

ORDINANCE NO: 247-2006

**AN ORDINANCE TO VACATE, REPAIR, OR DEMOLISH
UNSAFE STRUCTURES**

WHEREAS, the City Council of the City of Spanish Fort, Alabama, has determined that it is in the best interest of the City to address the existence of unsafe structures in the City and to require any unsafe structures to be vacated, repaired, or demolished and to establish procedures whereby the City may require vacation, repair, or demolition so as to protect the safety, health, and general welfare of the citizens of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:

SECTION 1. Unsafe Structure Defined.

Any structure shall be deemed an unsafe structure where any of the following conditions exist:

1. The structure or any part of the structure is dilapidated, decayed, dangerous, unsanitary, in a condition likely to cause disease or injury to person, or fails to provide the amenities essential to decent living.

2. The structure or any part of the structure has been damaged by fire, wind, or other causes so that it is dangerous to the life, safety, health, or general welfare of any person on or near the premises.

3. The structure has any part attached which may fall and injure persons or property.

4. The structure or any part of the structure has improperly distributed loads upon the roofs or floors, overloaded roofs or floors, or roofs or floors that are not reasonably safe for the purpose used.

5. The structure or any part of the structure has inadequate means for ingress to and egress from the structure for emergency vehicles and personnel in case of fire or other emergency, inadequate facilities for exit in case of fire or panic by the number of persons equal to the maximum occupancy rating of the structure.

6. The structure has insufficient means of communication in case of fire or other emergency if the structure is commercial or open to the public.

7. The structure or any part of the structure has light, air, or sanitation facilities inadequate to protect the health, safety, or general welfare of persons occupying or using the structure.

8. The structure or any part of the structure violates any ordinance, code, regulation, or law of the City, County, or State in any manner that creates a condition that threatens the health, safety, or general welfare of persons occupying or near the structure.

SECTION 2. Building Official Defined.

The Building Official is the City Building and Zoning Administrator or deputy or any other municipal official or municipal employee designated by the Mayor to perform the duties specified in this ordinance.

SECTION 3. Public Nuisance Declared.

All unsafe structures as defined in this ordinance are declared to be public nuisances and are prohibited and shall be vacated, repaired, or demolished according to the procedures established in this ordinance.

SECTION 4. Notice.

Mailing by registered or certified United States mail, properly addressed and postage prepaid, return receipt requested, constitutes notice whenever notice is required under this Ordinance.

SECTION 5. Standards for Repair, Vacation, and Demolition.

The following standards shall be followed by the Building Official and the City Council in ordering an unsafe structure repaired, vacated, or demolished:

1. If an unsafe structure may reasonably be repaired, it shall be ordered repaired.
2. If an unsafe structure is in a condition such that it may threaten the health, safety, or general welfare of occupants, it shall be ordered vacated.
3. If an unsafe structure is in a condition such that it may not reasonably be repaired, it shall be ordered demolished.

SECTION 6. Duties of the Building Official.

1. The Building Official shall inspect or cause to be inspected any structure about which a complaint is filed by any person to the effect that the structure may be unsafe.

2. The Building Official shall inspect or cause to be inspected any structure about which the police or fire department of the City reports that the structure is probably unsafe.

3. Upon finding that any structure is an unsafe structure, the Building Official shall give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said structure as shown by the land records in the office of the Judge of Probate of Baldwin County, Alabama, that the structure has been found to be an unsafe structure and is a public nuisance. The notice so provided shall be made by registered or certified United States mail, return receipt requested, and shall include the following:

- (a) the date of the notice;
- (b) an accurate street address and legal description of the property on which the unsafe structure is located;
- (c) a copy of this ordinance;
- (d) a description of the conditions that render the structure unsafe under this ordinance;
- (e) an order that:
 - (i) the owner must vacate, repair, or demolish the unsafe structure in compliance with the terms of the notice and this ordinance;
 - (ii) the occupant or lessee must vacate the unsafe structure or have it repaired in compliance with the terms of the notice and this ordinance and remain in possession;
 - (iii) the mortgagee, agent, or other persons having an interest in the structure as shown by the land records in the office of the Judge of Probate of Baldwin County, Alabama, may at his own risk vacate, repair, or demolish the unsafe structure; provided that any person notified by the Building Official to vacate, repair, or demolish the structure is given the time specified in the notice to comply with the order;
- (f) a date certain, which shall not be less than thirty (30) days from the date of the notice, by which the owner, occupant, or lessee must comply with the order;

(g) the time, date, and location of a public hearing before the City Council on the unsafe structure; provided that the date of the public hearing shall not be less than seven (7) days after the date certain provided in subpart (f);

(h) an order requiring the person receiving the notice to appear at the public hearing specified in subpart (g) and show that the unsafe conditions have been remedied or show cause why the City Council should not order the vacation, repair, or demolition of the unsafe structure and assess the costs thereof against the property;

(i) a provision giving notice that (1) failure to comply with the enclosed order may result in the vacation, repair, or demolition of the unsafe structure by the City, (2) the cost of such repairs or demolition shall be assessed against the property and collected as an ad valorem tax, and (3) failure to pay the assessment has the same consequences as failure to pay ad valorem taxes;

(j) a provision giving notice that failure to appear at the public hearing on this matter waives the right to object to the vacation, repair, or demolition of the unsafe structure by the City;

(k) The address and telephone number of the Building Official; and

(l) The address and telephone number of the Clerk of the City of Spanish Fort.

4. Upon finding that any structure is an unsafe structure, the Building Official shall post the notice provided pursuant to Section 6.3 at or within three feet of every entrance to the structure, or at any location on the structure if there is no entrance. In addition, the Building Inspector shall post the following notice, with the word NOTICE typed in print at least one inch in height, at or within three feet of every entrance to the structure, or at any location on the structure if there is no entrance:

NOTICE

THE BUILDING OFFICIAL OF THE CITY OF SPANISH FORT HAS FOUND THIS STRUCTURE TO BE AN UNSAFE STRUCTURE. THIS STRUCTURE IS DECLARED A PUBLIC NUISANCE. IT IS UNLAWFUL TO REMOVE THIS NOTICE UNTIL THE UNSAFE CONDITIONS HAVE BEEN REMEDIED. IF YOU HAVE ANY QUESTIONS OR CONCERNS, CONTACT THE BUILDING OFFICIAL AT <ADDRESS> <PHONE NUMBERS>

All notices required to be posted on the structure pursuant to this subsection shall be posted within three days after mailing the notice provided pursuant to Section 6.3.

6. Provide a copy of the notice provided pursuant to Section 6.3 to the City Council.

7. Upon determination by the City Council that an unsafe structure constitutes a public nuisance and upon the City Council's resolution ordering that the unsafe building is to be abated, the Building Official shall maintain records concerning the costs of the abatement.

SECTION 7. Hearing by the City Council; Determination by the City Council as to an Unsafe Structure.

1. The City Council shall hold a hearing on the structure found to be unsafe by the Building Official. The hearing shall be held at the time, date, and location specified in the Building Official's notice as provided for in Section 6 of the Ordinance. The City Council shall hear testimony under oath regarding the unsafe structure offered by the Building Official and any interested party entitled to receive notice under Section 6.3 of this Ordinance. The City Council may hear testimony under oath from any other party who desires to be heard on the subject. Failure of any interested party to appear at the hearing or to present written objections, filed with the City Clerk at least five days prior to the hearing, waives that party's right to challenge the City Council's determination on the subject.

2. The City Council shall make a determination as to whether the structure is an unsafe structure. Upon determining that the structure at issue is an unsafe structure, the City Council shall make written findings to that effect and by resolution order the structure vacated, repaired, or demolished. A copy of the findings and resolution, along with a copy of Section 8 of this Ordinance explaining the right to appeal, shall be sent by registered or certified United States mail, return receipt requested, to all parties entitled to notice under Section 6.3 of this Ordinance. No action shall be taken on the resolution until after the expiration of the time allowed for appeal.

SECTION 8. Appeal; Stay

1. Any party aggrieved by the City Council's determination as to whether the structure is an unsafe structure may, within fifteen (15) days of the date of the resolution ordering the structure repaired or demolished, appeal to the Baldwin County Circuit Court by (1) filing with the court clerk notice of the appeal and bond for security of costs in the form and amount to be approved by the court clerk and (2) filing notice of the appeal with the Clerk of the City of Spanish Fort. Upon receiving the notice of appeal, the Clerk of the City of Spanish Fort shall file with the clerk of the court a copy of the findings and resolution of the City Council.

2. The filing of an appeal stays any action regarding the unsafe structure until the appellate process is completed, unless an emergency develops as provided for in Section 13 of this Ordinance.

SECTION 9. Repair or Demolition.

1. If no appeal is filed, the repair or demolition as ordered by resolution may be accomplished after fifteen (15) days from the date of the resolution.

2. Repair or demolition may be accomplished by the use of City resources and personnel or the City may enter into a contract with a private contractor to perform the repair or demolition. The City may sell or otherwise dispose of salvaged materials resulting from the demolition.

3. Any owner, occupant, or lessee has the right to accomplish the repair or demolition at his or her own expense prior to the City or its agents commencing work.

SECTION 10. Costs of Repair or Demolition; Hearing; Assessment.

1. Upon completion of the repair or demolition, the Building Official shall report the costs of the repair or demolition to the City Council. The City Council shall set a date for a hearing on determining the costs of the repair or demolition, and notice of the hearing shall be mailed at least fourteen (14) days prior to the date of the hearing by certified or registered United States mail, return receipt requested, to the interested parties entitled to receive notice under Section 6.3 of this Ordinance. At the hearing to determine the costs of the repair or demolition, any party with an interest in the structure may be heard. In determining the costs of the repair or demolition, the City Council shall subtract from the costs of the repair or demolition as reported by the Building Official the proceeds from the sale of any salvage materials. The City Council shall adopt a resolution fixing the reasonable costs incurred in the repair or demolition and assessing the costs against the lands upon which the repaired or demolished structure is or was located.

2. The fixing of the costs by the City Council shall constitute a special assessment against the lot or lots, parcel or parcels of land upon which the repaired or demolished structure is or was located. The special assessment thus made and confirmed shall constitute a lien on the property for the amount of the assessment. The lien shall be superior to all other liens on the property, except liens for taxes, and shall continue in force until paid. A certified copy of the resolution shall be filed in the Office of the Judge of Probate of Baldwin County, Alabama. Upon filing, the tax collector or revenue commissioner of Baldwin County shall, pursuant to Code of Alabama Section 11-40-33 (1975), 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 of Spanish Fort.

SECTION 11. Penalties.

1. Any owner, occupant, or lessee who is responsible for compliance with any order made pursuant to this Ordinance who fails to comply with such order is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten (\$10.00) dollars nor more than five hundred dollars (\$500.00). Each day's violation of the provisions of this Ordinance shall constitute a separate punishable offense.

2. Any person removing any notice posted pursuant to the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten (\$10.00) dollars nor more than five hundred dollars (\$500.00). Each day's violation of the provisions of this Ordinance shall constitute a separate punishable offense.

SECTION 12. Duties of the City Attorney.

1. The City Attorney or his or her designee may prosecute any owner, occupant, or lessee who is responsible for compliance with any order made pursuant to this Ordinance who fails to comply with such order.

2. The City Attorney may take any legal action that is necessary to carry out the provisions of this Ordinance.

SECTION 13. Emergency Cases.

In cases where it reasonably appears that an unsafe structure poses an immediate danger to the life or safety of any person, the Building Official shall report such facts to the City Council, and the City Council shall cause the immediate repair, vacation, or demolition of such unsafe structure. The costs of the emergency repair or demolition shall be determined and assessed as provided for in Section 11 of this Ordinance.

SECTION 14. Authority to Enter Upon Private Property.

The Building Official may enter upon private property to carry out any duties set forth in this Ordinance. If the City Council finds under Section 7 that any structure is an unsafe structure or if Section 13 applies, the employees or agents of the City may enter upon private property for the purpose of vacating, repairing, or demolishing the unsafe structure.

SECTION 15. Severability.

If any part, section, or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect.

ADOPTED AND APPROVED this ____ day of _____, 2006.

Joseph C. Bonner
Mayor

ATTEST:

Mary Lynn Williams, MMC
City Clerk