texas. The charges shown on the lien shall bear interest at the rate of eight (8) percent 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 J., 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 said section J. of this ordinance, the lien is a privileged lien subordinate only to tax liens as authorized by Texas Local Government Code section 214.001(o).

U. Penalty Clause

(1) 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 fined as provided in the applicable City's ordinances. A separate offense shall be deemed upon each day during or on which a violation or failure to comply occurs or continues to occur.

(2) 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 Texas Local Government Code, chapter 54, which chapter provides for the enforcement of municipal ordinances.

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

V. Judicial Review

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

W. 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 III.

Any provision of any prior ordinance of the City of CREEDMOOR, Texas, whether codified or uncodified, which is in conflict with any provision of this Ordinance is hereby repealed to the extent of the conflict; however, 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 IV.

It is the intent of the Board of Aldermen that each word, paragraph, sentence, subdivision, clause, phrase or section of this Ordinance be deemed severable, and should such word, paragraph, sentence, subdivision, clause, phrase or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of this Ordinance left standing, or the validity of any other ordinances of the City of CREEDMOOR.

SECTION V.

The remainder of the City of CREEDMOOR Ordinances remain in full force and effect, save as amended herein.

SECTION VI.

This Ordinance shall take effect and shall be in full force from and after its adoption and publication as provided by law.

PASSED, APPROVED AND ADOPTED by the Board of Aldermen of the City of CREEDMOOR, Texas, this ____ DAY OF _____, 2013.

THE CITY OF CREEDMOOR, TEXAS

ROBERT WILHITE
MAYOR

ATTEST:

RICHARD CRANDAL
CITY ADMINISTRATOR and SECRETARY

DONALD E. BIRD
CITY ATTORNEY