

NUISANCE ORDINANCE
NUMBER 2018-004

AN ORDINANCE REPEALING ORDINANCE NUMBER 2013-002, ORDINANCE NUMBER 113-J, ORDINANCE NUMBER 114-I AND ORDINANCE NUMBER 114-J OF THE CITY OF MOULTON, ALABAMA AND ADOPTING ONE COMBINED ORDINANCE TO DEFINE WHAT CONSTITUTES A NUISANCE, TO ESTABLISH PROCEDURES ALLOWING THE CITY TO GOVERN AND ABATE ANY AND ALL NUISANCES AND TO PROVIDE PENALTIES FOR ANY FAILURE TO COMPLY WITH OR VIOLATION OF THE PROVISIONS CONTAINED HEREIN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOULTON, ALABAMA, AS FOLLOWS:

I. DEFINITIONS

- A. **Abatement** – to stop, halt, end or terminate; full and complete repair, rehabilitation, demolition and/or removal of any nuisance as defined by this Ordinance.
- B. **Building** – any building, structure, part of a building or structure, party wall or foundation situated in the City.
- C. **City** – the City of Moulton, Alabama and its police jurisdiction, city council, mayor, clerk, employees and/or any authorized agent of the same.
- D. **Enforcement Officer** – the person and/or persons charged with the enforcement of the provisions of this Ordinance, which shall include the City’s building inspector and/or any other City official or employee duly authorized by the City.
- E. **Junk** – any metals, machinery, plumbing fixtures, mobile or manufactured home parts, vehicle parts, aircraft parts, trailer parts, lawn mower parts, boat parts, mechanical parts, rubber tires, appliances, furniture, equipment, clothes, toys, tools, wire, cable, old cordage, ropes, rubber, buckets, bearings, valves, pipes, pipe fittings or other items which are either wholly or partially rusted, wrecked, disabled, discarded, dismantled or inoperative.
- F. **Litter** – any rubbish, refuse, waste material, garbage, dead animals or fowl, offal, paper, plastic, glass, cans, bottles, trash, scrap metal, debris, brush, fallen or cut limbs or branches, tree cuttings, fallen or cut trees, tree stumps, vegetation cuttings, yard waste, mud, wood, used building materials, remains from a building demolition, remains from a fire, parts of buildings, parts of untenable structures or any foreign substance of whatever kind and description, whether or not it is of value, on any property in the City.
- G. **Owner** – a person who is the legal title holder, lessee or occupant of property, or who is otherwise in possession or control of the property. This also includes any agent, guardian, executor, administrator, operator, firm or corporation of the legal title holder, lessee, occupant or person who is otherwise in possession or control of the property. The legal title holder is that person recorded in the official property records of the state county or municipality or the person listed on record in the office of the tax assessor.

- H. **Person** – any individual, owner, title holder, agent, firm, corporation, partnership, association, organization, tenant, lessee, manager, operator, occupant, executor, executrix, administrator, guardian, trustee or any other person in charge, care, possession or control of any property.
- I. **Property** – any real property, whether commercial or residential, or personal property, within the City which is not a roadway. If the property faces a roadway, the property extends to the roadway. If the property faces an alley, the property extends to the center line of the alley. If the property is commercial property, the property includes, but is not limited to, all premises, parking lots, and loading/unloading areas.
- J. **Roadway** – the entire width between the boundary lines of every way publicly maintained that any part thereof is open to the use of the public for purposes of vehicular travel and includes, but is not limited to, any public road, street, avenue, highway, alley, thoroughfare or other public right-of-way.
- K. **Vehicle** – every automobile, motorcycle, mobile trailer, semitrailer, truck, truck tractor, trailer and other device that is self-propelled or drawn, in, upon or by which any person or property is or may be transported or drawn upon a public highway except such as moved by animal power or used exclusively upon stationary rails or tracks and every trailer coach and travel trailer manufactured upon a chassis or undercarriage as an integral part thereof drawn by a self-propelled vehicle.

II. **WHAT CONSTITUTES A NUISANCE**

- A. **Generally** – for purposes of this Ordinance, nuisance can be done publicly or privately and is defined as an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:
 - 1. Injures or endangers the comfort, repose, health, safety, morals or welfare of a person or the community;
 - 2. Causes hurt, inconvenience or damage to another or the community;
 - 3. Is offensive to the senses; and/or
 - 4. Anything which obstructs or interferes with another person’s or the community’s free use of property, the comfortable enjoyment of life and use of such property or tends to depreciate the value of the property of others.
- B. **Specifically** – the following are hereby declared to be a nuisance:
 - 1. **Overgrown Vegetation, Grass, Plants, Shrubs and/or Weeds**
 - a. **Definition** – any overgrown vegetation, grass, plants, shrubs and/or weeds on any property in the City that could be injurious to the public health, safety and general welfare because the same:
 - (1) Have grown to a height of twelve (12) inches or more;
 - (2) Provide breeding grounds and shelter for rats, mice, snakes, mosquitos and other vermin, insects and pests;
 - (3) Have attained such heights and dryness that constitute a serious fire threat or hazard;

- (4) Bear wingy or downy seeds that could cause the spread of weeds or, when breathed could cause irritation to the throat, lungs and eyes of the public;
- (5) Hide debris, such as broken glass or metal, that could inflict injury on a person going upon the property;
- (6) Appear so unsightly as to be offensive to the public; and/or
- (7) Interfere with any roadway, restrict the flow of traffic on the roadway or interferes with visibility of such roadway, roadway signs or intersections thereof to any person or persons lawfully using such roadways.

b. Exceptions

- (1) Trees, bushes, flowers or other ornamental plants under proper care and cultivation;
- (2) Any property which is in its natural condition, which is uncultivated and unseeded land or land that is still in a state of nature. Any land that has been cleared or plowed is not in its natural condition even though it has not been planted or cultivated;
- (3) Any property which is located outside an improved subdivision and is located more than one hundred (100) feet from any boundary of any property which any dwelling or commercial enterprise is located; and/or
- (4) Cultivated row crops and garden plants in their respective growing seasons. This applies only to growing crops and garden plants and shall not be construed to permit any crops or gardens to become overgrown with weeds

2. Junked, Wrecked and/or Inoperable Vehicles

a. Definition - Any vehicle on any property in the City that:

- (1) Does not display a valid, current license plate and/or is not currently licensed and insured as required by law and for use on public streets;
- (2) Is unable to move under its own power due to one or more of its major mechanical components, including, but not limited to, engine, transmission, drive train or wheels, being missing or not functional;
- (3) Is incapable of being used for its manufactured, designed or intended purpose;
- (4) Is incapable of lawful use on public streets;
- (5) Is in a state of major disassembly or disrepair or is in the process of being stripped, dismantled or overhauled;
- (6) Is kept or stored in a manner as to constitute a health, safety or fire hazard.
- (7) Allows for the accumulation of weeds, grass or other vegetation;
- (8) Provide a breeding place and/or shelter for rats, mice, snakes, mosquitos, harmful insects or any other rodents; and/or
- (9) Is so unsightly as to be offensive to a neighborhood.

- b. **Exceptions**
 - (1) A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.
 - (2) A vehicle that is held in connection with a business enterprise, lawfully licensed by the City, on property zoned for a junkyard, vehicle repair facility or vehicle storage yard.
 - (3) Vehicles completely enclosed in a building and/or structure.
- 3. **Accumulation of Litter and/or Junk** – anything falling within the definitions provided above that:
 - a. Is kept or stored in a manner as to constitute a health, safety or fire hazard.
 - b. Allows for the accumulation of weeds, grass or other vegetation;
 - c. Provides a breeding place and/or shelter for rats, mice, snakes, mosquitos, harmful insects or any other rodents;
 - d. Is so unsightly as to be offensive to a neighborhood; and/or
 - e. Could inflict injury on any person going upon the property.
- 4. **Standing and/or Stagnant Water** – an accumulation of water, whether natural or man-made, including water in any type of pool, pond, container, bucket, boat, receptacle, non-mounted tire, boat or vessel, that:
 - a. Is in a foul state because it is not moving or flowing or is motionless; and/or
 - b. Provides a habitat or breeding area for insects, or attract insects, vermin or pests.
- 5. **Unsafe and/or Dangerous Buildings** - all residential and non-residential buildings and/or any part thereof which falls into any of the following categories:
 - a. Use and/or occupancy would be unsafe as defined by the City’s currently adopted International Building Code and any amendments thereto;
 - b. Damaged, dilapidated, decayed, unsafe, unsanitary, lacking in maintenance, vermin or rat infested, containing filth or contamination, lacking proper ventilation, lacking sufficient illumination, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the life, health, property, morals, safety or general welfare of the public or the occupants;
 - c. Light, air, heating and sanitation facilities which are inadequate to protect the life, health, property, morals, safety or general welfare of the public or the occupants;
 - d. Inadequate facilities for egress in case of fire or panic;
 - e. Insufficient stairways, elevators, fire escapes or other means of ingress and egress to and from said building.
 - f. Do not provide minimum safeguards to protect or warn occupants in the event of a fire;

- g. Contain unsafe equipment, including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to the life, health, property, morals, safety or general welfare of the public or the occupants;
- h. Damaged, decayed, dilapidated or structurally unsafe due to faulty construction or an unstable foundation that partial or complete collapse is possible;
- i. Neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance and danger to children who might play in, around or on such building and/ or structure and/or any part thereof or become a harbor for vagrants, criminals or immoral persons or enable such persons to resort to the building and/or structure and/or any part thereof for the purpose of creating a nuisance or committing an unlawful act; and/or
- j. Damaged by fire, wind, earthquake, flood, sinkhole, deterioration, neglect, abandonment, vandalism or any other cause so as to have become dangerous to life, health, property, morals, safety or general welfare of the public or the occupants.

III. **ENFORCEMENT**

A. **Generally**

1. It shall be the duty of the owner of the property located within the City to ensure the property is maintained in a manner that is consistent with this Ordinance.
2. The enforcement officer may inspect any nuisance on any property reported to the City by any citizen of the City or any situation brought to attention of the enforcement officer in any other manner.
3. Whenever the enforcement officer has reasonable cause to believe that a condition prohibited by this Ordinance exists, the same shall have the right to enter the private property in question to inspect the property.
4. Whenever the enforcement officer finds a condition prohibited by this Ordinance to exist, the same may initiate abatement proceedings and/or criminal proceedings.
5. Neither the initiation of prosecution for violations of this Ordinance nor the imposition of a penalty relieves a person of the duty to abate the nuisance.

B. **Right-of-Ways**

1. The duties and obligations of the owner extend to and include any property situated within a dedicated right-of-way or easement burdening the property.
2. Such right-of-way or easement must be maintained by the owner in a manner consistent with the maintenance of the owner's remaining property and within the requirements of this Ordinance, except to the extent it may be impracticable to do so because of public facilities located thereon.
3. The City does not cut grass, weeds and other growth upon a dedicated right-of-way or easement, except to the extent necessary to maintain the public facility and to maintain safety.

C. **Acts Declared Unlawful**

1. **Generally** – It shall be unlawful for any person to:
 - a. Permit or maintain the existence of any nuisance on any property under his control and located in the City;
 - b. Fail to comply with an order or notice given pursuant to this Ordinance;
 - c. Obstruct or interfere in any way with the enforcement of this Ordinance; and/or
 - d. Mutilate, destroy, tamper with, or remove a notice posted pursuant to this Ordinance.
2. **Specifically** – It shall be unlawful for an owner of property to permit or maintain the existence of any of the following:
 - a. Overgrown vegetation, grass, plants, shrubs and/or weeds;
 - b. Junked, wrecked and/or inoperable vehicles;
 - c. Accumulation of litter and/or junk;
 - d. Standing and/or stagnant water; and/or
 - e. Unsafe and/or dangerous buildings.

D. **PROCEDURE FOR THE ABATEMENT OF A NUISANCE**

1. **General Nuisances; Overgrown Vegetation Grass, Plants, Shrubs and Weeds; Junked, Wrecked and/or Inoperable Vehicles; An Accumulation of Litter and/or Junk; and Standing and/or Stagnant Water**
 - a. **Notice**
 - (1) Whenever a condition prohibited by this Ordinance is found to exist on property within the City, the enforcement officer shall declare the condition a nuisance and cause written notice to be mailed by first class mail to the owner of the property upon which the nuisance exists. If the property is vacant, written notice will be mailed by first class mail to the owner of the property as the information is listed on record in the office of the tax assessor.
 - (2) In addition, a sign entitled “Notice to Abate Nuisance” shall be conspicuously posted on the property where the nuisance exists notifying the owner that a nuisance exists and that the City will take action to abate said nuisance if the nuisance is not abated within fourteen (14) days.
 - (3) Said Notice shall contain the following:
 - (a) A description of the property, by street address or otherwise, on which the nuisance exists;
 - (b) A direction to abate the nuisance within fourteen (14) days from the date of the notice;
 - (c) A description of the nuisance;
 - (d) A statement that unless the nuisance is abated, the City will abate the nuisance and the cost of abatement may be assessed against the property;

- (e) The date of the next regularly scheduled City Council meeting in which a hearing may be held if timely requested in writing and/or a resolution as to the assessment of costs may be passed;
- (f) A statement regarding the procedure for filing a request for hearing to object to the abatement of the nuisance and assessment of the cost of abatement against said property;
- (g) A statement that in addition to the actual expenses incurred, an administrative fee of \$150.00 also shall be assessed upon the property if the nuisance is not abated within fourteen (14) days of the notice to the owner; and
- (h) A statement that failure to abate the nuisance within fourteen (14) days from the date of the notice may, in addition to the remedies provided herein, result in criminal prosecution.

b. **Hearing**

- (1) The owner of said property may file an objection to the declaration by the enforcement officer that the condition constitutes a nuisance and request a hearing by notifying in writing the City Clerk or the enforcement officer within five (5) days of the date of the notice.
- (2) If a hearing is timely requested, the City Council shall hear and consider all evidence, objections and protests regarding whether or not the condition constitutes a nuisance and whether the same should be ordered abated or removed.
- (3) Upon the conclusion of the hearing, the City Council shall decide whether a nuisance exists and, if so, shall order it to be abated or removed.
- (4) The City Council, by passage of the resolution, shall be deemed to have acquired jurisdiction to proceed and to perform or have performed the work of abatement or removal with respect to the property in question.
- (5) The decision of the City Council shall be deemed final and conclusive.
- (6) If a timely objection and request for hearing is not filed in writing with the City Clerk or enforcement officer, abatement of the nuisance will proceed.

c. **Abatement**

- (1) If the owner neglects to or refuses to abate the condition after notice to do so, the enforcement officer or other duly authorized person shall cause the offending condition to be abated.
- (2) Those persons so designated by the City to abate a nuisance declared upon a property within the City are hereby authorized to enter upon the property for the purposes of abating or removing said nuisance.
- (3) If the designated persons encounter obstructions to the removal of said nuisances, may remove the obstruction.

- (4) Those persons designated by the City to abate said nuisance shall have fourteen (14) days to abate the nuisance and submit the bill to the City Clerk or the enforcement officer.
 - (5) The enforcement officer has the authority to remove anyone designated to abate a nuisance for non-performance.
 - (6) Any owner of property shall have the right to have any nuisance removed at his or her own expense provided the removal is done prior to the commencing of the work by person so designated by the City to perform the work.
- d. **Costs**
- (1) **Determination and Notice of Costs**
 - (a) Upon completion of the abatement work performed, the enforcement officer shall compute the actual expenses, including but not limited to total wages paid, value of the use of equipment, advertising expenses, postage, materials purchased, legal expenses, recording costs and administrative costs, which were incurred as a result of abating or removing a nuisance.
 - (b) An itemized statement shall be given by first class mail to the owner of the property upon which the nuisance exists. If the property is vacant, written notice will be mailed by first class mail to the owner of the property as the information is listed on record in the office of the tax assessor.
 - (c) The administrative costs of \$150.00 may be assessed against the owner of a property even if the nuisance is not ultimately abated by the City or one of its duly authorized agents. The City may collect said fee through court action or any other lawful means; however, no lien may be placed against the property solely to recover the administrative costs.
 - (d) This notice shall be sent at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property.
 - (2) **Resolution by the City Council**
 - (a) At the time fixed for receiving and considering the statement of costs, the City Council shall hear the statement, together with any objections which may be raised by the owner of the property, and thereupon make modifications in the statement as the council deems necessary.
 - (b) After which, a resolution may be passed fixing the costs to be assessed against the property.
 - (3) **Nuisance Lien**
 - (a) The amounts of the costs for abating the nuisance, including the administrative costs, shall constitute a “nuisance lien” against the property for the amount of the abatement of said nuisance.

- (b) After confirmation of the reports, a copy may be given to the appropriate official who is charged with the collection of taxes or assessments. It shall be the duty of said official to add the nuisance lien to the next regular bills for taxes levied against the property. The costs shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected and shall be subject to the same penalties and procedure under foreclosure and sale in case of delinquency.
- (c) The City Clerk shall cause a certified copy of the resolution assessing the cost of abatement to be filed for recording in the Lawrence County Probate Office and shall forward a copy to the Lawrence County Revenue Commissioner.
- (d) The City may assess the abatement costs authorized against a property purchased by the State or any purchaser at any sale for the nonpayment of taxes.
- (e) A subsequent redemption of a property by a person authorized to redeem or sale thereof by the State, shall not operate to discharge or in any manner affect the nuisance lien and any person redeeming the property or purchasing the property at a sale by the State, shall take the same subject to the assessment.

2. **Unsafe and/or Dangerous Buildings**

a. **Generally**

- (1) Whenever the enforcement officer shall find a building to be unsafe and/or dangerous, which is, therefore, creating a nuisance and existing in violation of this Ordinance, the enforcement officer shall give notice to abate the unsafe and/or dangerous condition of the building.
- (2) Abatement Options Possible:
 - (a) Repair
 - (b) Move
 - (c) Demolish
- (3) It is in the sole discretion of the enforcement officer to determine what means are necessary to abate the condition.

b. **Notice**

- (1) Notice shall be given, by certified or registered mail to following person and/or persons:
 - (a) The record owner, at the owner's last known address and at the address of the subject property;
 - (b) The owner of an interest in the property, if such person is known by the enforcement officer;
 - (c) The person last assessing the property for state taxes; and/or

- (d) All mortgagees or lien holders of record to the address set forth in the mortgage or statement of lien or, if no address is so set forth, to the address determined to be the correct address by the enforcement officer.
- (2) In the event that the identity of the owner of the property cannot be ascertained after a reasonably diligent search, the enforcement officer, in addition to complying with the applicable notice provisions provided herein, shall issue notice to the unknown property owners by publishing a short form of the notice in the Moulton Advertiser or other publication of general circulation in Lawrence County, Alabama, once a week for four consecutive weeks.
- (3) Notice shall also, within three (3) days of the date of the mailing of notice, be posted at or within three (3) feet of an entrance to the building, provided that if there is no entrance, the notice may be posted at location upon the building.
- (4) Said Notice shall contain the following:
 - (a) A description of the property where the unsafe and/or dangerous building is located, through the use of a street address, legal description, and/or the parcel identification number;
 - (b) The basis, in detail, for the enforcement officer's finding;
 - (c) Direction as to how the enforcement officer has determined it necessary to abate the nuisance and the applicable time frame for doing so;
 - i. All repairs, moves and/or demolitions must be accomplished within forty-five (45) days of the date of the notice.
 - ii. If the repair, move and/or demolition cannot be completed within forty-five (45) days, a work plan to accomplish the repair, move and/or demolition shall be submitted to the enforcement officer.
 - iii. All work plans shall be submitted within forty-five (45) days of the date of the notice and shall be subject to the City's approval.
 - (d) Notice that if the owner does not comply within the specified time and/or to the satisfaction of the enforcement officer, the repairs or demolition shall be accomplished by the City and the cost thereof shall be assessed against the property;
 - (e) The procedure for filing a request for a hearing; and
 - (f) Notice that if no hearing is properly and timely requested, the City Council will meet and determine whether or not the building is in fact unsafe and/or dangerous and order abatement if so.

c. **Hearing**

(1) **When No Request is Made by the Owner**

- (a) A hearing will be held by the City Council regardless of whether or not an owner objects to the enforcement officer's findings and requests such a hearing.
- (b) A hearing will be held no less than thirty (30) days from the date notice was given to the owner of property containing an unsafe and/or dangerous building.
- (c) No action shall be taken on the findings of the enforcement officer until determination thereon is made by the City Council.
- (d) The City Council shall determine whether or not the enforcement officer's findings are correct and the building is in fact unsafe and/or dangerous to the extent that it creates a nuisance and thus violates this Ordinance.
- (e) In the event that it is determined by the City Council that the building is unsafe and/or dangerous to the extent that it is a nuisance, the City Council shall order the building to be repaired, moved or demolished.

(2) **When Requested by Owner**

- (a) The owner of the property in question may file an objection to the determination by the enforcement officer that the building is unsafe and/or dangerous and request a hearing.
- (b) All requests for a hearing must be made in writing and filed with the City Clerk or enforcement officer within thirty (30) days from the date notice was given.
- (c) The filing of the request shall hold in abeyance any action on the finding of the enforcement officer until determination is made by the City Council.
- (d) If a hearing is timely requested, the City Council shall hear and consider all evidence, objections and protests regarding whether or not the building is unsafe and/or dangerous and whether or not the same should be ordered abated.
- (e) In the event that it is determined by the City Council that the building is unsafe and/or dangerous to the extent that it is a nuisance, the City Council shall order the building to be repaired, moved or demolished.

(3) **Right to Appeal**

- (a) An owner may appeal the decision of the City Council to the Circuit Court of Lawrence County, Alabama.
- (b) An appeal must be filed within ten (10) days of the City Council's decision and include a notice of the appeal and bond for security of costs in the form and amount to be approved by the Circuit Clerk.

- (c) Upon filing of the notice of appeal and approval of the bond, the Circuit Clerk shall serve a copy of the notice of appeal on the City Clerk.
 - (d) The City Clerk shall, upon receiving the notice, file with the Circuit Clerk a copy of the findings and determination of the City Council.
 - (e) Trials shall be held without a jury.
- d. **Abatement**
- (1) If repair, move or demolition is ordered and no appeal is taken to Circuit Court, said repair, move or demolition may be accomplished by the City using its own resources or the City may provide for the repair, move or demolition by contract after ten (10) days of the decision of the City Council.
 - (2) If an appeal is taken, all repairs, moves, or demolitions may be accomplished once a judgment from the Circuit Court is final.
- e. **Costs**
- (1) **Determination of Costs**
 - (a) Upon repair, move or demolition of the unsafe and/or dangerous building, the enforcement officer shall make a report to the City Council of the cost thereof.
 - (b) Administrative costs in the amount of \$300.00 may be assessed in addition to the actual costs incurred.
 - (c) The municipality shall have the authority to sell or otherwise dispose of salvaged materials resulting from any demolition hereunder and the proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition.
 - (2) **Resolution by the City Council**
 - (a) The City Council shall adopt a resolution fixing the costs which it finds were reasonably incurred in the repair, move or demolition and the costs shall be assessed against the property (“final assessment”).
 - (b) Any person having an interest in the property may be heard at the meeting as to any objection he or she may have to the fixing of such costs or the amounts thereof.
 - (c) The City Clerk shall give notice of the meeting at which the fixing of costs is to be considered by first-class mail to all persons having an interest in the property whose address and interest is determined from the tax assessor’s records on the property or as otherwise known to the Clerk. Such notice shall be deemed complete upon mailing.
 - (3) **Final Assessment Lien**
 - (a) The final assessment for a repair, move or demolition once made and confirmed by the City Council shall constitute a lien on the property for the amount of the final assessment.

- (b) The lien shall be superior to all other liens on the property except liens for taxes, and except for mortgages recorded prior to the creation of the lien for the assessment and shall continue in force until paid.
 - (c) The City Clerk shall file a certified copy of the resolution fixing the final assessment in the Lawrence County Probate Office and with the Lawrence County Revenue Commissioner.
 - (d) The Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax and remit the amount to the City.
 - (e) The City shall have the power to assess the costs authorized herein against any lot or lots, parcel or parcels of land purchased by the State of Alabama at any sale for the nonpayment of taxes, any subsequent sale by the state shall not operate to discharge or in any manner affect the lien of the City for the assessment and any purchaser at any sale by the state of land upon which an assessment has been levied shall take the same subject to the assessment.
 - (f) Redemption of property by any person authorized to redeem shall not operate or discharge, or in any manner affect the lien of the City for the assessment, but any redemptioner of land upon which an assessment has been levied shall take the same subject to the assessment.
 - (g) Upon full payment of the final assessment and any accrued interest thereon, the City shall record a satisfaction of the lien in the Lawrence County Probate Office and with the Lawrence County Revenue Commissioner.
- (4) **Payment of Costs**
- (a) **Less Than \$10,000.00** – if the final assessment is less than ten thousand dollars (\$10,000.00), the City may order that the costs shall be paid in cash within thirty (30) days after the final assessment is determined.
 - (b) **Greater Than \$10,000.00**
 - i. If the final assessment is greater than ten thousand dollars (\$10,000.00), the property owner may, within thirty (30) days after the final assessment is determined, file a written request with the City Clerk or enforcement officer to pay the costs in ten (10) equal annual installments.
 - ii. These installments shall bear interest at a rate not exceeding twelve percent (12%) per year, which shall begin to accrue upon the expiration of thirty (30) days from the date on which the final assessment is determined.
 - iii. Interest shall be due and payable at the same time and place the assessment is due and payable.

- iv. Any person who elects to make installment payments may pay the outstanding balance of the final assessment together with all accrued interest thereon at any time during the installment payment schedule.
- v. The first installment shall be payable within thirty (30) days after the final assessment is determined.

(5) Failure to Pay Costs

- (a) If the property owner fails to pay the assessment lien within thirty (30) days, or having elected to make installment payments, fails to pay any installment payment when due, the whole assessment lien shall immediately become due and payable.
- (b) The enforcement officer shall proceed to sell the property against which the assessment lien is made to the highest bidder for cash, but in no event less than the amount of the lien plus interest through the date of default.
- (c) Prior to the sale, notice shall be given by publication once a week for three (3) consecutive weeks in a newspaper published in the City or of general circulation in the City.
- (d) Notice shall set forth the date and time of the sale and the purpose for which the same is made, together with a description of the property to be sold.
- (e) If the enforcement officer shall fail to advertise and sell any property on which the payments are past due, any taxpayer of the City shall have the right to apply for a writ of mandamus requiring the enforcement officer to take such action to any court of competent jurisdiction, and the court shall, on proof, issue and enforce the writ.

(6) Sale of Property Upon Default

- (a) Any property owner, notwithstanding his or her default, may pay the assessment lien with interest and all costs if tendered before a sale of the property.
- (b) The cost of any notice and sale resulting from a default on paying an assessment shall constitute a charge against the property to be sold and shall be retained out of the proceeds of the sale.
- (c) The enforcement officer making the sale shall execute a deed to the purchaser, which shall convey all right, title and interest which the party against whose property the assessment was made had or held in the property at the date of making the assessment or on the date of making the sale.
- (d) Any surplus arising from the sale shall be paid to the City to be kept as a separate fund by the City for the owner on the responsibility of his or her official bond.

- (e) The City may, by its agents, purchase real estate sold as provided under this Ordinance and, in the event of the purchase, the deed for the same shall be made to the City.
- (f) No mistake in the notice of sale in the description of the property or in the name of the owner shall vitiate the assessment or the lien.
- (g) If for any reason, the sale made by the City is ineffectual to pass title, it shall operate as an assignment of the lien.
- (h) Upon the request of the purchaser, supplementary proceedings of the same general character as required in this chapter may be had to correct the errors in the proceedings for his or her benefit or the lien so assigned to him or her may be enforced by civil action.

f. **Redemption**

- (1) Any real property heretofore or hereafter sold for the satisfaction of an assessment lien imposed thereon may be redeemed by the former owner within two (2) years from the date of the sale by depositing with the City the amount of money for which the lands were sold, with interest thereon at the rate of twelve (12) percent per annum from the date of the sale through the date of payment.
- (2) The proposed redemptioner must also pay or tender the purchaser or his transferee all insurance premiums paid or owed by the purchaser with accrued interest on the payments computed from the date the premiums were paid at twelve (12) percent per annum through the date of payment.
- (3) The proposed redemptioner must also pay or tender to the purchaser the value of all permanent improvements made on the property. If there is a dispute as to the value of the permanent improvements, the parties should refer to Alabama Code §11-53B-10(c-d) on how to resolve the dispute.
- (4) The proposed redemptioner shall also pay interest to the purchaser on the value of all permanent improvements computed from the date the improvements were made at the rate of twelve (12) percent per annum through the date of the payment.
- (5) To redeem property after the expiration of the two-year period of redemption refer to Alabama Code §11-53B-11 - §11-53B-14.

g. **Emergency Action**

- (1) Notwithstanding any other provisions of this Ordinance, the City shall have the authority to initiate immediate repair, removal or demolition of a building when, in the opinion of the enforcement officer, such emergency action is required due to imminent danger or structural collapse endangering adjoining property, the public right of way or human life and/or health.
- (2) The cost of the emergency action shall be fixed by the City and shall be assessed as provided in this Ordinance.

E. **PROCEDURE FOR CRIMINAL PROSECUTION**

1. **Generally**

- a. It shall be unlawful for any person to permit or maintain the existence of any nuisance on any property under such person's ownership or control.
- b. A person with a duty to abate any nuisance is liable for separate and distinct offenses for each day the nuisance is allowed to remain beyond the time given by the enforcement officer to abate the nuisance.
- c. The duty to abate a nuisance arises after notice to abate the same has been given by the enforcement officer.
- d. If the owner fails, neglects or refuses to comply with the notice to abate the nuisance, the enforcement officer may proceed to prosecute such person for a violation of the provisions of this Ordinance.
- e. The institution of criminal proceedings in no way precludes the initiation of subsequent or simultaneous civil proceedings and vice versa, provided the criminal proceedings are not used to collect any outstanding civil assessments against the subject property.

2. **Warrant or Summons Issued**

- a. The enforcement officer will make a complaint to the magistrate for issuance of a warrant or summons to the owner of the property, requiring the owner to appear in the City of Moulton Municipal Court to answer charges for the violation of this Ordinance.
- b. Said Warrant or Summons shall contain the following:
 - (1) Name of the party charged;
 - (2) Address of the property where the alleged violation is located;
 - (3) Nature of the offense or violation; and
 - (4) Date, time and place at which to appear for court.
- c. The warrant or summons shall be served on the owner by an enforcing official, who shall forthwith appear and make oath as to the alleged offense before the Municipal Judge.

3. **Penalties** – all violations of the provisions of this Ordinance shall be punishable by:

- a. A fine in the minimum sum of \$250.00 up to a maximum of \$500.00;
- b. Imprisonment in the City jail for a term not to exceed six (6) months;
- c. Both such fine and imprisonment;
- d. An Order to abate the nuisance; and/or
- e. Court costs.

IV. **CONSTRUCTION** – This Ordinance shall be construed to contain all powers granted to municipalities under the Code of Alabama.

V. **REPEALER** – All provisions of any other ordinance, not specifically mentioned herein, which are inconsistent with this Ordinance are hereby repealed.

VI. **PENDING PROCEEDINGS** – Nothing in this Ordinance shall be construed to affect any such suit or proceeding now pending in any court, any rights acquired or liability incurred, or any cause of action required or existing under any Ordinance or act hereby repealed.

VII. **STATE LAW REFERENCES**

- A. Ala. Code §6-5-122 (Nuisances Generally)
- B. Ala. Code §11-47-117 (Nuisances Generally)
- C. Section 11-53B-1, *et seq.*, Code of Alabama 1975 (Unsafe Buildings and Structures)
- D. Section 11-67-20, *et seq.*, Code of Alabama 1975 (Weeds)
- E. Section 11-67-60, *et seq.*, Code of Alabama 1975 (Weeds)

This Ordinance shall take effect upon its adoption and publication as provided by law.

ADOPTED and APPROVED this __5th__ day of November, 2018.

Roger Weatherwax, Mayor

ATTEST:

Deroma Pepper, City Clerk