

## ORDINANCE #1240

**An ordinance to provide for the vacation, removal, repair or demolition of any building or structure which is or threatens to be a public nuisance, dangerous to health, morals, safety or general welfare of the people of the City of Talladega, Alabama, or which might tend to constitute a fire menace; and for the assessment of the cost of vacation, removal, repair or demolition thereof as a municipal lien or assessment against such premises, and to provide for the recovery of such costs in an action at law.**

**WHEREAS**, in the City of Talladega, Alabama, there are, or may in the future be, buildings or structures which are dilapidated, unsafe, dangerous, unsanitary, a menace to the health morals, safety and general welfare of the people of this City, and which might tend to constitute a fire menace and which are a public nuisance;

**BE IT ORDAINED** by the City Council of the City of Talladega, Alabama as follows:

### SECTION I. Owners to Keep Buildings in Safe and Tenable Condition:

It shall be unlawful for any person owning any building or structure in the City of Talladega, Alabama, to keep or maintain the same in an unsafe, untenable or dangerous condition. It shall be the duty of every person owning any building or structure in the City to keep the same in a safe and tenable condition or to cause the same to be removed.

### SECTION 2. Unsafe, Untenable or Dangerous Condition Defined:

All buildings or structures which have any or all of the following defects shall be deemed in an “unsafe, untenable or dangerous condition”:

- a) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonable safe for the purpose used;
- b) Those which have been damaged by fire, wind and/or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the City of Talladega, Alabama;
- c) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;
- d) Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live therein or may live therein;
- e) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication;

- f) Those which have parts thereof which are so attached that they may fail and injure members of the public or property;
- g) Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this city;
- h) Those buildings existing in violation of any provision of the building code or any other relevant code of this city, or any provisions of the fire prevention code, or other ordinances of this city.

**SECTION 3. Standards for Repair, Vacation or Demolition:**

The following standards shall be followed in substance by the Building Inspector or any other person designated by the City of Talladega in ordering repair, vacation or demolition:

- a) If the “unsafe, untenable or dangerous condition” can reasonably be repaired so that it will no longer exist in violation of the terms of this ordinance, it shall be ordered repaired;
- b) If the “unsafe, untenable or dangerous condition” is such that it makes it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated;
- c) In any case, where there exists an “unsafe, untenable or dangerous condition” such that fifty percent (50%) of the building or structure is damaged or decayed or deteriorated from its original value or structure, it shall be demolished; and in all cases where a building cannot be repaired so that it will no longer exist in violation with the terms of this ordinance, it shall be demolished. In all cases where an “unsafe, untenable or dangerous condition” exists such that it creates a fire hazard existing or erected in violation of the terms of this ordinance, or any ordinance of the City or statute of the State of Alabama, it shall be demolished.

**SECTION 4. Buildings or Structures in an “Unsafe, Untenable or Dangerous Condition” - Nuisances:**

All buildings or structures which are found to exist in an “unsafe, untenable or dangerous condition” within the terms of this ordinance are hereby declared to be public nuisances and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

**SECTION 5. Duties of the Building Inspector:**

The Building Inspector shall have the authority to:

- a) Inspect, or cause to be inspected, semi-annually, all public buildings, schools, halls, churches, theatres, hotels, tenements, commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places in an “unsafe, untenable or dangerous condition” within the terms of this ordinance;

- b) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure may be existing in violation of this ordinance;
- c) Inspect any building, wall or structure reported (as hereinafter provided for) by the fire or police departments of this city as probably existing in violation of the terms of this ordinance;
- d) Assure notification in writing of the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the County of Talladega, of any building found by him to be in an “unsafe, untenable or dangerous condition”, within the standards set forth in this ordinance, that;
  - 1) The owner must vacate, repair or demolish said building in accordance with the terms of the notice and this ordinance;
  - 2) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice to remain in possession;
  - 3) The mortgagee, agent or other persons having an interest in said building, as shown by the land records of the recorder of deeds of the County of Talladega may, at his own risk, repair, vacate or demolish said building or have such work or act done, provided that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding thirty (30) days, as may be necessary to do, or have done, the work or act required by the notice provided for herein;
- e) Set forth in the notice provided for in subsection (d) hereof a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure in an “unsafe, untenable or dangerous condition” and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty (30) days, as is reasonable;
- f) Report to the City Council for the City of Talladega, Alabama, any non-compliance with the “notice” provided for in subsections (d) and (e) hereinabove and in the next section of this ordinance;
- g) Appear at all hearings conducted by the City Council for the City of Talladega, Alabama, and testify as to the existence of the “unsafe, untenable or dangerous condition” of the subject building or structure;
- h) Place a notice on all buildings and/or structures which exist in an “unsafe, untenable or dangerous condition” reading as follows:

“This building has been found to be in an unsafe, untenable or dangerous condition by the Building Inspector for the City of Talladega, Alabama. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the

recorder of deeds of the County of Talladega. IT is unlawful to remove this notice until such notice is complied with.”

SECTION 6. Manner of Notice, Hearing, Compliance Order:

- a) Whenever it shall appear to the City Council, by report of the Building Inspector or any other designated officer of the City, that any building or structure in the City is in an unsafe, untenable or dangerous condition, or any part of any building or structure, party walls or foundations are in such condition or are likely to become in such condition, or that such building is in an unsanitary condition the City Council should thereupon direct the City Clerk, Building Inspector other designated official of the City to issue a notice to the owner of such building or structure or to whose agent, in case such owner or agent is a resident of the City. In the event such owner is a non-resident of the City, it shall thereupon be the duty of the City Clerk to call such notice to be served upon such owner or his agent, as the case may be, in the following manner:
  - 1) Where such owner is a resident of the county, or his agent resides in the county, such notice shall be served upon such owner or his agent personally by leaving a copy thereof with such owner or agent;
  - 2) If the owner or agent is a resident of the state, but resides outside the county, such notice shall be served by mailing to such owners, or his agent, residing in the state and outside the county, a copy of such notice by registered mail, postage prepaid, at the last known address of such owner or his agent, as shown by the tax assessment records in the office of the Revenue Commissioner of the County, for the current year in which such notice is given;
  - 3) If such owner resides outside the state and has no known agent in the state, such notice shall be given by publication in a newspaper of general circulation in Talladega County, Alabama, and a copy of such notice, and of such publication shall be mailed to the last known address of such owner as disclosed by the tax assessment record in the office of the Revenue Commissioner of the County, by registered mail, postage prepaid.
- b) The notice, hereinabove provided, shall fix a time and place at which the City Council will hear any causes or reasons which such owner or his agent may desire to present to show why an order should not be made for the condemnation of said building or structure, and requiring the same to be torn down or moved, which day so fixed shall not be less than three (3), nor more than forty-five (45) days, after the issuance of such notice; and the time and place shall be stated in the notice.

At the time and place mentioned in said notice, the City Council shall proceed to hear the matter and shall make such order and pass such resolution in regard to such building or structure or the part thereof as shall appear to be reasonable necessary to protect the public against the unsafe, untenable or dangerous condition or unsanitary condition of said building or structure or part of said building or structure;

- c) In the event the City Council shall make an order for the condemnation of said building, said building shall thereupon be torn down or removed in such manner as may be ordered and directed by the Council.

SECTION 7. Repair Notice:

In addition to the foregoing regulations for the condemnation of such buildings or structures, it shall be the duty of the Building Inspector, or other designated official of the City, whenever it comes to his notice or attention that any person whose duty it may be to remedy any unsafe or unsanitary or dangerous condition of any building or structure, or any appurtenances thereto or therein, or to remove the same, has suffered, caused or allowed such building to become in an unsafe, untenable, dangerous or unsanitary condition in whole or in part, and in the opinion of such officer, such building or structure can be repaired and made safe, sanitary and tenable, to give to the owner or his agent written notice by registered mail of the unsafe, unsanitary, untenable or dangerous condition of such building or structure or appurtenances therein or thereto, part of such building or structure, a party wall or foundation, as the case may be, which notice shall prescribe such repairs as shall be necessary to be made in order to render such building or structure in a safe, sanitary or tenable condition, as the case may be; and it shall, thereupon, be the duty of such person owning said building or structure, or his agent in control or charge thereof, within five (5) days, to make such repairs as are necessary to render said building or structure safe, tenable and sanitary, and remove any unsafe, dangerous, unsanitary or untenable condition in any such building, structure or part of such building or structure within the time hereinabove provided.

SECTION 8. Violations – Penalty for Disregarding Notices or Orders:

- a) The owner of any building or structure which is found to exist in an “unsafe, untenable or dangerous condition” and who shall fail to comply with any notice or order to repair, vacate or demolish said building or structure given by any person authorized by this ordinance to give such notice or order shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than one dollar (\$1.00), nor more than five hundred dollars (\$500.00) for each such offense, or by imprisonment in the City Jail for not more than one hundred eighty (180) days, or both, at the discretion of the court trying the case. Each and every day such failure to comply continues beyond the date fixed for compliance shall constitute a separate offense.
- b) The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair said building in accordance with any notice given as provided for in this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not less than one dollar (\$1.00), nor more than five hundred dollars (\$500.00) for each such offense, or by imprisonment in the City Jail for not more than one hundred eighty (180) days, or both, at the discretion of the court trying the case. Each and every day such failure to comply continues beyond the date fixed for compliance shall constitute a separate offense.
- c) Any person removing the notice provided for in Section 5, subsection (h), hereof shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount not less than one dollar (\$1.00), nor more than five hundred dollars (\$500.00) for each such offense, or by imprisonment in the City Jail for not more than one hundred eighty (180) days, or both, at the discretion of the court trying the case.

SECTION 9. Performance by the City; Collection Costs:

Upon the failure of the owner to make improvements ordered, the City shall make same and assess the costs thereof against the land upon which the building or structure is or was located and against the owner thereof. Upon the failure of any person whose duty it may be to remedy any unsafe, untenable, dangerous or unsanitary condition of any building or structure or any appurtenances thereto or therein, or to remove the same in the event the same is condemned, as hereinabove provided, or to repair the same within the time specified in such notice, it should thereupon be the duty of the Building Inspector or other designated official of the City to bring such failure to the attention of the City Council at its next regular meeting; and therefore, the City Council shall proceed to adopt a resolution to provide for the remedying of such condition or for the removal of such building or structure, or such part thereof as may be unsafe, or is likely to become unsafe, from any cause and the reasonable expenses incurred in remedying such conditions or in such removal, shall be a debt due by the owner of the building to the City, for the collection of which said City shall be authorized to enter suit and said expense shall also be assessed against the land on which such building or structure, or part thereof, was or is located and collected at the same time, in the same manner, as the annual taxes on said land, unless said owner pays the same without such assessment.

SECTION 10. Duties of the City Attorney:

The City attorney shall:

- a) Prosecute all persons failing to comply with the terms of the notices provided for herein.
- b) Appear at all hearings before the City Council in regard to any building or structure which has been found to exist in an “unsafe, untenable, or dangerous condition” or unsanitary condition;
- c) Bring suit to collect all municipal liens, assessments or costs incurred by the City in repairing or causing to be vacated or demolished any building or structure, or any appurtenances thereto, which has been found to exist in an unsafe, untenable or dangerous condition;
- d) Take such other legal action as is necessary to carry out the terms and provisions of this ordinance.

SECTION 11. Administrative Liability:

No officer, agent, or employee of the City of Talladega, Alabama, shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this ordinance. Any suit brought against any officer, agent or employee of the City of Talladega, Alabama, as a result of any act required or permitted in the discharge of his duties under this ordinance shall be defended by the City Attorney until the final determination of the proceedings therein.

SECTION 12. Separability:

All sections of this ordinance are hereby declared to be severable; and if any word, phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this ordinance.

SECTION 13. Effective Date:

This ordinance shall take effect immediately upon its passage and publication, as provided by law.

ADOPTED THIS the 5<sup>th</sup> day of July, 1989.

/s/ James E. Spratlin, Council President  
/s/ Ken Payne  
/s/ Edythe J. Sims  
/s/ Robert Duncan  
/s/ Charles Miller  
Council Members

APPROVED THIS the 5<sup>th</sup> day of July, 1989.

/s/ Mayor George C. Montgomery

APPROVED AND ATTESTED THIS the 5<sup>th</sup> day of July, 1989.

/s/ City Clerk Frank Upchurch