

Council Member Mike Sherwood introduced the following Ordinance:

ORDINANCE NO: 06-007

AN ORDINANCE TO CREATE THE ALABASTER MUNICIPAL HOUSING CODE ABATEMENT BOARD, IN ORDER TO PROTECT THE HEALTH, SAFETY, MORALS, WELFARE, WELL-BEING AND COMFORT OF ALABASTER RESIDENTS AND THE PUBLIC AT LARGE

WHEREAS, in the City of Alabaster there exists buildings and structures which are dilapidated, unsafe, dangerous, unsanitary, and used for illegal purposes and are a menace to the health, safety, and welfare of the people of Alabaster, and which are a public nuisance:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALABASTER, ALABAMA:

Section 1. Pursuant to Article 1 of Chapter 53 of Title 11 of the Code of Alabama, 1975, Sections 11-52A-1 et seq, and pursuant to the police power granted in said Sections the City of Alabaster hereby elects to have this article apply to the City of Alabaster for the purpose of moving or demolishing buildings or structures, or parts of buildings or structures, partial walls, or foundations when found by the Alabaster Housing Code Abatement Board and by the City Council to be unsafe to the extent of creating a public nuisance from any cause.

Section 2. The Alabaster Housing Code Abatement Board shall be established by each Council Member designating and appointing one member from his or her District to serve on the Board for the term of the municipal appointing authority for two consecutive terms in the office and two additional members shall be appointed by the Mayor, one of whom will be an engineer or architect. Two additional members shall serve on the Board for four years. The Board shall perform the duties delegated by this Article.

Section 3. For the purpose of this Ordinance, an unsafe building shall include a building falling within any of the following classes of buildings :

- (a) Buildings structurally unsafe, unsuitable, or unsanitary;
 - (b) Buildings inadequately provided with exit facilities;
 - (c) Buildings constituting a fire hazard because of defective or inadequate wiring, or otherwise;
 - (d) Buildings unsuitable or improper for the use or occupation to which they are put;
 - (e) Buildings constituting a hazard to the health or safety because of inadequate maintenance, dilapidation, obsolescence, abandonment
- or otherwise dangerous, offensive or unwholesome.

Section 4. The Building Inspector for the City of Alabaster shall examine any building or structure reported to be an unsafe building and if found to be unsafe, in his opinion, he shall in writing report such finding to the Board, giving the location and description of said building and the name of the person or persons or legal entity to whom the property was last assessed for state ad valorem taxes and the tenant or tenants of said building.

Section 5. Upon the Board's independent inquiry or upon such report being made to the Board by the Building Inspector, the Board shall proceed to make a determination as to whether the building or structure is in fact an unsafe building or structure. Whenever the Board finds that any building, structure, part of a building or structure, part of a wall, or foundation situated in its jurisdiction is unsafe to the extent that it creates a public nuisance from any cause, it shall give notice to the person or persons, firm, association,

or corporation last assessed for state ad valorem taxes by personally serving a copy of the notice to remedy the unsafe or dangerous condition of the building or structure, within a reasonable time set out in the notice to the person or legal entity to whom the property was assessed for ad valorem taxes, not more than sixty (60) days, following the notice. If the unsafe condition is not remedied within (60) days, the building or structure shall be demolished and removed by the City and the costs shall be assessed against the property. In the event that the personal service is returned "Not Found" after not less than two attempts, the notice may be given by registered or certified mail. The mailing of the notice by registered mail, properly addressed and postage prepaid to the address where the notice for ad valorem taxes for the last year was mailed, shall constitute notice as required by this Ordinance and the law. Prior to the delivery or mailing, the notice or a copy of the notice shall also be posted 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 upon the building or structure.

Section 6(a). Within the time specified in the notice, but not more than (60) days from the date notice is given, any person, firm or corporation having an interest in the building or structure may file a written request for a hearing before the City Council, together with any objection to the finding by the Board that the building or structure is unsafe to the extent of creating a public nuisance. The filing of the request shall delay any action on the finding of the Board until a determination is made. A hearing shall be held not less than ten (10) days nor more than (60) days after the request. At the hearing, or in the event no hearing is timely requested, after the expiration of sixty (60) days from the date the notice is given, the City Council shall determine whether or not the building or structure is unsafe to the extent that it creates a public nuisance. Notice of the meeting, of the City Council, and that a determination will be made at the meeting, shall be published one time in a newspaper of general circulation in the City, not less than ten (10) days prior thereto. If a building or structure is determined to be unsafe to the extent that it creates a public nuisance, the City Council shall order the building or structure to be demolished and removed within thirty (30) days following the determination. The City may perform, or contract for the performance of the demolition and removal of the building or structure, and may sell or otherwise dispose of salvaged materials resulting from the demolition and removal.

Section 6(b). Any person aggrieved by the decision of the City Council at the hearing may, within thirty (30) days thereafter, appeal to the circuit court upon filing with the clerk of the court notice of the appeal and bond for security of costs in the form and amount approved by the circuit clerk. Upon filing the notice and bond, the clerk shall serve a copy of the notice of appeal on the City Clerk. The appeal shall be docketed in the court as a preferred case. The City Clerk shall, upon receiving the notice, file with the circuit clerk a copy of the findings and determination of the City Council. A trial shall then be held without a jury upon the determination of the City Council.

Section 7. Upon demolition and removal of a building or structure, the Board shall make a report to the City Council of the cost. The City Council shall adopt a Resolution fixing the costs which it finds were reasonably incurred in the demolition and removal and assess the costs against the property. The proceeds of any monies received from the sale of salvaged materials from the building or structure shall be used or applied against the cost of demolition and removal. Any person, firm, or corporation having an interest in the property may be heard at the meeting concerning any objection he or she may have to the fixing of the costs. The City Clerk shall give not less than fifteen (15) days notice of the meeting at which the fixing of the costs are to be considered by publication in a newspaper of general circulation in the city. The fixing of costs by the City Council shall constitute a special assessment against the lot or lots, parcel, or parcels, of land upon which the building or structure was located, and shall constitute a lien on the property or the amount of the assessment. The lien shall be superior to all other liens on the property except prior recorded mortgages and other prior recorded security interests and liens for taxes, and shall continue in force until paid. The City Clerk shall mail a certified copy of the Resolution by registered or certified mail to the person last assessed for ad valorem taxes, and a certified copy of the Resolution shall be published in the manner and as prescribed for the publication of municipal Ordinances. A certified copy of the Resolution shall also be filed in the office of the Judge of Probate in Shelby County.

Section 8(a) The City shall have the power to assess the costs authorized herein against any lot,

lots, parcel, or parcels of land purchased by the State of Alabama at any sale for non payment of taxes. A subsequent redemption of the property subject any person authorized to redeem, or a subsequent sale of the property by the State, shall not operate to discharge, or in any manner affect the lien of the City for the assessment. Any redemptioner or purchaser shall take the property subject to the assessment.

Section 8(b) Payment of the assessment, or if delinquent, the collection of the assessment, shall be made in the same manner as is provided for the payment and delinquent collection of municipal improvement assessments pursuant to Article 1 (commencing with Section 11-48-1) of Chapter 2 of Title 11.

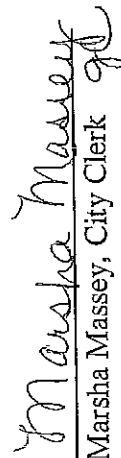
Section 9. In the event any section or provision of this Ordinance should be found to be invalid or unconstitutional by any Court of competent jurisdiction such holding shall in no wise affect the remaining sections and provisions of this Ordinance.


Section 10. All Ordinances or parts of Ordinances heretofore adopted in conflict with any of the provisions of this Ordinance shall be and they are hereby expressly repealed.

Section 11. This Ordinance shall become effective upon its adoption by the City Council and posted or otherwise as required by law.

ADOPTED AND APPROVED this 5th day of June, 2006.

ATTEST:


Marsha Massey, City Clerk


Rick Walters, Council President

APPROVED:


David M. Frings, Mayor