

ORDINANCE NO. # 4-83 2010-04

**AN ORDINANCE AMENDING ORDINANCE NUMBER 4-83  
AUTHORIZING THE CITY TO DECLARE CERTAIN BUILDINGS AND  
OTHER STRUCTURES AS HAZARDOUS AND DEMAND THEIR  
REPAIR OR DEMOLITION.**

**WHEREAS**, the City of Ames, Texas is a Type A General Law Municipality having the right to declare certain structures as hazardous; and

**WHEREAS**, the City Council of the City of Ames, Texas recognizes that hazardous buildings in the City should be made safe for the good of the public; and

**WHEREAS**, the City Council of the City of Ames, Texas shall have the right to declare all buildings and structures that are substandard or unfit for human habitation within the City as public nuisances; and

**WHEREAS**, the City Council of the City of Ames, Texas after finding that a building or structure is a public nuisance shall have the authority to require that the building or structure be either repaired, vacated and repaired, or demolished.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AMES THAT:**

**DIVISION 1. GENERALLY**

**SECTION 1: APPLICABILITY**

- a) *Declaration of nuisance.* All buildings or structures which are substandard or unfit for human habitation and a hazard to the public health, safety and welfare by reason of inadequate maintenance, neglect, decay, dilapidation, obsolescence, or abandonment as specified by any ordinance or code of the city, or any other provision of law, are, for the purpose of this article, declared to be a public nuisance, and shall be repaired, vacated and repaired, or demolished as provided herein.
- b) *Authority of building official in cases of emergency.* In cases of emergency which, in the opinion of the city building inspector, involve imminent danger to human life or health, the city building official shall have final authority to order such building vacated, made safe, or removed. He may at once enter such structure or land on which it stands, or abutting land or structures, with such assistance and at such cost as he may deem necessary. He may vacate adjacent structures and protect the public by appropriate fence or such other means as may be necessary, and for this purpose may close a public or private way. Such costs incurred shall be charged to the owner of the premises involved and shall be collected in the manner provided by law.

**SECTION 2: EFFECT ON EXISITING REGULATIONS**

The provisions of this article shall not be deemed to repeal by implication any provisions of the fire prevention code, the building code, or any other ordinance or code of the city, and the adoption hereof shall not be deemed to affect or diminish the power or authority of any officer or employee of the city to condemn any building or structure erected or maintained in violation of any provision of the fire prevention ordinances, the building code, or any other code or ordinance of the city.

### SECTION 3: SUBSTANDARD CONDITIONS

For the purpose of this article, any building or structure which has any or all of the following conditions or defects shall be deemed a substandard and dangerous building and be below the minimum standards for continued use and occupancy;

- 1) *Inadequate sanitation.* Inadequate sanitation shall include but not be limited to the following, and as defined in specifications or standards in any ordinance or this Code:
  - a) Lack of, or improper, water closet, lavatory, bathtub or shower.
  - b) Lack of, or improper, kitchen sink.
  - c) Lack of hot and cold running water to plumbing fixtures.
  - d) Lack of adequate heating facilities.
  - e) Lack, or improper operation, of required ventilating equipment.
  - f) Lack of minimum amounts of natural light and ventilation.
  - g) Room and space dimensions less than minimum requirements.
  - h) Lack of required electrical lighting.
  - i) Dampness of habitable rooms.
  - j) Infestation of insects, vermin or rodents as determined by the health officer.
  - k) General dilapidation or improper maintenance.
  - l) Lack of connection to required sewage disposal system.
  - m) Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.
- 2) *Structural hazards.* Structural hazards shall include but not be limited to the following:
  - a) Deteriorated or inadequate foundations.
  - b) Defective or deteriorated flooring or floor supports.
  - c) Flooring or floor supports of insufficient size to carry imposed loads with safety.
  - d) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defect or deterioration.
  - e) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
  - f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split or buckle due to defective material or deterioration.
  - g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
  - h) Fireplaces or chimneys which list, bulge or settle, due to defective material or deterioration.
  - i) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.



- 3) *Nuisances.* Nuisances shall include any nuisance as defined in this Code.
- 4) *Hazardous wiring.* Hazardous wiring shall include all wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.
- 5) *Hazardous plumbing.* Hazardous plumbing shall include all plumbing except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross-connections and siphonage between fixtures and is being used in a safe manner.
- 6) *Hazardous mechanical equipment.* Hazardous mechanical equipment shall include all mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition and is being used in a safe manner.
- 7) *Faulty weather protection.* Faulty weather protection shall include but not be limited to deteriorated, crumbling or loose plaster or deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors; also, defective, or lack of, weather protection for exterior wall covering, including lack of paint, or weathering due to lack of paint or other approved protective covering, and broken, rotten, split or buckled exterior wall covering or roof coverings.
- 8) *Fire Hazard.* Fire hazard shall include any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the fire chief or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
- 9) *Faulty materials of construction.* Faulty materials of construction shall include all materials of construction except those which are specifically allowed or approved by this code and the building code, and which have been adequately maintained in good and safe condition.
- 10) *Hazardous or unsanitary premises.* Hazardous or unsanitary premises shall include those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health or safety hazards.
- 11) *Inadequate maintenance.* Inadequate maintenance shall include any building or portion thereof which is determined to be an unsafe building.
- 12) *Inadequate exits.* Inadequate exits shall include all buildings or portions thereof not provided with adequate exit facilities as required by this Code, except those building or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy. When an unsafe condition exists through lack of or improper location of exits, additional exits may be required to be installed.
- 13) *Inadequate fire protection or firefighting equipment.* Inadequate fire protection of firefighting equipment shall include all buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increases in occupant load, alteration or addition, or any change in occupancy.
- 14) *Improper occupancy.* Improper occupancy shall include all buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or



intended to be used for such occupancies.

## **DIVISION 2. ENFORCEMENT**

### **SECTION 4: NOTICE TO OWNER.**

- a) *Finding by building official.* If the city building official finds that any building or structure, or portion thereof, is unsafe, substandard, dangerous, or a hazard, he shall prepare a notice in writing stating in detail the conditions which he finds render the building or structure, or portion thereof, a nuisance, as defined in this article, and setting a hearing to determine if the building complies with the standards set out in this article or if the structure should be ordered repaired, vacated and repaired, or demolished within sixty (60) days from the date of the personal service or mailing of the notice to the owner of the building. The building official may, when it is determined that additional time will be necessary to complete the work ordered, extend such time for an additional thirty-day period upon the application of the owner or person charged with the duty of complying with such order.
- b) *Identification of structure.* The notice provided for above shall set forth the street address and a legal description sufficient for identification of the building or structure and the premises upon which the building or structure is located.
- c) *Persons to be served copies.* The building official shall cause copies of the notice provided for herein to be served upon each of the following:
  - 1) The person, if any, in real or apparent charge and control of the premises involved.
  - 2) The owner of record title.
  - 3) The holder of any mortgage, trust deed, or other lien or encumbrance of record.
  - 4) The owner or holder of any lease of record.
  - 5) The record holder of any other estate or interest in or to the building or structure or the land upon which it is located.
- d) *Service.* The notice provided for herein shall be served personally upon any person entitled thereto if he can be found within the city limits. If any person entitled thereto is not found within the city limits, service shall be made by depositing a copy of such notice in the United States Post Office, properly enclosed in a sealed envelope, and with the postage thereon fully prepaid. Such mail shall be registered or certified, return receipt requested, and addressed to the person entitled thereto at the address of such person as it appears on the last property tax roll of Liberty County or as known to the building official. If no such address so appears or is known to the building official, a copy of the notice shall be addressed to such person at the address of the building or structure involved. Service by registered or certified mail shall be complete on the day of mailing. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken under this section.
- e) *Posting.* One (1) copy of the notice provided for herein shall be conspicuously posted on the building or structure involved.
- f) *Record of service.* Upon giving notice as provided herein, the building official shall file with the city secretary an affidavit thereof certifying to the time and manner in which such notice was given and posted to be maintained in the official city records. He shall also file therewith any receipt card which may have been returned to him in acknowledgment of the receipt of such notice by registered or certified mail.

### **SECTION 5: RIGHT TO HEARING; DETERMINATION BY CITY COUNCIL.**



- a) *Opposition to order of building official.* Any person potentially aggrieved by the proposed order to repair, vacate and repair, or demolish any building or structure, or portion thereof, may appear to oppose such order before the city council. The building official shall notify by personal service or mailing of the notice or order proposing to repair, vacate and repair, or demolish, which is being opposed. The building official shall set the matter for hearing before the city council twenty (20) days after the date the notice is mailed or the next regularly scheduled council meeting. Notice of the date, hour, and place of the hearing shall be posted and served at least ten (10) days before the date set for the hearing in the manner and upon the persons specified in subsection 4(c). The notice shall order all interested parties who desire to be heard to appear and show cause, if any, why the building or structure, or portion thereof, involved in the proceedings should not be repaired, vacated and repaired, or demolished.
- b) *Failure to appear.* Failure of any person or his agent or attorney to appear in opposition of the proposed order in accordance with the provisions of this Code shall constitute a waiver of his right to oppose the notice and the order, or any portion thereof.
- c) *Hearing.* At the time stated in the notice, the city council shall hold a hearing and hear and consider any relevant evidence offered by the building official, as well as the owner, occupant, or person in charge and control, mortgagee or beneficiary under any deed of trust, trust, lessee, or any other person having any estate or interest in the building or structure, pertaining to the matters set forth in the notice to repair, vacate and repair, or demolish.
- d) *Request for additional information.* Whenever in the course of any proceedings taken hereunder the city council shall have cause to request additional information, the same may be requested of the fire department, the building official, the health officer, or any other agencies charged by law with enforcement of health or safety requirements of local or state law.
- e) *Decision by city council.* Within thirty (30) days after the conclusion of the hearing, the city council shall make written findings of fact as to whether or not the building or structure or portion thereof is unsafe and a public nuisance, and shall render its decision, either closing the proceedings, or if it finds that the building or structure, or portion thereof, is unsafe, and a nuisance, ordering that it be repaired, vacated and repaired, or demolished. All decisions and findings of the city council shall be made in writing to the building official, with a duplicate copy of such decisions and findings being sent to the appellant.
- f) *Order to repair, demolish, etc.* If, from a full and fair consideration of the evidence and testimony received at the hearing, the city council shall determine that the building or structure, or any portion thereof, is unsafe and a public nuisance, then it shall issue an order, certified by the city secretary:
  - 1) That the building or structure must be repaired, vacated and repaired, or demolished.
  - 2) That the occupant, lessee, or other person in possession must vacate the building or structure, or, that he may remain in possession while repairs are being made.
  - 3) That any mortgagee, beneficiary under a deed of trust, or any other person having an interest or estate in the building or structure may, at his own risk, repair, vacate and repair, or demolish it.
- g) *Standards for determination.* The following standards, where applicable, shall be followed in substance by the city council in ordering the repair, vacation, or demolition of any building or structure. Any order to demolish rendered pursuant to this section shall not indicate an alternative permission to repair; however, an order to repair may be satisfied by demolition.



- 1) If the unsafe building can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.
  - 2) If the unsafe building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
  - 3) If the unsafe building is fifty (50) percent damaged, decayed, or deteriorated, it shall be demolished.
  - 4) In all cases where an unsafe building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be vacated and demolished.
  - 5) In cases where an unsafe building is a fire hazard, existing or erected in violation of the terms of this article or any other ordinance or code of this city, or statute of the state, it shall be repaired, except where the cost of such repairs would exceed fifty (50) percent of the value of such unsafe building, in which case it shall be demolished.
- h) *Contents of order.* The order of the city council shall:
- 1) Set forth the information required in subsection 4(b).
  - 2) Contain a statement of the particulars which render the building or structure unsafe and a public nuisance.
  - 3) Contain a statement of the things required to be done.
  - 4) Specify the time within which the work required must be commenced, which shall not be less than ten (10) days after the issuance of the order.
  - 5) Specify a reasonable time within which the work shall be completed.

#### SECTION 6: FAILURE TO COMPLY WITH ORDER – DECLARED MISDEMEANOR.

- a) The owner or other person having charge and control over any building or structure determined by the building official and the city council to be unsafe and a public nuisance who shall fail to comply with any order to repair, vacate and repair, or demolish such building or structure, or any portion thereof, shall be guilty of a misdemeanor.
- b) The occupant or lessee in possession who fails to comply with any order to vacate any building or structure, or any portion thereof, in accordance with any order given as provided for, shall be guilty of a misdemeanor.

#### SECTION 7: SAME – ACTION BY CITY.

The following is the action to be taken by the city in the event of failure to comply with any order given:

- 1) *Notice to vacate; demolition of structure.* Whenever an order to repair, vacate and repair, or demolish any building or structure or any portion thereof, has not been complied with within the time set by the building official or, upon appeal, by the city council, the building official or the city council shall have the power, in addition to any other remedy herein provided, to:
  - a) Cause the building or structure ordered to be repaired to be vacated until such time as the necessary repairs have been made. No person shall thereafter occupy or permit to be occupied any such building until and unless the necessary repairs have been made and the building official has approved same and issued a permit to reoccupy such building or structure.
  - b) Cause the building or structure to be demolished and the land restored to a reasonably clear and level condition, including the filling of any excavation to the finished grade of



the surrounding area. The demolition of any building or structure and the sale of the materials thereof shall be by a contract award following advertisement for bids, to the best bidder. The city secretary may sell or cause to be sold any such building or structure singly or otherwise. Any proceeds from the sale of any building or structure, or groups of buildings or structures, over and above the cost of demolition and of cleaning the site, shall be retained to be distributed to the parties or persons lawfully entitled thereto.

- 2) Upon completion of the demolition of any building or structure, or any portion thereof, under this section, the city secretary shall cause to be prepared and filed with the city council a report specifying:
  - a) The work done.
  - b) The cost of the work and incidental expenses.
  - c) A description of the real property upon which the building or structure was located.
  - d) The names and addresses of the persons entitled to notice pursuant to subsection 4(c).
  - e) The assessment against each lot or parcel of land proposed to be levied to pay the cost thereof.

Any such report may include demolition work on any number of buildings or structures on any number of parcels of property, whether contiguous to each other or not. The term "incidental expenses" shall include, but not be limited to, the expenses and costs of the city in the preparation of notices, specifications and contracts, inspection of the work, and the costs of printing and mailing required hereunder.

- 3) *Hearing on report and assessments.* Upon filing of the report of the city secretary, as provided previously, the city council shall, by resolution, fix the day, hour, and place when it will hear and pass upon the report, together with any objections or protests which may be raised by any property owner liable to be assessed for the cost of such demolition, and any other interested persons. At least ten (10) days before the date set for the hearing, the city secretary shall cause copies of his report and notice of the filing of his report and of the day, hour, and place when the city council will hear and pass upon the report, and any objections or protests thereto, to be posted and served in the manner and upon the persons specified in section 4. A copy of the notice shall be published once at least ten (10) days prior to the date set for the hearing in the official newspaper of the city.

Any person interested in and affected by the proposed assessment may file written protests or objections with the city council at any time prior to the hour set for the hearing on the report of the city secretary. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. Upon the day and hour fixed for the hearing, the city council shall hear and pass upon the report of the city secretary, together with any objections or protests which may be raised by any of the property owners liable to be assessed for the cost of the demolition, and other interested persons. The city council may make such revisions, corrections, or modifications in the reports it may deem just, and the report as submitted or as revised, corrected and modified, together with the assessment, shall be confirmed by resolution. The decision of the city council on the report and assessment and all protests or objections shall be final and conclusive. The city council may adjourn the hearings from time to time.

- 4) *Time limit to contest assessments.* The validity of any assessment levied under the



provisions of this section shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is confirmed.

- 5) *Costs to constitute lien.* The amount of the cost of abating such nuisance upon the various lots or parcels of land, including incidental expenses, as confirmed by the city council, shall constitute special assessments against the respective lots or parcels of land, and as thus made and confirmed shall constitute a lien on such property for the amount of such assessments, respectively, until paid. Such lien shall, for all purposes, take priority over all other liens except tax liens or paving assessment liens.

Within a reasonable length of time after the special assessment liens are created by action of the city council under this section, the city secretary shall cause a certified copy of such special assessment lien to be filed with the county clerk in the deed records of the county. Such special assessment liens shall bear interest at the rate of eight (8) percent per annum from the date of filing of the same with the county clerk and such lien shall be collected in the same manner as other assessment liens are collected under the laws of the state.

#### SECTION 8: REMOVING NOTICE POSTED ON PROPERTY.

Any person who removes any notice or order posted as required in this article shall be guilty of a misdemeanor.

#### SECTION 9: OBSTRUCTION OF WORK.

It shall be unlawful for any person to obstruct, impede, or interfere with any officer, agent, or employee of the city or with any person who owns or holds any estate or interest in any building or structure, or any portion thereof, which has been ordered to be repaired, vacated and repaired, or demolished, or with any person to whom such building or structure has been lawfully sold pursuant to the provisions of this article, whenever any such officer, agent, employee, purchaser, or person having an interest or estate in such building or structure is engaged in repairing, vacating and repairing, or demolishing any such building or structure pursuant to the provisions of this article, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant thereto.

#### SECTION 10: LIABILITY FOR DAMAGE.

No officer, agent, or employee of the city shall be personally liable for damage incurred or alleged to be incurred as a result of any act required, permitted, or authorized to be done or performed in the discharge of his duties pursuant to this article. Any suit brought against any officer, agent, or employee of the city as a result of any act required, permitted or authorized in the discharge of his duties under this article shall be deemed an action against the city and shall be defended by the city attorney.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Ames, Liberty County, Texas, this Ordinance shall become effective upon signature by the Mayor, or, if not signed or vetoed by the Mayor, upon expiration of the time for ordinances to become law without the signature by the Mayor.

**BE IT FURTHER ORDAINED** that if any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this ordinance are hereby declared severable.

**BE IT FURTHER ORDAINED** that all ordinances or parts of ordinances in conflict herewith are hereby repealed.



The above and foregoing ordinance shall be in full force and effect from and after its adoption, approval and publication, as provided by law.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Ames, this the 11<sup>th</sup> day of October, 2010.

Mayor John White

John White, Mayor

**ATTEST:**

Lilly Bernard  
Lilly Bernard, City Secretary



This document was approved by the Ames Council at a meeting open to the public on Oct 11, 2010 by votes of 3 in favor and zero 0 opposed. The motion to approve the document was made by Council Member

Emile Fontenot Jr and was second by Council Member Louise Donatto. The motion was made carried and was passed.

**ORDINANCE #4-83 AMEND 2010-04**

City Council Members voting on the above mentioned motion were:

Absent  
Jackie P. Miller-Glenn

Janet Scott-Carrier  
Janet Scott-Carrier

Absent  
~~Dwight N. Webb~~  
Dwight N. Webb

Emile Fontenot, Jr.  
Emile Fontenot, Jr. Mayor Pro-Tempore

Louise Donatto  
Louise Donatto

Mayor John White  
Mayor John White

ATTEST

Lillie Bernard  
Lillie Bernard City Secretary