

ORDINANCE NO. 389-2010

AN ORDINANCE AMENDING ORDINANCE NO. 51-96, AS AMENDED, TO PROVIDE REGULATIONS REGARDING THE OCCUPANCY OF SINGLE FAMILY DWELLING UNITS

WHEREAS, the City of Spanish Fort has a significant governmental interest in protecting the health, safety and welfare of the general public and in preserving public order; and

WHEREAS, the City Council wishes to maintain the quality, character and stability of single family dwelling units and the neighborhoods in which they are located, prevent overcrowding and preserve the value of land and buildings throughout the City; and

WHEREAS, in various jurisdictions around the State of Alabama and the United States, there are single family dwelling units that have become a haven for various criminal or disruptive activities that cause disorder in the respective communities; and

WHEREAS, the City Council has become concerned about such trends and desires to protect our community from such activity and establish a method to hold owners and occupants of such single family dwellings responsible for such activities; and

WHEREAS, the Planning Commission of the City of Spanish Fort, Alabama, held a meeting on August 9, 2010, and the City Council of the City of Spanish Fort held a meeting on October 4, 2010, for the purpose of receiving public comments on proposed changes to the Zoning Ordinance.

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

SECTION 1. Ordinance No. 51-96, as amended (the "Zoning Ordinance"), of the City of Spanish Fort, Alabama, is hereby amended by adding the following Section 7.9:

7.9 The maximum occupancy of a single family dwelling unit shall be limited to one family or housekeeping unit as defined herein. In addition, a single family dwelling unit is required to have enough paved or gravel off-street parking for each occupant which parks a vehicle on the premises.

7.91 For the purposes of this Section 7.9, the following terms shall have the following meanings:

- a. Owner: The person, persons or legal entity that owns or holds title to a single family dwelling unit.
- b. Single Family Dwelling Unit: A building designed for and/or occupied by one family, or housekeeping unit as a home with cooking and housekeeping facilities.
- c. Family or Housekeeping Unit: A person living alone, or any of the following groups living together as single non-profit housekeeping unit, and sharing common living, sleeping, cooking and eating facilities:
 - (1) Any number of people related by blood, marriage, adoption, guardianship or other duly authorized custodian relationship, plus no more than one (1) additional unrelated person; or
 - (2) Four unrelated people; or
 - (3) Two unrelated people and any children related to any of them.

The definition of a family does not include:

- (1) Any society, club, fraternity, sorority, association, lodge, federation or like organization; or

- (2) Any group of people who are in a group living arrangement as a result of criminal offenses or probation or monitoring.

7.92 Prohibition.

A. It shall be unlawful for an Owner to allow a Single Family Dwelling Unit to be used or occupied by any person, persons or entities in violation of the occupancy requirements set forth in this Section. It shall be the Owner's responsibility to ensure compliance with the provisions of this Section.

B. It shall be unlawful for any person or persons or entity to live or reside in a Single Family Dwelling Unit in violation of the occupancy requirements set forth in this Section.

7.93 Disruptive/Disorderly Conduct Prohibited.

The Owner and any person or persons occupying a Single Family Dwelling Unit shall respect the residential nature of the neighborhood and refrain from conducting or permitting any loud music, noise or other nuisance activities that would disturb the enjoyment and utilization of adjoining property and would otherwise be in violation of any applicable ordinances, rules, regulations or state laws, including, but not limited to, the Noise Ordinance and Zoning Ordinance of the City. (By way of example, the operating, playing or permitting the operation or playing of any device, radio, television, stereo, drum, musical instrument, sound amplifier or similar device from within a structure or building which produces, reproduces or amplifies sound in such a manner as to create any sound or noise which is plainly audible at any property line within a residential district is a violation of Ordinance No. 292-2007, the Noise Ordinance.)

7.94 Enforcement, Remedies and Penalties.

A. Upon discovery of a violation or alleged violation of this Section, the City, by and through its authorized representative, shall give written notice to the Owner by certified mail of the violation or alleged violation, and the Owner shall be given fifteen (15) days in which to cease or correct the violation or alleged violation or present evidence to the City that appropriate legal action in the form of eviction or other legal remedy is being pursued by the Owner and has been filed with the appropriate court or agency.

B. Any person or group of persons violating the occupancy requirements or an Owner convicted of a violation of any of the provisions of this Section shall be fined not more than Five Hundred Dollars (\$500.00) per offense and may be imprisoned for not more than six (6) months, or both, for each such offense, at the discretion of the court trying the case.

C. Each day such violation of the provisions of this Section continues shall constitute a separate offense.

D. The City hereby reserves all other rights and remedies available under any other applicable laws, rules and regulations in order to remedy or deter any violation of the provisions of this Section.

SECTION 2. Repealer Clause.

Any ordinance heretofore adopted by the City Council of the City of Spanish Fort, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION 3. Severability Clause.

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 notwithstanding such holding.

SECTION 4. Effective Date.

This Ordinance shall become effective upon its adoption or as otherwise required by state law.

Adopted and approved this *4th day of October, 2010.*

Joseph C. Bonner
Mayor

ATTEST:

Mary Lynn Williams, MMC
City Clerk