

TOWN OF MAGNOLIA SPRINGS

ORDINANCE NO. 2007-14

AN ORDINANCE DEFINING REAL PROPERTY NUISANCES AND UNSAFE BUILDINGS, ESTABLISHING A PROCEDURE FOR THE ABATEMENT OF SAID NUISANCES AND UNSAFE BUILDINGS, AND PROVIDING PENALTIES FOR VIOLATIONS OF ITS PROVISIONS.

BE IT ORDAINED by the Town Council of the Town of Magnolia Springs, Alabama, as follows:

Section 1. Whereas the Town Council has received numerous complaints about the neglect of real estate properties constituting a nuisance, and the Town Council has determined that the public interest requires that this nuisance be controlled.

Section 2. Definition.

For the purposes of this Ordinance, the term "nuisance" shall mean any lot or tract of land in the Town of Magnolia Springs, Alabama that is unlawfully unsightly or dangerous, producing material annoyance, inconvenience, discomfort, or hurt to anyone in the general public, so as to interfere with the comfortable enjoyment of life and/or property.

Section 3. Real Property Nuisance Unlawful

It shall be unlawful for any property owner, agent, occupant, or lessee in the Town of Magnolia Springs, Alabama to permit or maintain the existence of a real property nuisance.

Section 4. Town Building Inspector to Enforce Ordinance

Members of the general public may register complaints with the Building Inspector of the Town of Magnolia Springs, Alabama, or a representative designated by Resolution of the Town Council, who are hereby authorized to abate any such nuisance found to exist in the Town of Magnolia Springs, Alabama.

Section 5. Notice to Abate Nuisance

- (a) Whenever in the opinion of the Building Inspector or other representative designated by Resolution of the Town Council, a real property nuisance exists as defined in this Ordinance or other applicable law or Ordinance, he/she shall order the owner, agent, occupant, or lessee of the property on which the nuisance is located, to abate the same. Abatement shall mean full and complete removal of any nuisance declared under Section 2 of this Ordinance, or under Sections of other applicable law or Ordinances.
- (b) The Building Inspector or designated representative shall give written Notice to the owner, agent, occupant, or lessee, of the existence of the nuisance, shall describe the particulars which make it a nuisance, shall order the manner in which it shall be abated, and shall state the time within which the nuisance must be abated. Unless otherwise provided, a period of fourteen (14) days shall be deemed an adequate time in which to abate the nuisance.
- (c) Said Notice shall be sent by Certified Mail to that person shown by the records of the Tax Assessment of Baldwin County, Alabama, to have been the person last assessed for payment of State, County, and Town Ad Valorem Tax on the property where the nuisance is situated.
- (d) Said Notice shall also be posted in a conspicuous place on the property.
- (e) Where service of said Notice by certified mail has been attempted but the return receipt shows a failure of service, the Notice shall be posted in three (3) public places.
- (f) The Notice shall state that if the nuisance is not abated within the stated time, the Building Inspector, or designated representative, may institute legal proceedings against the owner, agent, occupant, or lessee for violation of this Ordinance.

Section 6. Appeals from Notice to Abate

Any person receiving Notice of a nuisance and an Order to abate the same from the Building Inspector or designated representative, may appeal the Order to the Town Council of the Town of Magnolia Springs, Alabama by written Notice filed with the Town Clerk within seven (7) days of the date of such Notice. No appeal filed later than seven (7) days after the Notice shall be considered, unless the Building Inspector or designated representative consents.

Section 7. Failure to Comply With Notice to Abate

- (a) In case the owner agent, occupant or lessee shall fail, neglect or refuse to comply with the

Notice to abate the nuisance, the Building inspector, or designated representative, may proceed to prosecute said person for violation of the provisions of this ordinance or other applicable laws and ordinances.

- (b) In case the owner, agent, occupant or lessee shall fail, neglect or refuse to comply with the notice to abate the nuisance, the Building inspector or designated representative, shall notify the Town Council of such fact. The Town Council shall make the matter an order of business at a public hearing before authorizing the abatement of the nuisance by the Building inspector or designated representative, and also before levying an assessment on the property.
- (c) Notice of the public hearing to determine whether the Town Council should order the Building inspector or designated representative to abate the nuisance shall be given by causing a Notice of such hearing to be sent by certified mail at least ten (10) days before the date of such hearing, or Notice being served personally upon the owner, agent, occupant or lessee. Where service of said Notice has been attempted by certified mail and the return receipt shows a failure of service, or an attempt at personal service has been unsuccessful, then the Notice shall be published by posting in three (3) public places.
- (d) After the public hearing, the Town Council may by resolution, order the Building Inspector or designated representative to proceed with the work specified in such Notice in order to abate the nuisance. If the owner, agent, occupant or lessee of the property shall appear at the public hearing, no further Notice of the order of the Town Council shall be required. If the owner, agent, occupant or lessee fails to appear, Notice of the order of the Town Council shall be mailed to his last known address.
- (e) Upon the expiration of ten (10) days from the date of mailing the order under subsection (D), or ten (10) days from the date of the order if Notice by mailing is not required, the Building Inspector or designated representative or agent, shall proceed to carry out the order of the Town Council.

Section 8. Appeal of Decision of Town Council

The owner, agent, occupant or lessee may appeal the decision of the Town Council in any court of competent jurisdiction.

Section 9. Assessment of Costs

- (a) Upon completion of the work ordered by the Town Council, the Building Inspector or designated representative, shall compute the actual expense, including, but not limited to legal expenses, total wages paid, value of the use of equipment, advertising expenses, postage, materials purchased, which were incurred by the Town of Magnolia Springs, Alabama as a result of such work, An itemized statement of such expenses shall be mailed to the last known address of the owner, agent, occupant or lessee of the property.
- (b) In the event the owner, agent, occupant or lessee shall fail or refuse for a period of twenty-eight (28) days to payoff and discharge the expenses, the Building Inspector or designated representative shall report such failure to the Town Council at the next regular meeting following the expiration of that period.
- (c) The Town Council may cause the actual expense of such work to be levied as a special assessment against the property. The owner, agent, occupant or lessee may appear at the next Town Council meeting held after receiving the statement of expenses to show cause why such assessment shall not be levied. After the meeting, the Town Council may, by resolution, assess all or part of such expense against the property.
- (d) Any assessment against property under this section shall not be final until seven (7) days after adoption by the Town Council. Once the assessment has become final, the Town Clerk shall have such resolution recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

Section 10. Collection of Assessment: Remedy of Town

- (a) In the event the owner, agent, occupant or lessee shall fail or refuse to discharge the assessment after a period of twenty-eight (28) days from the date the assessment was made final, the Town may commence an action in any court of competent jurisdiction to recover said expenses.
- (b) In addition to remedies otherwise provided for herein the Building Inspector or designated representative may cause an action to be instituted to enjoin or abate any nuisance.

Section 11. Continuing Offenses

In all cases, the person whose duty it is to abate any nuisance shall be liable for separate and distinct offenses for each day the nuisance is allowed to remain after it has become his duty by Notice of the

Building inspector or designated representative to abate it.

Section 12. Owner Notification

If the violator of any section of any provision of this Ordinance is anyone other than the owner, all Notices required to be provided to such violators shall also be provided to the owner.

Section 13. Penalty for Violations

In addition to or in substitution of any section or provision of this ordinance, any violation of any section or provision of this ordinance is a misdemeanor offense and the violator may be charged with such and punished by a fine of not more than Five Hundred (\$500.00) Dollars.

Section 14. Construction

This Ordinance shall be construed to contain all power granted to municipalities under Sections 11-40-10, 11-47-117, 11-47-131, 11-47-140 and Title 11 Chapter 53, Code of Alabama, 1975, providing for controlling unsafe buildings, nuisances, sanitation and good public health and safety conditions.

Section 15. Cumulative

This Ordinance is cumulative.

Section 16. Separability

It is the intention of the Town Council that each separate provision of this Ordinance shall be deemed independent of all other provisions herein, and it is the further intention of the Town Council that if any provision of this Ordinance be declared invalid or unconstitutional, all other provisions shall remain valid and enforceable.

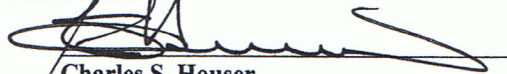
Section 17. Publishing and Effective Date

The Town Clerk shall cause this Ordinance to be immediately published by posting copies thereof in three (3) public places within the Town, one of which shall be in the Office of the Mayor, and two (2) other public places, and after such posting, which posting and publication is in accordance with the provisions of Section 11-45-8, Code of Alabama, (1975), this Ordinance shall take effect.

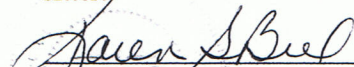
Section 18.

This Ordinance shall become effective upon its adoption and publication.

Adopted and approved this, the 25th day of September, 2007.

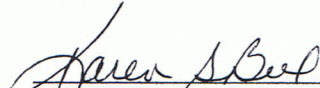

Charles S. Houser
Mayor

Attest:



Karen S. Biel
Town Clerk

TOWN OF MAGNOLIA SPRINGS, ALABAMA Certificate of Publication. This is to certify that Ordinance Number 2007-14, Town of Magnolia Springs, Alabama was published by posting on at least three (3) Bulletin Boards in the Town from 9/26/07 to 9/30/07.



Karen S. Biel
Town Clerk