



**ORDINANCE NO. D 18-02**

**SUBSTANDARD BUILDING**

**AN ORDINANCE RELATING TO THE SECUREMENT, REPAIR, REMOVAL, DEMOLITION AND/OR VACATION OF SUBSTANDARD BUILDINGS; MAKING FINDINGS OF FACT; REPEALING ORDINANCE NO. 9013 AND REPLACING IT WITH THIS ORDINANCE; CREATING A BUILDING AND STANDARDS COMMISSION; PROVIDING FOR ENACTMENT, REPEALER, SEVERABILITY, PUBLICATION, AND EFFECTIVE DATE; PROVIDING FOR CIVIL PENALTIES NOT TO EXCEED \$1,000.00 A DAY PER VIOLATION, AND NOT TO EXCEED \$5,000.00 A DAY PER VIOLATION FOR DISCHARGING OF A POLLUTANT INTO A SEWER SYSTEM, AND CRIMINAL PENALTIES OF NO LESS THAN \$100.00 NOR MORE THAN \$2,000.00 A DAY PER VIOLATION, AND NOT TO EXCEED \$4,000.00 FOR REGULATIONS GOVERNING THE DUMPING OF REFUSE; PROVIDING FOR OTHER RELATED MATTERS, AND FINDING PROPER NOTICE AND MEETING.**

**WHEREAS,** the City of Nolanville (“City”) is a home rule city in the State of Texas, and Texas Local Government Code Sec. 51.072 recognizes the City’s full power of local self-government; and

**WHEREAS,** Local Government Code Sec. 51.001 authorizes the City to adopt, publish, amend, or repeal an ordinance, rule, or police regulation that is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality, and is necessary or proper for carrying out a power granted to it by law or to one of its offices or departments; and

**WHEREAS,** Local Government Code Sec. 54.001 authorizes the City to enforce each rule, ordinance, or police regulation (jointly, “regulations”) of the municipality, and to punish a violation of such regulations with a fine not less than \$100.00 nor more than \$500.00, and not to exceed \$2,000.00 for regulations governing fire safety, zoning, or public health and sanitation, and not to exceed \$4,000.00 for regulations governing the dumping of refuse; and

- WHEREAS,** Local Government Code Sec. 54.004 authorizes the City, as a home-rule municipality, to enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants; and
- WHEREAS,** the City Council of the City of Nolanville ("City Council") seeks to promote the health, safety and general welfare of the community by preventing death, injuries and property damage within the City; and
- WHEREAS,** the City Council seeks to protect property values within the City; and
- WHEREAS,** the City Council has approved Ordinance No. D 17-12 #1 to adopt various building codes, which may be amended from time to time; and
- WHEREAS,** Local Government Code Sec. 54.032 authorizes the City, after its adoption of an ordinance, such as this one, that implements Subchapter C of Local Government Code Chapter 54, to provide for quasi-judicial enforcement of health and safety ordinances, including, without limitation: those relating to the fire safety of a building or improvement, those relating to dangerously damaged or deteriorated buildings or improvements, those relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents, and those relating to a building code or to the condition, use, or appearance of property in a municipality; and
- WHEREAS,** pursuant to Texas Local Government Code Sec. 54.012, a municipality may bring a civil action for the enforcement of health and safety ordinances including, among others, those: relating to the preservation of public health or to the fire safety of a building or other structure or improvement; relating to dangerously damaged or deteriorated structures or improvements; relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents, and implementing civil penalties for conduct classified by statute as a Class C misdemeanor; and

**WHEREAS,** Local Government Code Sec. 217.042 authorizes home rule cities to define and prohibit any nuisance within the limits of the municipality and within 5,000 feet outside the limits - except for the sale of fireworks or similar materials outside the limits of the municipality - and to enforce all ordinances necessary to prevent and summarily abate and remove a nuisance; and

**WHEREAS,** the City Council finds that unsecured vacant structures are a public nuisance; and

**WHEREAS,** the City Council finds that uncontrolled boarded buildings send a negative signal about a neighborhood and that the presence of a boarded building can bring down the value of other properties in the area; and

**WHEREAS,** the City Council finds that substandard buildings, structures and premises are public nuisances, as are those with an accumulation of refuse, trash, debris, junk, materials, uncultivated vegetation and similar matter; that they pose an immediate and substantial threat to public safety and welfare in numerous ways -- including becoming fuel for fire, places that breed mosquitoes, mice, snakes, and other vermin and insects, places that harbor vagrants, runaway minors, stray animals, drug dealers and users, and presenting a poor aesthetic appearance -- all of which singly and jointly tend to devalue neighboring properties and encourage crimes such as graffiti, vandalism, and others,

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Nolanville, Texas:

### **1. FINDINGS OF FACT**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

### **2. ENACTMENT**

Ordinance No. 9013 is hereby repealed in its entirety, and amended so as to read in full in accordance with *Attachment A*, attached hereto and incorporated into this Ordinance for all

intents and purposes.

### **3. REPEALER**

All ordinances, or parts thereof, including but not limited to Ordinance No. 9013, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

### **4. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

### **5. PUBLICATION**

The caption or title and the penalties under this Ordinance shall be published one (1) time in the official newspaper(s) of the City of Nolanville, as required under Sec. 3.11(C) of the City Charter.

### **6. EFFECTIVE DATE**

This Ordinance shall be effective immediately upon passage and publication of its caption, including the penalties for violations, in the City's official designated newspaper.

### **7. PROPER NOTICE & MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice will also be provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this 15<sup>th</sup> day of February, 2018, by a vote of 4 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of the City of Nolanville, Texas.

CITY OF NOLANVILLE:



George French, Mayor Pro-Tem



ATTEST:



Crystal Briggs, City Secretary

# *Attachment “A”*

## **ORDINANCE NO. D 18-02 SUBSTANDARD BUILDING ORDINANCE**

### **Sec. 1. Purpose and Scope**

- (a) This Ordinance shall be known as the Substandard Building Ordinance.
- (b) This Ordinance covers the responsibilities of owners or property subject to this Ordinance and the City’s authority to direct the securement, occupancy, repair, removal, and demolition of such properties; establishes a Building and Standards Commission to hear and determine cases concerning alleged violations; prescribes procedures for notice to owners, hearings, appeals and other procedural requirements, and establishes civil and criminal penalties for violations of this Ordinance.
- (c) This Ordinance is hereby declared to be remedial, and is intended to promote the beneficial interests and purposes hereof, which are to promote public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of buildings, structures and premises
- (d) This Ordinance shall apply to all existing residential and nonresidential properties, and it is intended to enforce applicable codes and ordinances and established minimum standards for the continued use and occupancy of all properties, regardless of when they were constructed or when their occupancy began, including, without limitation: the minimum requirements and standards for light, ventilation, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance.
- (e) All property covered by this Ordinance, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which

are required by this Ordinance or other applicable ordinances in a property when erected, altered or repaired shall be maintained in good working order. The owners shall be responsible for the maintenance of properties and compliance with all other requirements of this Ordinance.

- (f) Existing properties that do not comply with the applicable provisions of Ordinance No. D 17-12 #1 or this Ordinance shall only be altered, repaired, removed or demolished in a way that provides a minimum level of health and safety as required herein.

## **Sec. 2. Definitions**

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

*Abate* means to eliminate a noncompliance or cure a violation as directed or permitted by the City, including by securement, removal, removal, vacation, or demolition.

*Alter* or *alteration* means any change or modification in construction or occupancy.

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

*Building official* means the person charged with the administration and enforcement of this Ordinance, and any duly authorized representative.

*Condemn* means to adjudge as unfit for occupancy.

*Dilapidated* means the state of a building or structure that has deteriorated or is in disrepair.

*Dwelling* means a structure or part thereof designed, used or intended to be used exclusively for residential purposes.

*Dwelling unit* means a single unit providing independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

*Occupant* means any person living or sleeping in a building or having possession of a space within a building.

*Owner* means the holder of the title to property, as it may appear in the real property records of Bell County or the records of the Bell County Appraisal District. It shall also mean any person who, alone or jointly or severally with others, shall have charge, care or control of the property, including, without limitation, as executor, administrator, trustee, guardian of the estate of the owner, mortgagee, lien holder, and any other person in control of the property; or any of their duly authorized agents.

*Premises* means a lot, plot or parcel of land, including the buildings or structures thereon.

*Property* means and includes buildings, structures and premises.

*Repair* means the permitted, lawful replacement of existing work with the same kind of material used in the existing work, or permitted substitute, but not additional work beyond that. The term "repair" or "repairs" shall not apply to any change of construction.

*Required* means required by some provision of this Ordinance or other applicable law.

*Residential building* means a building designed, used or intended to be used for human habitation, and includes dwellings or dwelling units.

*Structure* means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, or any part of the aforementioned.

*Substandard building or structure* means any building or structure that is dilapidated, substandard, or unfit for human habitation and a hazard to public health, safety, and welfare, including but not limited to as a result of noncompliance with the provisions of Ordinance No. D 17-12 #1.

*Vacant* means a property which is lacking habitual presence of human beings or at which all business operations or residential occupancy has ceased.

### **Sec. 3. Minimum Standards; Substandard Properties; Public Nuisances; Finding Violations; Authority of Building Official; Initiating Proceedings**

- (a) The standards as set out in the applicable provisions in Ordinance No. D 17-12 #1 are the minimum standards required for all properties subject to that ordinance, and



this Ordinance is a means whereby the City seeks to enforce those minimum standards.

- (b) When minimum standards for the strength, stability or proper operation of an existing property or for the public safety, health and welfare, are not specifically covered by this Ordinance or other applicable ordinances, the Building Official shall reasonably determine the same.
- (c) The City hereby declares that all properties which are determined to be dilapidated, substandard, or unfit for human habitation, based upon minimum standards adopted in this Ordinance and/or in any City ordinance, including Ordinance No. D 17-12 #1, are public nuisances. The ordinances being enforced hereunder are those:
  - (1) for the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;
  - (2) relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
  - (3) relating to dangerously damaged or deteriorated buildings or improvements;
  - (4) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
  - (5) relating to a building code or to the condition, use, or appearance of property in a municipality;
  - (6) relating to animal care and control, and
  - (7) relating to water conservation measures, including watering restrictions, and the owner of any substandard structure shall be ordered to have the same secured, repaired, removed or demolished, and the same may be ordered to be vacated, as provided in this Ordinance. If the public nuisance is other

than a substandard structure, the owner shall be ordered to have the violation abated.

- (d) The Building Official is authorized and directed to enforce all of the provisions of this Ordinance and shall have the power to render interpretations of this Ordinance.
- (e) Upon any complaint or visual observations, with or without prior notice, the Building Official is authorized to inspect or cause to be inspected any existing property located within the City to determine its condition and whether it meets any applicable minimum standards.
  - (1) If the property is occupied, the Building Official shall present credentials to the occupant and request entry.
  - (2) If unoccupied, the Building Official must first make reasonable effort to locate the owner or other persons having control, in order to present credentials and request entry to the property.
  - (3) If entry is refused, or reasonable attempts to locate or contact the owner or other persons having control be unavailing, the Building Official shall have recourse to every remedy provided by law to secure entry, including securing a search warrant from the municipal judge or any other magistrate with authority.
- (f) After inspection, if the Building Official determines that a property is not in compliance with the applicable provisions in Ordinance No. D 17-12 #1 or other applicable law, proceedings hereunder shall be initiated to cause the abatement of the condition by securement, repair, removal, demolition or vacation, or a combination thereof.
- (g) If the Building Official determines that the property is not in compliance with applicable ordinances the owner or other persons having control shall be so notified in writing and advised of the measures required to abate any violations. If the Building Official condemns the property as unfit for occupancy, the owner shall be ordered to have the same vacated and secured from outside entry, within such period of time as reasonably specified and ordered in the notice. The notice shall advise

that failure to do so may result in the Building Official securing the property at the owner's expense, that the owner shall be assessed the costs, and that a lien may be placed on the property upon which the structure is located, unless the structure is a homestead.

(h) If a building or structure poses an immediate hazard to life, other property or to the safety of the public, the Building Official shall issue to the owner an Order to Vacate the premises immediately.

(1) The Building Official shall post a notice at each exit and entrance to the building or structure which shall include the following statement: *"This building is unsafe and its use or occupancy has been prohibited by the Nolanville Building Official."*

(2) Such Order to Vacate shall remain posted until the required repairs are made or the removal or demolition is completed.

(3) It shall be unlawful for any person or his agent to remove such notice without written permission of the Building Official, or for any person to enter the building or structure, except after the issuance of any required permit(s) and for the purposes of making the required repairs, removal or demolishing the building or structure.

(i) If the property has sustained damage by fire, explosion, wind, vandalism, or elements of nature or by other means to such an extent that it is determined likely to fall in the immediate future, or that it is incapable reasonably to be secured from unauthorized entry, or if it is determined likely to fall in the immediate future on another property or inhabited area, the Building Official shall in writing order the owner to immediately demolish the building or structure, failing in which the same may be demolished by the City at the owner's expense. The order shall advise that the owner shall be assessed all the costs of the City's demolition, and that a lien may be placed on the property upon which the building or structure is located, unless the same is a homestead. In exigent circumstances and upon the fire marshal's recommendation, the Building Official may order the immediate demolition of the

structure, with reasonable efforts exerted to reach the owner. As soon as reasonably possible the Building Official shall notify the property owner in writing.

- (j) Pursuant to Local Government Code Sec. 54.018, the City may bring an action in rem against the structure to compel the repair, removal or demolition of a structure or to obtain approval to remove the structure and recover removal costs. In any such action the City may also bring a claim for civil penalties under Section 54.017, and an action against that may result in a judgment against the structure as well as a judgment against the defendant. The City may also file a notice of lis pendens in the office of the Bell County Clerk.
- (k) In the event the Building Official deems a property with historic designation, or located in a historic district, is safe and not a hazard to the public health, safety or welfare, the provisions of this Ordinance shall not be mandatory for the same.

**Sec. 4. Notice of Violation; Notice of Hearing; Order to Secure, Repair, Remove, Demolish or Vacate; Service**

- (a) Whenever the Building Official determines that a property is not in compliance with any provision in Ordinance No. D. 17-12 #1 or other applicable law, the Building Official shall provide written notice of any alleged violations to the subject property's owners of record and to each holder of a recorded lien against the affected property, as shown by the records in the office of the Bell County Clerk. The City shall exercise due diligence to determine the identity and address of all owners, registered agents, lien holders, and mortgagees, including a search of the following sources:
  - (1) the real property records of Bell County, Texas;
  - (2) the records of the Bell County Central Appraisal District;
  - (3) the records of the Secretary of State of Texas, if the property owner, lienholder, or registered agent is a corporation, partnership, or other business association;

- (4) the assumed name records of Bell County, Texas;
  - (5) the City's tax records, and
  - (6) the City's utility records.
- (b) Such Notice of Violation shall state the reason(s) why it is being issued and contain, but not be limited to, the following information:
- (1) name and address of the owner of the affected property, and any lien holder, or mortgagee,
  - (2) street address and legal description, if available,
  - (3) include the following statement: "According to the real property records of Bell County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not",
  - (4) a statement that the Building Official has found the structure to be dilapidated, substandard, or unfit for human habitation, as the case may be, and a public nuisance required to be abated, and include a brief and concise description of the conditions found to so render the structure,
  - (5) order the action(s) required to be undertaken as abatement, including but not limited to securing a building and/or other permit application is needed to secure, repair, remove, demolish, and/or vacate.
  - (6) state that if an application for any such permit is not completed and filed within the stated time as set forth in the notice, legal proceedings shall be instituted charging the owner with a violation of this Ordinance, , lien holder,

or mortgagee

- (7) may include a Notice of Hearing stating the date, time, place, and brief description of the public hearing to be held before the Commission, which cannot schedule a hearing for any time before the 20<sup>th</sup> day after the Notice of Violation is received by the purported owner, and
- (8) state that the owner(s), lien holder(s), or mortgage(s)e will be required to submit at the hearing proof of the scope of any work that may be required to comply with the applicable ordinance requirements and the time it will take to reasonably perform the work.

(c) Service of the Notice of Violation shall be as follows:

- (1) to the record owners of the affected property, and each holder of a recorded lien against the affected property, including any mortgagee, as shown by the records in the office of the Bell County Clerk, if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the Bell County Clerk, by personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service;
- (2) by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable;
- (3) the Notice of Violation must also be posted and either personally delivered or mailed on or before the 10th day before the date of the hearing before the Commission created pursuant to Section 5 of this Ordinance, and must state the date, time, and place of the hearing;
- (4) the Notice of Violation must be published in a newspaper of general circulation in the City on one occasion on or before the 10th day before the date fixed for the hearing; and

- (5) the Notice of Violation shall also be filed with the Bell County Clerk in the Official Public Records of Real Property.
- (d) The City Secretary shall forward a copy of the Notice of Violation to the Building and Standards Commission to be placed on its agenda.
- (e) If the City sends the aforementioned notice to the owner of the property to which the notice relates and the record owner no longer owns the property, the relevant provisions of in Local Government Code Sec. 54.005 shall be followed.

**Sec. 5. Building and Standards Commission**

- (a) There is hereby established a Building and Standards Commission (“Commission”) in and for the City, to hear and determine cases concerning alleged violations of the type of ordinances described in Texas Local Government Code Sec. 54.032.
- (b) The Commission shall consist of at least five (5) members appointed by the City Council. The members of the Nolanville City Council, may appoint any member or members of the City Council and/or the Mayor to serve on the Commission. The commission shall operate and conduct its business in accordance with the provisions of Subchapter C of Chapter 54 of the Texas Local Government Code. The City Council may appoint additional alternate members to the Commission, who shall serve in the absence of one or more of the regular Commission members, when requested to do so by the Mayor or City Manager. Alternate members shall serve on an alternating basis such that all alternate members have equal opportunities to serve on the Commission. In the event of a conflict of interest of a regular or alternate member of the Commission whereby such member may not serve on the Commission, City Council shall appoint a replacement of that member to serve on the Commission.
- (c) Appointments of regular and alternate members to the Commission shall be for terms of two (2) years. The City Council may remove a member or alternate member of the Commission for cause, as found by the City Council on a written charge. Before a decision regarding removal is made, if requested by the

commission member subject to the removal action, the City Council must hold a public hearing on the matter.

(d) A vacancy shall be filled for the unexpired term.

(e) The mayor, if appointed to the Commission, shall serve as chairman of the Commission. In the absence of the mayor, the mayor pro-tem, if appointed to the Commission, shall serve as acting chairman of the Commission. Otherwise, a quorum of the Commission shall elect the Commission's chairman and, when the elected chairman is absent or does not serve, an acting chairman.

#### **Sec. 6. Quorum; Rules; Proceedings**

- (a) A simple majority of the Commission shall constitute a quorum for the transaction of the Commission's business.
- (b) A majority of the Commission shall adopt rules for the Commission. The rules shall establish procedures for use in hearings, providing ample opportunity for presentation of evidence and testimony by respondents or persons opposing charges brought by the City relating to alleged noncompliance with applicable ordinances.
- (c) The City Council hereby designates the Building Official or designee(s) as the City official who shall present all cases before the Commission.
- (d) Commission meetings shall be held at the call of the chairman and at other times as determined by the Commission. All Commission meetings shall be open to the public. The chairman, or in the chairman's absence each acting chairman, may administer oaths and compel the attendance of witnesses.
- (e) The Commission shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote. The Commission shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately as public records.

#### **Sec. 7. Commission Notices**

The manner and style of notices by the Commission shall be as provided in Sec. 54.035 of the Local Government Code.



## **Sec. 8. Application of Standards**

### **Commission Functions and Authority**

The Commission, after conducting a public hearing, may:

- (1) order the repair, within a specified period of time, of buildings found to be in violation of an ordinance;
- (2) declare a building substandard in accordance with the powers granted to the Commission under Subchapter C, Chapter 54 of the Local Government Code;
- (3) order, in an appropriate case, the immediate removal of persons or property found on private property, enter and allow others entry onto private property to secure such removal if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;
- (4) issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the municipality, to enforce and carry out the lawful orders or directives of the Commission;
- (5) determine the amount and duration of the civil penalty the City may recover as provided by Sec. 54.017 of the Local Government Code, which civil penalty may not exceed \$1,000.00 a day for a violation of an ordinance, except that a civil penalty may not exceed \$5,000.00 a day for a violation of an ordinance relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the City. Any civil penalties shall be enforceable as provided in Subchapter B of the Local Government Code.

## **Sec. 9. Commission Hearings**

- (a) To determine if a structure is substandard or in violation of any applicable ordinance, law or regulation, the Commission shall schedule and conduct a public hearing.
- (b) A public hearing based on a notice of violation and order issued by the Building Official shall be conducted for the purposes of determining whether or not to uphold

the Building Official's determination and order. The Commission shall hear evidence propounded by the Building Official and any other witnesses with relevant information, including but not limited to the owners, lienholders and mortgagees. The Commission shall make a determination as to the occupancy, securement, repair, removal or demolition of the property.

- (c) At the public hearing, the Commission shall:
  - a. hear the report detailing the violations found by the Building Official and abatement recommendations.
  - b. give the owner(s), mortgagee(s) or lien holder(s) an opportunity to respond to the Building Official's findings and recommendations, including the scope of the work and financial capability of repairing the structure. The burden is on the owner(s), mortgagee(s) or lien holder(s) to demonstrate the scope of any work required to comply with the applicable standards and the time it will take to perform the work.
- (d) After both sides have been heard, the Commission shall open the floor to receive public comments from those who wish to speak on behalf of or against the findings and/or recommended action.
- (e) Within five (5) business days from the date of its hearing the Commission shall issue a written decision stating its findings, and an order, and deliver a copy to the Building Official.
- (f) Within 10 days after the date the Building Official receives the Commission's decision and order:
  - a. a copy must be filed in the office of the City Secretary;
  - b. a copy must be served by personal and acknowledged delivery or certified mail, return receipt requested, to the record owner and to all persons upon whom service of the Notice of Violation was required, and

- c. a notice of the same must be published in the official newspaper of the City of Nolanville, 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.
  
- (g) The Commission is hereby authorized to issue orders in the alternative. If the Commission shall order securement, repair, removal, demolition and/or vacation of the structure within a certain time limit, and it may also order of demolition if the repair or removal of the structure is not accomplished or diligently carried out according to its order. In such case the order of the board requiring demolition shall not require an additional hearing.
  
- (h) When ordering a building demolished, the City bears the burden of proof to establish that repairs cannot be made to the building without substantial reconstruction.
  
- (i) If the Commission orders demolition, then the order shall require that the owner promptly obtain any required permits, that the structure be secured from unauthorized entry, and that the structure be demolished within 30 days from the date of delivery of such order, or within such additional time as the Commission may determine reasonable. The Commission's order shall also advise the owner that in the event of a failure to demolish within such period, then the City may demolish or cause the demolition no earlier than thirty-five 35 calendar days after the date of service of a copy of the Commission's order upon all persons to whom notice is required to be sent under Local Government Code Sec. 54.035, or if additional time to demolish has been allowed by the Commission, then no earlier than after such additional time has expired, and that the owner shall be responsible for reimbursing the City for all costs relating to such demolition, for which the City shall record a

lien on the property in compliance with applicable procedures.

- (k) The Commission shall not allow the owner, lien holder or mortgagee more than thirty (30) days to repair, remove, or demolish the building unless a detailed plan and time schedule for the work are submitted at the hearing and it is proven at the hearing that the work cannot reasonably be completed within thirty (30) days, in which case the Commission may extend the time schedule. Additionally, the owner, lienholder, and/or mortgagee may be ordered by the Commission to (1) secure the building to prevent unauthorized entry while the work is being performed; and (2) submit weekly work progress reports to the Building Official to demonstrate compliance with the time schedule established.
- (l) The Commission may also order that the occupants, if any, be relocated within a reasonable time.
- (m) The City Attorney is authorized to enforce the Commission's orders by pursuing any available legal process.

#### **Sec. 10. Judicial Review**

- (a) Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision of the Commission may present a petition to a district court, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within thirty (30) calendar days after the date a copy of the final decision of the Commission is personally delivered, mailed by first class mail with certified return receipt requested, or delivered by the United States Postal Service using signature confirmation service, to all persons to whom notice is required to be sent under Local Government Code Section 54.035. The Commission shall deliver or mail that copy promptly after the decision becomes final.
- (b) In addition, an abbreviated copy of the final Order shall be published one time in a newspaper of general circulation in the City within 10 calendar days after the date of the delivery or mailing of the copy as provided by this section, including the street

address or legal description of the property; the date of the hearing, a brief statement indicating the results of the order, and instructions stating where a complete copy of the order may be obtained, and a copy shall be filed with the City Secretary.

**Sec. 11. Criminal Penalty**

A violation of any of the provisions of this Ordinance is a Class “C” misdemeanor. Any person violating any provision of this Ordinance shall, upon conviction thereof, be punished by a fine of not less \$100.00 nor more than \$500.00, and not to exceed \$2,000.00 for regulations governing fire safety, zoning, or public health and sanitation, and not to exceed \$4,000.00 for regulations governing the dumping of refuse. A separate offense shall be deemed committed each day during or on which a violation or failure to comply occurs or continues to occur.