

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2024-17**

**AN ORDINANCE REPEALING AND REPLACING ORDINANCE 2005-31 AND
SETTING FORTH A NEWLY COMPILED ORDINANCE REGARDING THE
ABATEMENT OF UNSAFE BUILDINGS AND STRUCTURAL NUISANCES**

WHEREAS, the existence of unsafe and dilapidated buildings and structures within the City of Daphne (“the City”) constitutes a public nuisance, the abatement of which burdens the city treasury and contributes to blight and crime in neighborhoods; and

WHEREAS, Sections 11-40-30 through 11-40-36 of the *Code of Alabama* (1975), permit the City, after meeting certain notice requirements, to move or demolish unsafe buildings; and

WHEREAS, Sections 11-53B-1 through 11-53B-16 of the *Code of Alabama* (1975), permit the City, after meeting certain notice requirements, to repair, move, or demolish unsafe buildings and to provide an effective means of collecting an assessment lien on the property for the costs of the work involved in abating the nuisance; and

WHEREAS, the Council desires that the City employ all tools provided by law to the City for the fixing of costs, creation of liens, making of assessments, and collection of costs associated with repairing, moving, or demolishing buildings and structures, or parts of buildings and structures, party walls, and foundations when found to be unsafe to the extent of being a public nuisance from any cause, including but not limited to Section 6-5-122 of the *Code of Alabama* (1975), Sections 11-40-30 through 11-40-36, inclusive, of the *Code of Alabama* (1975), Sections 11-47-117 through 11-47-118, inclusive, of the *Code of Alabama* (1975), Section 11-47-131, of the *Code of Alabama* (1975), Sections 11-53-1 through 11-53-4, inclusive, of the *Code of Alabama* (1975), and Sections 11-53B-1 through 11-53B-16, inclusive, of the *Code of Alabama* (1975); and

WHEREAS, the City Council has determined that the provisions of Ordinance 2005-31 are due to be updated to reflect the current state of the law on nuisance abatement and to provide the City with the ability to abate nuisances in a timelier manner.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, as follows:

SECTION 1. Definitions.

Unless the context clearly requires a different meaning, the words used in this chapter will have the meanings as set forth below:

Appropriate Municipal Official means the City building official and any other City official or City employee designated by the Mayor as the person to exercise the authority and perform the duties delegated by this Ordinance.

Assessment means the cost incurred to repair, move, or demolish a structure as provided by this chapter.

Building means any building, structure, part of a building or structure, party wall, or foundation used or intended for supporting or sheltering any use or occupancy.

City means the City of Daphne, Alabama.

Council means the City Council of the City of Daphne, Alabama.

Owner means the person or persons, firm, association, or corporation last assessing the property who is the record owner of the property for state taxes according to the county tax assessor records.

Person means any natural or legal person including partnerships, corporations, limited liability companies and the like.

Permanent improvement means all repairs, improvements, appurtenances, buildings, and equipment attached to property as fixtures.

Public nuisance means any condition that renders a building unsafe and dangerous to the public safety, health, or welfare.

SECTION 2. Duties of Appropriate Municipal Official.

(a) The Appropriate Municipal Official may:

(1) Inspect, or cause to be inspected, semiannually all public buildings, halls, churches, theatres, hotels, tenements, commercial manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render any such place a “dangerous building” as defined by this Ordinance;

(2) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is, or may be, existing in violation of this Ordinance;

(3) Inspect any building, wall, or structure reported (as hereinafter provided for) by the fire department or police department as probably existing in violation of the terms of this Ordinance; and

(4) Perform such other duties as are set forth in this Ordinance.

(b) The Appropriate Municipal Official is hereby authorized and directed to enforce all of the provisions of this Ordinance. Upon presentation of the proper credentials, the Appropriate Municipal Official may enter any building, structure, part of building or structure, party wall, foundation, or premises for the purpose of inspection to prevent violation of the provisions of this Ordinance, and/or to carry out an order given pursuant to this Ordinance.

SECTION 3. Dangerous buildings defined.

Any building which has any of the following defects may be deemed a “dangerous building”:

(1) Those whose interior walls or other vertical structure members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;

(2) Those which, exclusive of the foundation, show thirty-three percent (33%) or greater of damage or deterioration of one (1) or more supporting

members, or fifty percent (50%) of damage or deterioration of the non-supporting enclosing or outside walls or covering;

(3) 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 reasonably safe for the purpose used;

(4) Those which have been 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;

(5) Those which have become or are so 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 cause injury to the life, health, property, morals, safety, or general welfare of the public or the occupants;

(6) Those having light, air, heating, cooling, and sanitation facilities which are inadequate to protect the life, health, property, morals, safety, or general welfare of the public or the occupants;

(7) Those having inadequate facilities for egress in case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of ingress and egress to and from said building;

(8) Those which do not provide minimum safeguards to protect or warn occupants in the event of fire;

(9) Those which 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;

(10) Those which are so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible;

(11) Those which have parts thereof which are so attached that they may fall and damage property or injure the public or the occupants;

(12) Those, or any portion thereof, which are clearly unsafe for their use or occupancy;

(13) Those which are neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children who might play in or on the building to their danger; become a harbor for vagrants, criminals, or immoral persons; or enable persons to resort to the building for committing a nuisance or an unlawful act;

(14) Those which have any portion remaining on a site after the demolition or destruction of the same or whenever the building is abandoned so as to constitute such building as an attractive nuisance or hazard to the public;

(15) Those which because of their condition are unsafe, unsanitary, or dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants; and

(16) Those with a condition or conditions that violate the City's technical codes adopted from time to time if such violation(s) are unsafe to the extent of becoming a public nuisance.

SECTION 4. **(Reserved).**

SECTION 5. **Dangerous buildings constitute nuisances.**

All "dangerous buildings," upon a determination by the Appropriate Municipal Official and a finding of necessity by the Council after giving notice as provided in this Ordinance, may be repaired, vacated, moved, or demolished as provided by this Ordinance.

SECTION 6. **Standards for repair, removal, vacation, or demolition.**

The following standards may be followed in substance by the Appropriate Municipal Official in ordering a repair, removal, demolition, and/or vacation:

(1) If any building can reasonably be repaired within a reasonable time and at a reasonable cost relative to the value of the structure so that it will no longer exist in violation of the terms of this Ordinance, it may be ordered to be repaired.

(2) If any building can reasonably be moved so that it will no longer exist in violation of the terms of this Ordinance, it may be ordered to be moved.

(3) In any case where any building is substantially damaged or decayed, or deteriorated from its original value or structure (not including the value of the land), it may be demolished, and in all cases where any building cannot be reasonably repaired so that it will no longer exist in violation of the terms of this Ordinance, it may be demolished. In all cases where any building is a fire hazard existing in violation of the terms of this Ordinance, it may be demolished.

(4) If any building is in such condition as to make it dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants, it and/or the entirety or other portion of the premises upon which it is located may be ordered to be vacated.

Where one or more of the standards above may apply, the Appropriate Municipal Official may, in his or her sole discretion, choose to order any one, any combination, or all of the foregoing remedies.

SECTION 7. Notice from Appropriate Municipal Official of unsafe condition.

(a) Whenever the Appropriate Municipal Official of the City finds that any building situated in the City is unsafe to the extent that it is a public nuisance, the Appropriate Municipal Official shall, as set forth in this Section, give notice to remedy the unsafe or dangerous condition of the building or structure. The notice shall identify the street address, the legal description, and the parcel identification number of the property where the building, structure, part of building or structure, party wall, or foundation is located. The notice shall set forth in detail the basis for the Appropriate Municipal Official's finding and shall direct the owner or owners to take either of the following actions:

(1) In the case where repair is required, accomplish the specified repairs or improvements within forty-five (45) days of the date of the notice or if the same cannot be repaired within that time to provide the Appropriate Municipal Official with a work plan to accomplish the repairs. The work plan shall be submitted within forty-five (45) days of the making of the notice and shall be subject to the Council's approval.

(2) In the case where a move or demolition is required, move or demolish the building within forty-five (45) days of the notice.

In the case of repair, move, or demolition, the notice shall state that, in the event the owner does not comply within the time specified in the notice, the repairs, move, or demolition shall be accomplished by the City and the costs of the repairs, move, or demolition shall be assessed against the property.

The repair, move, or demolition must be completed to the Appropriate Municipal Official's satisfaction, or the same may be completed and accomplished by the City and the cost thereof assessed against the property.

The Appropriate Municipal Official may also order that any building, structure, or part of building or structure ordered to be repaired, moved, or demolished be vacated along such terms as the Appropriate Municipal Official deems appropriate.

(b) The Appropriate Municipal Official shall give the notice required by Subsection (a) of this Section by all of the following means:

(1) By certified or registered mail, properly addressed and postage prepaid, to all of the following persons or entities:

- i. The person or persons, firm, association, or corporation last assessing the property for state taxes to the address on file in the Baldwin County Revenue Commissioner's Office;
- ii. The record property owner or owners (including any owner or owners of an interest in the property) as shown from a title search of the records of the office of the Judge of Probate of Baldwin County, Alabama, at the owner or owners' last known address and at the address of the subject property;

- iii. All mortgagees of record as shown from a title search of the records of the office of the Judge of Probate of Baldwin County, Alabama, to the address set forth in the mortgage or, if no address for the mortgagee is set forth in the mortgage, to the address determined to be the correct address by the Appropriate Municipal Official;
- iv. All lien holders of record as shown from a title search of the records of the office of the Judge of Probate of Baldwin County, Alabama, to the address set forth in the statement of lien or, if no address for the lien holder is set forth in the statement of lien, to the address determined to be the correct address by the Appropriate Municipal Official; and
- v. Any person who is otherwise known to the Clerk or to the Appropriate Municipal Official to have an interest in the property;

(2) By filing a *lis pendens* in the Baldwin County Probate Court on or before the date of mailing required by Subsection (b)(1) of this Section to give notice to any subsequent purchasers of the repair, move, or demolition proceedings;

(3) By posting notice of the order, or a copy thereof, within three (3) days of the date of mailing required by Subsection (b)(1) of this Section, at or within three feet of an entrance to the building or structure. If there is no entrance, the notice may be posted at any location on the building or structure.

SECTION 8. Hearings, appeals, and extensions.

(a) Within thirty (30) days from the date appearing on the notice given pursuant to Section 7, any person or entity having an interest in the building may file a written request for a hearing before the Council, together with that person's objections to the finding that the building is a public nuisance.

(b) The filing of the request for a hearing shall hold in abeyance any action on the finding of the official until a determination is made by the Council.

(c) The Council shall hold a hearing not less than five (5) nor more than thirty (30) days after the filing of a written request for a hearing.

(d) In the event no hearing is timely requested, the findings of the Appropriate Municipal Official shall be on the Council's agenda no earlier than thirty-five (35) days from the date the notice is given and no later than fifty (50) days from the date the notice is given.

(e) The Council shall determine whether or not the building or structure is unsafe to the extent that it is a public nuisance. If the council finds that the building is a public nuisance, the Council shall order by resolution that the building or structure be repaired, moved, or demolished after the expiration of ten (10) days from the date of the resolution.

(f) Any person aggrieved by the Council's decision may, within ten (10) days thereafter, appeal to the Circuit Court of Baldwin County upon filing with the clerk of the court notice of the appeal and bond for security of costs in the form and amount to be approved by the circuit clerk.

(1) Upon filing of the notice of appeal and approval of the bond, the clerk of the court shall serve a copy of the notice of appeal on the City Clerk, and the appeal shall be docketed in the court, and shall be a preferred case therein.

(2) The City Clerk shall, upon receiving the notice of appeal, file with the clerk of the court a copy of the Council's findings. The proceedings and trials in the Baldwin County Circuit Court shall be held without jury upon the determination of the Council that the building is a public nuisance.

SECTION 9. Repair and demolition.

(a) If an appeal has not been taken to the Circuit Court as provided for by Section 8(f), then after the passing of ten (10) days from the date of the decision by the Council to repair, move, or demolish a building, the ordered action may be accomplished by the City by the use of its own forces or by contract.

(b) If an appeal is taken to the Circuit Court as provided for by Section 8(f), the filing of such appeal shall hold in abeyance any action on the determination made by Council until after a judgment upholding the Council's determination becomes final as provided by law.

(c) If the building or structure is to be repaired, and the cost to repair is greater than the anticipated cost to demolish, the Council shall be notified and determine whether or not the building or structure shall be repaired or demolished.

(d) A failure by the City to accomplish the repair, move, or demolition of a building within ninety (90) days of the passage of the resolution ordering the same shall constitute an abdication of the Council's order unless one of the following conditions is satisfied:

(1) An aggrieved party has filed an appeal pursuant to this Ordinance;

(2) A court of competent jurisdiction has enjoined or otherwise halted the repair, removal, or demolition;

(3) All parties identified by the Appropriate Municipal Official pursuant to Section 7(b)(1) have entered into a written agreement allowing for an extended period of time within which the repair, removal, or demolition may be accomplished;

(4) All parties identified by the Appropriate Municipal Official pursuant to Section 7(b)(1) have noted at a meeting of the Council their agreement allowing for an extended period of time within which the repair, removal, or demolition may be accomplished and the agreement is reflected in the minutes of the Council; or

(5) Further action is taken by the Council as provided by Subsection (e) of this Section.

(e) If, for any reason, an ordered repair, move, or demolition cannot be accomplished within ninety (90) days of the passage of the resolution ordering the same, the Appropriate Municipal Official shall make a report of the same and the length of any desired extension to the Council. The Clerk shall distribute a copy of the report to the members of the Council. The Clerk shall set the report on the proposed extension for a public hearing at a meeting of the Council. The Clerk shall give no less than ten (10) days' notice of the meeting at which the proposed extension is to be considered by certified mail to all persons or entities listed in Section 7(b)(1). Notice shall be deemed complete upon mailing. Any person or entity having an interest in the property may be heard at the meeting as to any objection to the proposed extension or the length thereof. Following the public hearing, the Council may adopt a resolution extending the time for the repair, move, or demolition to be accomplished for such period of time as it deems necessary. The Council need not order an extension before the time to complete the repair, move, or demolition expires in order for the extension to be effective, but if the Council desires to extend the time to complete the repair, move, or demolition, then the Council must order the extension no more than thirty (30) days after the expiration of the then existing deadline to complete the repair, move, or demolition.

(f) Nothing in this Ordinance shall prevent the City from reinitiating the proceedings authorized by this Ordinance at any time so long as all the requirements of this Ordinance are satisfied anew.

(g) The City may sell or otherwise dispose of salvaged materials resulting from any demolition pursuant to this Ordinance; provided, however, that the proceeds of any monies received from the sale of salvaged materials shall be used or applied against the cost of the demolition.

SECTION 10. Fixing of costs as final assessment.

(a) Upon repair, move, or demolition of the building or structure, the Appropriate Municipal Official shall report to the Council the amount of the proposed assessment, and shall include an administrative fee in the amount of \$200.00 to offset the costs of administration.

(b) The Clerk shall, by first class mail, give no less than ten (10) days' notice of the meeting at which the fixing of the costs is to be considered to all persons or entities listed in Section 7(b)(1). Any person having an interest in the property may be heard at the meeting as to any objection to the fixing of such costs or the amounts thereof.

(c) Any person, firm, or corporation having an interest in the property may be heard at the meeting as to any objection to the fixing of the costs or the amounts thereof.

(d) Following the public hearing, the Council shall adopt a resolution fixing the amount that was reasonably incurred in the demolition or repair and assessing the same against the property including the \$200.00 administrative fee. The cost fixed by resolution shall constitute a final assessment against the lot(s) or parcel(s) of land upon which the building was/is located.

(e) A certified copy of the resolution fixing the final assessment shall also be recorded in the Baldwin County Probate Court.

SECTION 11. Tax lien for the final assessment of a repair, move, or demolition.

- (a) The final assessment for a repair, move, or demolition once made and confirmed by the Council shall constitute a lien on the property for the amount of the final assessment. 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 final assessment, and shall continue in force until paid.
- (b) Upon the filing of the final assessment therewith, the Revenue Commissioner of Baldwin County 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.
- (c) The final assessment shall be assessed against any lot or lots, parcel or parcels of land purchased by the State of Alabama at any sale for the nonpayment of taxes, and where such final assessment is made against the lot or lots, parcel or parcels of land, a subsequent redemption thereof by any person authorized to redeem or sale thereof by the state shall not operate to discharge, or in any manner affect the lien of the City for the assessment, but any redemptioner or purchaser at any sale by the state of any lot or lots, parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale to the state for the nonpayment of taxes, shall take the same subject to the assessment. The assessment shall then be added to the tax bill of the property, collected as a tax, and remitted to the City.

SECTION 12. Payment of assessments, sale of property upon default, and redemption.

- (a) Payment of a final assessment resulting from a move or demolition accomplished pursuant to this Ordinance shall be made in the manner and as provided for the payment of municipal improvement assessments in Section 11-48-48 of the *Code of Alabama* (1975), as the same has heretofore or may hereafter be amended. Upon the property owner's failure to pay the assessment, the officer designated by the City to collect the assessments shall proceed to collect the assessment as provided in Sections 11-48-49 to 11-48-60, inclusive, of the *Code of Alabama* (1975). The City may, in the latter notice, elect to have the Revenue Commissioner collect the assessment by adding the assessment to the tax bill. Upon the election, the Revenue Commissioner shall collect the assessment using all methods available for collecting ad valorem taxes.
- (b) Payment of a final assessment resulting from a repair accomplished pursuant to this Ordinance shall be made in the manner and as provided in Section 11-53B-7 of the *Code of Alabama* (1975), as the same has heretofore or may hereafter be amended. Upon the property owner's failure to pay the assessment, the officer designated by the City to collect the assessments shall proceed to collect the assessment as provided in Sections 11-53B-8 to 11-53B-14, inclusive, of the *Code of Alabama* (1975).
- (c) If the property owner fails to pay the final assessment within thirty (30) days, or having elected to make installment payments, fails to make any installment payment when due, the entire balance shall immediately become due and payable, and the City may proceed to sell the property to the highest bidder for cash, but in no event less than the amount of the lien plus interest through the date of default.
- (d) Prior to the sale, notice shall be given by publication once a week for three (3) consecutive weeks in the *Baldwin Times* or other publication of general circulation in

Baldwin County, setting 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. If the official 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 official to take such action to any court of competent jurisdiction, and the court shall, on proof, issue and enforce the writ.

(e) Any owner, notwithstanding his or her default, may pay the final assessment lien with interest and all costs if tendered before a sale of the property.

(f) The cost of any notice and sale resulting from a default shall constitute a charge against the property to be sold and shall be retained out of the proceeds of the sale.

(g) The official making the sale shall execute a deed to the purchaser, conveying all the right, title, and interest that the owner had or held on the date of the final assessment or on the date of sale.

(h) Any surplus arising from the sale shall be paid to the City treasurer to be kept as a separate fund by the treasurer for the owner upon the responsibility of his or her official bond. The City may, by its agents, purchase real estate sold as provided under this chapter and, in the event of the purchase, the deed for the same shall be made to the City.

(i) No mistake in the notice of sale in the description of the property or in the name of the owner shall vitiate the final assessment or the lien and if for any reason the sale is ineffectual to pass title, it shall operate as an assignment of the lien and, upon the request of the purchaser, supplementary proceedings of the same general character as required in this act 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.

(j) Any real property heretofore or hereafter sold for the satisfaction of an assessment lien imposed thereon by the Council may be redeemed by the former owner, or his or her assigns, or other persons authorized to redeem property sold for taxes by the state, within two years from the date of the sale by complying with the requirements of Sections 11-53B-10 through 11-53B-14 of the *Code of Alabama* (1975).

SECTION 13. Emergency action.

Notwithstanding any other provisions of this Ordinance, the Appropriate Municipal Official may initiate immediate repair or demolition of a building when, in the opinion of the official so designated, such emergency action is required due to imminent danger of structural collapse endangering adjoining property, the public right-of-way or human life or health. The cost of the emergency action shall be fixed by the court and shall be assessed as provided in this chapter.

SECTION 14. Duties of the Fire Department.

The employees of the Fire Department may make a report in writing to the building official of all buildings or structures which are, may be, or are suspected to be "dangerous buildings." Such reports should be delivered to the building official within twenty-four (24) hours of the discovery of such buildings by an employee of the Fire Department.

SECTION 15. Duties of the Police Department.

All employees of the Police Department may make a report in writing to the building official of all buildings or structures which are, may be, or are suspected to be “dangerous buildings.” Such reports should be delivered to the building official within twenty-four (24) hours of the discovery of such buildings by an employee of the Police Department.

SECTION 16. Duties of the City Attorney.

The City Attorney is hereby authorized to:

- (1) Assist and direct the Appropriate Municipal Official to ensure compliance with the notice requirements of this Ordinance and other applicable state and federal law.
- (2) Prosecute all persons performing any act or acts deemed unlawful under Section 17 of this Ordinance.
- (3) Appear at all hearings before the Council authorized by this Ordinance.
- (4) Bring suit to collect all municipal liens, assessments, expenditures or costs incurred by the City in repairing, causing to be vacated, moved, or demolished any building, structure, part of building or structure, party wall, or foundation pursuant to this Ordinance.
- (5) Take such other legal action as is necessary to carry out the terms and provisions of this Ordinance, including, but not limited to, those actions contemplated by Section 18 of this Ordinance.

SECTION 17. Enforcement and penalties.

- (a) It shall be unlawful for any person, or for any agent, servant, or employee of such person, to fail to comply with an order or notice given pursuant to this Ordinance.
- (b) It shall be unlawful for any person, or for any agent, servant, or employee of such person, to fail or refuse to perform any duty imposed by this Ordinance.
- (c) It shall be unlawful for any person, or for any agent, servant, or employee of such person, to obstruct or interfere with an Appropriate Municipal Official in carrying out the purposes of this Ordinance.
- (d) It shall be unlawful for any person, or for any agent, servant, or employee of such person, to obstruct or interfere with a repair, removal, or demolition ordered pursuant to this Ordinance by remaining upon the premises or in such proximity to the premises and at such a time and location where the work cannot be accomplished without endangering the life, health, safety, or general welfare of himself or herself or another person.
- (e) It shall be unlawful for any person, or for any agent, servant, or employee of such person, to mutilate, destroy, tamper with, or remove a notice posted pursuant to Section 7(b)(3).
- (f) It shall be unlawful for any person, including an occupant or lessee in possession, to fail to comply with any notice to vacate pursuant to this Ordinance.

(g) It shall be unlawful for any person to enter, access, or be upon the premises that the Appropriate Municipal Official has ordered to be vacated and that is the subject of a notice pursuant to Section 7 or a declaration pursuant to Section 13 except for the purposes of demolishing the same, of moving the same, or of making the required repairs.

(h) It shall be unlawful for any person who has received a notice pursuant to Section 7 or a declaration pursuant to Section 13 to sell, transfer, mortgage, lease, encumber, or otherwise dispose of such building, structure, part of building or structure, party wall, or foundation that is the subject of notice to another until such person shall first provide the grantee, transferee, mortgagee, or lessee a true copy of the notice and shall provide to the City building official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee acknowledging the receipt of the notice and fully accepting the responsibility without condition for making the corrections or repairs required by such notice.

(i) A violation of this Section shall be punishable by a fine not to exceed the sum of five hundred (\$500) for each offense, and if a willful violation, by imprisonment, not to exceed six months, or both, at the discretion of the court trying the same. Each day shall constitute a separate offense.

(j) The penalties and remedies provided by this Ordinance shall not apply to the City or any official (elected or appointed), agent, officer, or employee of the City who is administering this Ordinance or otherwise performing its, his, or her official duties.

SECTION 18. Civil remedies.

The continued or recurrent performance of any act or acts deemed unlawful under Section 17 of this Ordinance is hereby declared to be detrimental to the health, safety, comfort and convenience of the public and is a nuisance. The City, as an additional or alternative remedy, may institute injunctive proceedings in a court of competent jurisdiction to abate the same or proceed as otherwise authorized under law to address nuisances.

SECTION 19. No effect on immunities.

This Ordinance is adopted only to provide a service for the public as a whole, and is not for the benefit of any individual person or entity. By the adoption of this Ordinance, the City and its agents, officers, and employees accept no duty for the benefit (intended or unintended) of any person, including but not limited to any owner, mortgagee, lien holder, landlord, tenant, occupant, roomer, invitee of any type, trespasser, or any of their agents, officers, or employees. Any duty alleged to arise under this Ordinance on the part of the City or any of its agents, officers, or employees for the benefit of any person is hereby expressly rejected. The City and its agents, officers, and employees hereby expressly reserve all applicable immunities existing under any doctrine, authority, or law (whether under the common law, statute, or otherwise), including but not limited to substantive immunity, qualified immunity, and discretionary function immunity. Save for the powers and remedies that this Ordinance gives to the City and to its agents, officers, and employees who are administering this Ordinance or otherwise performing its, his, or her official duties, this Ordinance does not create any private cause of action for the benefit of any person.

SECTION 20. Cumulative effect.

This Ordinance is cumulative in nature and is in addition to any power and authority that the City may have under any other law.

SECTION 21. REPEALER.

This Ordinance expressly repeals and replaces Ordinance 2005-31 in its entirety. All other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 22. EFFECT ON EXISTING PROSECUTIONS AND ACTIONS.

The adoption of this ordinance shall not in any manner affect any prosecution of any act illegally done contrary to the provisions of any ordinance now or heretofore in existence, and every such prosecution, whether begun before or after the enactment of this ordinance shall be governed by the law under which the offense was committed; nor shall a prosecution, or the right to prosecute, for the recovery of any penalty or the enforcement of any forfeiture or lien be in any manner affected by the adoption of this ordinance; nor shall any civil action or cause of action existing prior to or at the time of the adoption of this ordinance be affected in any manner by its adoption.

SECTION 23. INCORPORATION IN THE CODE OF ORDINANCES.

The provisions of this Ordinance shall be included in and incorporated in the Code of Ordinances of Daphne, Alabama, as an addition or amendment thereto, and shall be renumbered, if appropriate, to conform to the uniform numbering system of the Code.

SECTION 24. SEVERABILITY.

The provisions, sections, paragraphs, sentences, clauses, phrases, and parts thereof of this Ordinance are severable, and if any provision, section, paragraph, sentence, clause, phrase, or part thereof of this Ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, then such ruling shall not affect any other provision, section, paragraph, sentence, clause, phrase, or part thereof, since the same would have been enacted by the Council without the incorporation of any such unconstitutional or invalid provision, section, paragraph, sentence, clause, phrase, or part thereof.

SECTION 24. EFFECTIVE DATE.

This Ordinance shall become effective upon its adoption and publication as provided by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this the 17th day of June, 2024.




Robin LeJeune, Mayor

ATTEST:



Candace G. Antinarella, MMC, City Clerk