

# ORDINANCE 2020-167

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Bill English - Probate Judge

## AN ORDINANCE OF THE CITY OF SMITHS STATION, ALABAMA CONCERNING UNSAFE STRUCTURES AND DANGEROUS BUILDINGS.

**WHEREAS**, within the City of Smiths Station, Alabama ("the City"), there exists and/or may exist in the future parcels of real property that due to poor design, obsolescence, or neglect, have become unsafe to the extent of becoming public nuisances, and;

**WHEREAS**, much of this property is vacant or in a state of disrepair and is causing or may cause a blight or blighting influence on the City and the neighborhoods in which the property is located, and;

**WHEREAS**, such property constitutes a threat to the health, safety, and welfare to the citizens of the City and is an impediment to economic development within the City, and;

**WHEREAS**, in compliance with Sections 11-40-30 through 11-40-36, inclusive, of the *Code of Alabama* (1975) and in compliance with Sections 11-53B-1 through 11-53B-16, inclusive, of the *Code of Alabama* (1975), the Council of Smiths Station, Alabama ("the Council") desires to amend its policies and procedures for 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; and

**WHEREAS**, the Council desires that the City employ, alternatively, 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).

**THEREFORE, BE IT NOW ORDAINED** by the Council of Smiths Station, Alabama, as follows:

**Section 1. Establishment of Unsafe Structures and Dangerous Buildings Code.**

This Ordinance, as amended, shall be referenced as the City's "Unsafe Structures and Dangerous Buildings Code."

**Section 2. Duties of Appropriate Municipal Official.**

(a) The term "Appropriate Municipal Official" as used in this Ordinance shall mean the City building official, any City building inspections officer or deputy, the fire marshal, 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.

(b) 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.

(c) 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, structure, part of building or structure, party wall, or foundation 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 (33) percent, or more, of damage or deterioration of one (1) or more supporting members, or fifty (50) percent 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 work 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 fault 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, structure, part of building or structure, party wall, or foundation to their danger, becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building, structure, part of building or structure, party wall, or foundation 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, structure, part of building or structure, party wall, or foundation is abandoned so as to constitute such building, structure, part of building or structure, party wall, or foundation 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. Buildings defined.**

For purposes of this Ordinance, the term "building" is deemed to include all structures, appurtenances, improvements, and items on the property, whether or not attached to or apart of the main structure, including, but not limited to, houses, mobile or manufactured homes, trailers, garages, sheds, carports, other accessory structures, pools, as well as any items located therein or on the subject property, including, junk, rubbish, trash, litter, grass and weeds as defined by the City's grass and weed abatement ordinance, junked motor vehicles, and/or any other matter declared a nuisance under existing law.

**Section 5. Dangerous buildings constitute nuisances.**

All "dangerous buildings" are hereby declared to be public nuisances, and may be repaired, vacated, moved, or demolished as provided by this Ordinance.

**Section 6. Standards for repair, move, vacation, or demolition.**

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

- (1) If any building, structure, part of building or structure, party wall, or foundation 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, structure, part of building or structure, party wall, or foundation 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, structure, part of building or structure, party wall, or foundation 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, structure, part of building or structure, party wall, or foundation 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, structure, part of building or structure, party wall, or foundation is a fire hazard existing in violation of the terms of this Ordinance, it may be demolished.
- (4) If any building, structure, part of building or structure, party wall, or foundation 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 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, structure, part of building or structure, party wall, or foundation situated in the City is unsafe to the extent that it is a public nuisance, the Appropriate Municipal Official may, 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 a reasonable time set out in the notice, which time shall not be less than 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, which plan shall be submitted within forty-five (45) days of the making of the notice and shall be subject to the approval of the Council.
- (2) In the case where a move or demolition is required, move, or demolish the building, structure, part of building or structure, party wall, or foundation within a reasonable time set out in the notice, which time shall not be less than forty-five (45) days of the notice.

The notice shall state that, in the event the owner does not comply within the time specified therein, the repairs, the move, or the demolition shall be accomplished by the City and the cost thereof 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 notice shall inform the recipients that a public hearing as provided for by Section 8(a) shall be held on the finding of the Appropriate Municipal Official at a date, time, and location specified in the notice.

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 Lee 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 search of the records of the office of the Judge of Probate of Lee 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 search of the records of the office of the Judge of Probate of Lee 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 search of the records of the office of the Judge of Probate of Lee 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 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; and
- (3) By recording notice of the order, or a copy thereof, in the office of the Judge of Probate of Lee County, Alabama, on or before the date of mailing required by Subsection (b)(1) of this Section.

(c) In addition to the required notice provisions in Subsection (b) of this Section, the Appropriate Municipal Official may, in his sole discretion, publish a short form of the notice described in Subsection (a) of this Section in the *Opelika-Auburn News* or other publication of general circulation in Lee County, Alabama.

(d) In the event that the identity of the record property owner(s) cannot be ascertained after a reasonably diligent search, the Appropriate Municipal Official, in addition to complying with the applicable notice provisions in Subsection (b) of this Section, shall issue notice to the unknown property owner(s) by publishing a short form of the notice described in Subsection (a) of this Section in the *Opelika-Auburn News* or other publication of general circulation in Lee County, Alabama, once a week for four consecutive weeks.

(e) A failure by the Council to act on the findings of the Appropriate Municipal Official within one hundred twenty (120) days from the date of mailing required by Subsection (b)(1) of this Section shall constitute an abdication of the Appropriate Municipal Official's findings. However, this shall in no way 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. Furthermore, this does not require that the ordered demolition, move, or repairs take place within one hundred twenty (120) days from the date of mailing required by Subsection (b)(1) of this Section.

**Section 8. Hearings, appeals, and extensions.**

(a) After the time specified in the notice provided for by Section 7(a) but no less than fifty (50) days from the date the notice is given as provided for by Section 7(b)(1), whichever is later, if the owner of any property cited hereunder fails to comply with the notice prescribed, the Council shall hold a public hearing to receive any objections to the finding by the Appropriate Municipal Official that the building or structure is unsafe to the extent of becoming a public nuisance. A written request for a public hearing is not necessary. At the public hearing, the Council shall also receive any written objections to the finding by the Appropriate Municipal Official. Any such written objection must be submitted to the Clerk prior to the start of the Council meeting at which the public hearing is held. No action shall be taken on the finding of the Appropriate Municipal Official until determination thereon is made by the Council.

(b) Upon holding the hearing, the Council may determine whether or not the building or structure is unsafe to the extent that it is a public nuisance. If it is determined by the Council that the building or structure is unsafe to the extent that it is a public nuisance, the Council may take either of the following actions:

- (1) In the case where repair is required, order repair of the building at the expense of the City and assess the expenses of the repair on the land on which the building stands or to which it is attached.
- (2) In the case where a move or demolition is required, order moving or demolition of the building at the expense of the City and assess the expenses of the move or demolition on the land on which the building stands or to which it is attached.

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

(c) Any person aggrieved by the decision of the Council at the hearing may, within ten (10) days thereafter, appeal to the Circuit Court of Lee County, Alabama, upon filing with the Clerk of the Circuit Court of Lee County, Alabama, notice of the appeal and bond for security of costs in the form and amount to be approved by the Circuit Clerk. Upon filing of the notice of appeal and approval of the bond, the Circuit Clerk of the court shall serve a copy of the notice of appeal on the Clerk and the appeal shall be docketed in the Circuit Court and shall be a preferred case therein. The Clerk shall, upon receiving the notice, file with the Circuit Clerk a copy of the findings and determination of the Council in its proceedings. Any trials shall be held without jury upon the determination of the Council that the building or structure is unsafe to the extent that it is a public nuisance.

(d) After twenty (20) days of the decision of the Council, if a repair, move, or demolition is ordered by the Council and if an appeal has not been taken to the Circuit Court as provided for by Subsection

8(c), then the repair, move, or demolition may be accomplished by the City by the use of its own forces, or it may provide by contract for the repair or demolition. In the event that an appeal is taken to the Circuit Court as provided for by Subsection 8(c), once a judgment authorizing a repair, move, or demolition becomes final as provided by law, then the repair, the move, or the demolition may be accomplished by the City by the use of its own forces, or it may provide by contract for the repair, the move, or the demolition.

(e) A failure by the City to accomplish the repair, move, or demolition of a building, structure, part of building or structure, party wall, or foundation within one hundred eighty (180) 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 or allegedly pursuant to this Ordinance;
- (2) A court of competent jurisdiction has enjoined or otherwise halted the repair, move, 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, move, 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, move, 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 (f) of this Section.

(f) If for any reason an ordered repair, move, or demolition cannot be accomplished within one hundred eighty (180) 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, firm, or corporation 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 sixty (60) days after the expiration of the then existing deadline to complete the repair, move, or demolition. The Council may order repeated extensions if the process set forth in this Subsection is followed for each extension.

(g) 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.

(h) The City may sell or otherwise dispose of salvaged materials resulting from any demolition pursuant to this Ordinance.

**Section 9.      Fixing of costs as final assessment.**

(a) Upon repair, move, or demolition of the building or structure, the Appropriate Municipal Official shall make a report to the Council of the cost thereof by tendering a copy of the report to the Clerk.

The Clerk shall distribute a copy of the report to the members of the Council. The proceeds of any moneys received from the sale of salvaged materials from the building or structure shall be used or applied against the cost of demolition. The Clerk shall set the report of costs for a public hearing at a meeting of the Council.

(b) The Clerk shall give no less than ten (10) days' notice of the meeting at which the fixing of the costs 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.

(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 may adopt a resolution fixing the costs which it finds were reasonably incurred in the repair, the move, or the demolition and assessing the costs against the lot or lots, parcel or parcels of land upon which the building or structure was located ("the final assessment").

**Section 10. Tax lien for the final assessment of a move or demolition.**

(a) The final assessment for a 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 shall continue in force until paid. The Clerk shall file a certified copy of the resolution in the office of the Judge of Probate of Lee County, Alabama, and with the Lee County Revenue Commissioner's office. In the case of a final assessment resulting from a move or demolition accomplished pursuant to this Ordinance, upon filing, the Revenue Commissioner of the 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.

(b) The City may assess the final assessment of a move or demolition 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 the 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 11. Payment of assessments.**

(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).

**Section 12.      Emergency action.**

(a) The Appropriate Municipal Official is hereby authorized to initiate the immediate repair, move, or demolition of a building, structure, or portion thereof when in the opinion of the Appropriate Municipal Official 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. In the case of emergency action pursuant to this Subsection (a), the Appropriate Municipal Official may promptly cause such building, structure, or portion thereof to be made safe, secured, or removed. For this purpose, the Appropriate Municipal Official may at once enter such structure with such assistance and at such cost as the Appropriate Municipal Official may deem necessary. The Appropriate Municipal Official may vacate adjacent structures and protect the public by appropriate fence or such other means as may be necessary, and for this purpose, the Appropriate Municipal Official may close a public or private way.

(b) Alternatively, the Council is hereby authorized to, by resolution or motion reflected upon the minutes of its proceedings, order the immediate repair, move, or demolition of a building, structure, or portion thereof when in the opinion of the Council such emergency action is required due to imminent danger of any type endangering adjoining property, the public right of way, or human life or health. In the case of emergency action pursuant to this Subsection (b), the Council may promptly order and cause such building, structure, or portion thereof to be made safe, secured, or removed. The Council may vacate adjacent structures and protect the public by appropriate fence or such other means as may be necessary, and for this purpose, the Council may close a public or private way.

(c) To the extent that the circumstances allow without furthering the risk of harm or danger, prior to taking any action, the Appropriate Municipal Official or the Council as applicable shall attempt to give actual notice of the proposed action to those persons and/or entities identified in Section 7(b)(1) and seek to secure their cooperation.

(d) In the case of any action taken pursuant to this Section, the Appropriate Municipal Official shall prepare a declaration of the emergency that shall set forth in detail the reason or reasons for emergency repair, move, or demolition. The declaration shall identify the street address, the legal description, and the parcel identification number of the property where the building, structure, or portion thereof is located. The Appropriate Municipal Official shall serve, post, and file the declaration as soon as practicable as provided for the service of a notice in Section 7(b). The Appropriate Municipal Official shall also provide the declaration to the Council by tendering a copy of the report to the Clerk. The Clerk shall distribute a copy of the report to the members of the Council.

(e) The cost of the emergency action may be fixed by the Council and shall be assessed pursuant to this Ordinance in the same manner provided for non-emergency repairs, moves, or demolitions.

(f) In cases of emergency action pursuant to this Section, the decision of the Appropriate Municipal Official and/or the Council, as applicable, shall be final, and there shall be no right to appeal the decision of the Appropriate Municipal Official and/or the Council, as applicable, in the case of an emergency.

**Section 13.      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 14.      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

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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 15.**      **Duties of the City Attorney.**

The City Attorney is hereby authorized to:

- (1) Prosecute all persons performing any act or acts deemed unlawful under Section 16 of this Ordinance.
- (2) Appear at all hearings before the Council authorized by this Ordinance.
- (3) 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.
- (4) 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 17 of this Ordinance.

### **Section 16.**      **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, move, 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 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)(2) or Section 12(d).

(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 12 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 12 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 furnish the grantee, transferee, mortgagee, or lessee a true copy of the notice served pursuant to Section 7 or the declaration served pursuant to Section 12 and shall furnish to the City building official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee

acknowledging the receipt of the notice served pursuant to Section 7 or the declaration served pursuant to Section 12 and fully accepting the responsibility without condition for making the corrections or repairs required by such notice served pursuant to Section 7 or Section 12.

(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 17. Civil remedies.**

The continued or recurrent performance of any act or acts deemed unlawful under Section 16 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 18. 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 19. 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 20. 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 21. 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

## ORDINANCE 2020-167

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 22.      Effective Date.**

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

**Section 23.      Repealer Clause.**

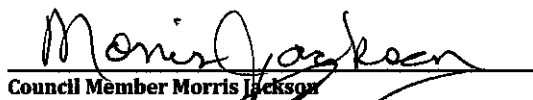
All resolutions or parts of resolutions, ordinances or parts of ordinances heretofore adopted by the City Council of the City of Smiths Station, Alabama that are inconsistent with the provisions of this resolution are hereby repealed.

**Now Therefore be it Further Ordained by the City Council of Smiths Station, Alabama, that this Ordinance becomes Effective Immediately upon Adoption and Approval pursuant to §11-45-8, Code of Alabama 1975, as amended.**

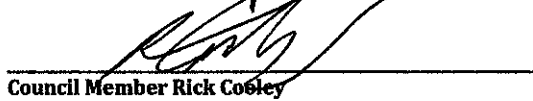
**ADOPTED AND APPROVED on this the 22<sup>nd</sup> Day of September 2020.**

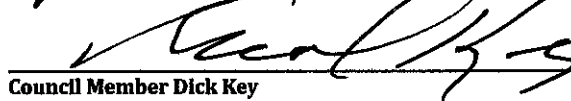
  
F.L. "Bubba" Copeland, Mayor

  
Council Member George Stringer

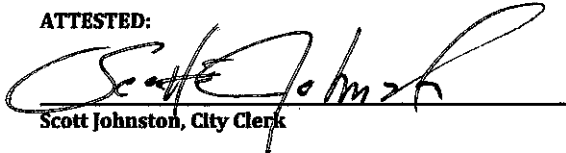
  
Council Member Morris Jackson

  
Council Member James Moody

  
Council Member Rick Cooley

  
Council Member Dick Key

ATTESTED:

  
Scott Johnston, City Clerk

SEAL:



**CITY OF SMITHS STATION**  
**P. O. BOX 250**  
**Smiths Station, Alabama 36877**

**ORDINANCE 2020-167**

2609 87  
DEEDS Book & Page  
Book/Pg: 2609/75  
Term/Cashier: SSPJDSK01 / JNB  
Tran: 23756.348661.465208  
Recorded: 09-23-2020 09:49:51  
REC Recording Fee  
Total Fees: \$ 44.00

44.00

**CERTIFICATION**

I, Scott E. Johnston, City Clerk of the City of Smiths Station, Alabama hereby certify the attached to be a true and correct copy of the ordinance adopted by the City Council of Smiths Station, Alabama at the regular meeting held on **September 22, 2020** as same appears in minutes of record of said meeting and published by posting copies thereof on **September 29, 2020** at the public places listed below, which copies remained posted for five business days, through **October 6, 2020**. The ordinance will remain posted for a minimum of thirty days.

City Hall  
Rainbow Foods  
U.S. Post Office  
Terry's Grocery

2336 Lee Road 430  
2461 Lee Road 430  
2720 Lee Road 430  
9309 Lee Road 246

Smiths Station, AL 36877  
Smiths Station, AL 36877  
Smiths Station, AL 36877  
Smiths Station, AL 36877

  
Scott E. Johnston, City Clerk

(SEAL)

