



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
(504) 278-4228 Fax (504) 278-4209
www.sbpq.net

#30

Guy McInnis
Councilman
at Large

George Cavignac
Councilman
at Large

Ray Lauga, Jr.
Councilman
District A

Nathan Gorbaty
Councilman
District B

Richard "Richie" Lewis
Councilman
District C

Casey W. Hunnicutt
Councilman
District D

**Manuel "Monty"
Montelongo III**
Councilman
District E

Roxanne Adams
Clerk of Council

EXTRACT OF THE OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD IN THE COUNCIL CHAMBERS OF THE ST. BERNARD PARISH GOVERNMENT COMPLEX, 8201 WEST JUDGE PEREZ DRIVE, CHALMETTE, LOUISIANA ON TUESDAY, OCTOBER 21, 2014 AT THREE O'CLOCK P.M.

On motion of Mr. Hunnicutt, seconded by Mr. Gorbaty, it was moved to adopt the following ordinance:

ORDINANCE SBPC #1576-10-14

Summary No. 3152

Introduced by: Councilman Hunnicutt on 10/7/14

Executive Finance Committee recommended **APPROVAL** on 10/16/14

Public hearing held on 10/21/14

AN ORDINANCE TO AMEND CHAPTER 5; BUILDINGS; CONSTRUCTION AND RELATED ACTIVITIES, ARTICLE I, SECTION 5-1; BUILDING CODE ADOPTED AND AMENDED, SUBSECTION 102.5; UNSAFE BUILDINGS, INSTALLATIONS AND MACHINERY OF THE ST. BERNARD PARISH CODE OF ORDINANCES.

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

WHEREAS, The St. Bernard Parish Council believes it to be in the best interest of the citizens of St. Bernard Parish and St. Bernard Parish Government amend Chapter 5; buildings; construction and related activities, Article I, Section 5-1; Building code adopted and amended, Subsection 102.5 Unsafe Buildings, Installations and Machinery of the St. Bernard Parish Code of Ordinances.

SECTION 1. The Parish Council hereby amends Chapter 5; buildings; construction and related activities, Article I, Section 5-1; Building code adopted and amended, Subsection 102.5 Unsafe Buildings, Installations and Machinery of the St. Bernard Parish Code of Ordinances as attached in exhibit "A".

SECTION 2. Effective Date. This Ordinance shall become effective immediately upon authorizing signature by the Parish President. In the event of a presidential veto, this Ordinance shall become effective upon a two-thirds favorable vote of the total membership of the Council pursuant to Sections 2-11 and 2-13 of the St. Bernard Parish Home Rule Charter.

SECTION 3. Severability. If any section, clause, paragraph, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph,



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
(504) 278-4228 Fax (504) 278-4209
www.sbpq.net

Guy McInnis
Councilman
at Large

Page -2-
Extract #30 continued
October 21, 2014

George Cavignac
Councilman
at Large

provision or portion of this Ordinance, the St. Bernard Parish Council hereby expresses and declares that it would have adopted the remaining portion this Ordinance with the invalid portions omitted

Ray Lauga, Jr.
Councilman
District A

The above and foregoing having been submitted to a vote, the vote thereupon resulted as follows:

Nathan Gorbaty
Councilman
District B

YEAS: Gorbaty, Lewis, Hunnicutt, Cavignac

Richard "Richie" Lewis
Councilman
District C

NAYS: None

Casey W. Hunnicutt
Councilman
District D

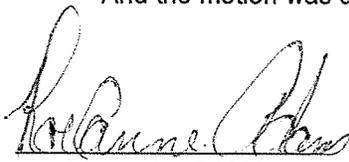
ABSENT: Lauga, Montelongo

The Council Chair, Mr. McInnis, cast his vote as YEA.

Manuel "Monty" Montelongo III
Councilman
District E

And the motion was declared **adopted** on the 21st day of October, 2014.

Roxanne Adams
Clerk of Council


ROXANNE ADAMS
CLERK OF COUNCIL

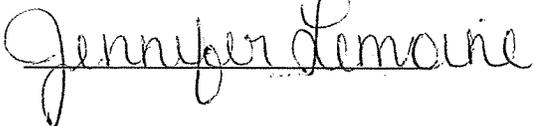

GUY MCINNIS
COUNCIL CHAIR

Delivered to the Parish President 10/24/2014 11:10AM
Date and Time

Approved ✓ Vetoed _____

Parish President 
David E. Peralta

Returned to Clerk of the Council 10/24/2014 1:40PM
Date and Time

Received by 

ORDINANCE SBPC #1576-10-14

Summary No. 3152

Exhibit "A"

Chapter 5; Buildings; Construction and Related Activities

Article I

Section 5-1; Building Code Adopted and Amended

Subsection 102.5 Unsafe Buildings, Installations and Machinery

(102.5) Unsafe Buildings, Installations and Machinery.

A. Definitions and Conditions.

(a) All structures which have any or all of the following defects shall constitute a public nuisance, be deemed "dangerous" and subject to demolition or order of repair:

(1) *"Structurally unsound"*

a. Those structures which have interior walls or other vertical structural members that 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;

b. Those structures which, exclusive of the foundation, show thirty-three (33) percent or more of damage or deterioration of the supporting member or members or fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering;

c. Those structures 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;

d. Those structures which have been damaged by fire, water, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or people of the parish.

(2) *"Unhealthful"*

a. Those structures which are so dilapidated, decayed or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to cause injury to the health, morals, safety or general welfare of those occupying such building.

(3) *"Constitute a fire hazard"*

a. Those structures containing electrical wiring or appliances in dangerous and defective condition likely to cause fire. Electrical wiring and appliances installed or in use which are not in compliance with the provisions of any ordinance of the parish regarding such wiring or appliances and the installation thereof shall be deemed dangerous and defective;

- b. Those structures containing gas plumbing or appliances in dangerous or defective condition likely to cause fire. Gas plumbing or appliances installed or in use which are not in compliance with the provisions of any ordinances of this parish regulating such plumbing and appliances and the installation thereof shall be deemed dangerous and defective;
- c. Those structures which contain combustible or explosive matter or accumulation of rubbish, trash or unnecessary accumulation of waste paper, boxes, shavings or any highly flammable materials especially liable to fire, therein, or in close proximity thereto;
- d. Those structures containing numerous openings in the walls or other unstopped spaces throughout, attributable to vandalism or general disrepair, which increase the risk of conflagration in the area;
- e. Those structures which are vacant and have windows, doors or other openings which remain unsecured permitting entry by unauthorized persons;
- f. Those structures which contain other fire hazards in violation of the National Fire Prevention Act, the state fire marshal act, the building code, any provisions of this Code or other ordinances of this parish if the violation is of such a nature that the building constitutes a danger to its occupants and/or others.

(4) *"Dangerous to human life"*

- a. Those structures, regardless of their structural condition, which have during times that they were not actually occupied by their owners, lessees or other invitees, been left unsecured from unauthorized entry to the extent that they may be entered and utilized by vagrants or other uninvited persons as a place of harborage or may be entered and utilized by children as a play area;
- b. Those structures having parts thereof which are so attached that they may fall and injure members of the public or property;
- c. Those structures without adequate ingress or egress;
- d. Those structures existing in violation of any provisions of this Code, the building code, the fire code, or other ordinances of this parish if the violation is of such a nature that the building constitutes a danger to its occupants and/or others;
- e. Those structures constituting a danger to the public even though secured from entry; or
- f. It is found that the means utilized to secure the structure are not adequate to prevent unauthorized entry of the building.

(5) *"Unsecured"*

- a. Those structures that are not boarded or otherwise have broken windows and doors, unfenced or otherwise not protected from entry in any manner to prevent uninvited persons or animals.

(6) *"Unsafe"*:

- a. Those structures with a foundation wall, exterior wall, or roof which is not weather-tight, watertight or rodent proof; or

- b. Those structures with windows and doors which are not weather tight, watertight or rodent proof or which are not operating to allow proper ingress or egress; or
- c. Those structures with exterior stairs, porches, railings or any appurtenance thereto which is not capable of supporting the load that normal use may cause to be placed thereon; or
- d. Those structures that are boarded or otherwise have doors or windows that are not operating, all of which failing to provide outside air or light; or
- e. Those structures which have been boarded in excess of six (6) months and in which the owner has failed to obtain a permit and begin substantial renovations; or
- f. *Attractive nuisance*. The term "attractive nuisance" refers to a potentially harmful thing which is inviting or otherwise lures a person, no matter the age of the person, into or onto a thing to investigate, play in or otherwise enter without permission.

(7) "Blighted and Dangerous"

- (a) Any structure which costs more than fifty (50) percent of the value of the property to repair the structure according to code may be deemed dangerous and unsafe pursuant to the provisions herein and ordered demolished. The value is determined per the value assessed by the Assessor's Office of St. Bernard Parish.
- (b) Any structure that is vacant and boarded for a period of more than six (6) months and which does not have an active permit and no substantial work being performed or which has a permit but substantial work has not begun shall be deemed blighted and a nuisance and subject to demolition.
- (c) Any structure found to be in a state of deterioration that creates a substantial adverse impact on neighboring properties including but not limited to depreciation of property values, interference with the lawful use and enjoyment of property in the area and/or illegal activities occurring on or at the structure are deemed to be blighted, declared a nuisance and subject to demolition.
- (d) Any structure that is in a dilapidated and dangerous condition which endangers the public welfare.

(b) "Vacant" shall include, but not be limited to, a structure designed for human use or occupancy but which has been unoccupied for more than six (6) months, unless one (1) of the following applies:

- (1) The building is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the repair or rehabilitation; or
- (2) The building meets all codes, does not contribute to blight, is ready for occupancy and is actively being offered for sale, lease, or rent.

B. Hearing; Placarding of building or structure for matters sent to the bureau of administrative adjudication.

(a) If a building or structure, has, upon inspection, been found to be dangerous under 5-1 (102.5)(A), then written notice shall be made in accordance with the provisions in section 2.5-7 of this Code.

(b) After completion of the presentation of testimony by all parties appearing, the hearing officer shall make written findings of fact as to whether or not the buildings is dangerous under 5-1 (102.5)(A).

If the hearing officer finds that any building is dangerous under 5-1 (102.5)(A), occupant and all other persons having an interest in said building as shown by the mortgage and conveyance records of the parish where the land is located:

(1) That the building shall be vacated if same is occupied and the hearing officer finds that the building is in such condition as to make it dangerous to the health, safety or welfare of its occupants;

(2) That the building shall be either repaired or demolished, if it can reasonably be brought into compliance by repair; any order must provide appropriate deadlines but in no event shall any property owner be given longer than one (1) year to complete repairs of a structure. Notwithstanding the foregoing, the Hearing Officer shall have the discretion to allow over a year for repairs if the building is over 30,000 square feet;

(3) That the building be demolished if it cannot reasonably be repaired; and

(4) (a)(i) If the structure is unoccupied and the condition of the building is such that it may be brought into compliance, then the order may provide that it be so secured and be kept secured and may include or adopt written specifications that must be complied with in securing the building and the order may provide that the building be demolished.

(ii) If the hearing officer finds that the building is dangerous under 5-1 (102.5)(A), the hearing officer shall order that the parish place a notice in a conspicuous place on such building; such notice to read as follows:

"This building has been found to be a dangerous building. Occupancy of this building is prohibited by law as such occupancy is dangerous to the health, safety and welfare of its occupants. This notice is posted (here the notice shall set forth the date and hour such notice is posted). All persons must vacate this building not later than forty-eight (48) hours after the time of posting and shall not re-enter the same until the parish finds that the building has been repaired so as to be in compliance with the ordinances of the Parish of St. Bernard with the requisite permits. This notice shall remain on this building until it is repaired or demolished."

(b) (i) If the hearing officer finds that the structure cannot be brought into compliance by repair, the hearing officer shall order that the parish conspicuous place on such building, such notice to read as follows:

"This building has been found to be a dangerous building by the Parish of St. Bernard. No person shall enter this building except persons authorized by the owner or agent with the requisite permits and inspectors of St. Bernard Parish. This notice shall remain on this building until it is demolished."

(ii) The persons having an interest in the property shall be given a reasonable period of time in which to comply with the hearing officer's order, such period not to exceed thirty (30) days, unless, in the judgment and discretion of the hearing officer, it is determined that a greater period of time is necessary. The order shall state the date by which the action ordered must be completed, and state that the housing officer shall cause the building to be vacated, and demolished if the persons having an interest in the property do not comply with the order. The order of the hearing officer shall be served on all persons having an interest in the property as provided in section 2.5-7 of this Code.

(iii) A copy of the order of the hearing officer shall also be filed in the mortgage and conveyance records of the parish in which the land lies.

(c) If the persons having an interest in the property fail to comply with the order of the hearing officer within the time specified in the order for compliance, the owner shall be held in contempt and/or the parish may perform demolition at the cost of the owner via placement of a lien in accordance with Subsection C of this section.

(d) If any instance in which an order has been issued herein and the owner complies with the order, the hearing officer's case file may, nevertheless, remain active for a period of three (3) years from the date of signature of the order and the matter may be reconvened upon notice to the owner, lien holders, occupants and other persons having an interest in the property, in compliance with notice provisions in Chapter 2.5. If the hearing officer finds that the building remains a dangerous building notwithstanding the owner's efforts, he may issue a revised order that the building be demolished may be issued.

C. Fees; costs, billing; payment; imposition of lien; addition of costs to ad valorem tax bill

(a) The parish council hereby finds and declares that the general administrative expenses of inspecting buildings, locating owners, conducting hearings, issuing notices and orders, together with all associated administrative functions, require the reasonable charge of twenty-five (25) percent of the amount paid by the Parish for demolition for each lot, adjacent lots under common ownership, or tract of land, and such minimum charge is hereby established and declared to be the charge for such administrative expenses to be assessed in each instance where the parish demolishes or contracts for the demolition of a building or buildings thereon. Notwithstanding any tabulation of recorded costs, a charge of twenty-five percent of the amount paid by the Parish for demolition is hereby expressly stated to be a minimum charge. Further, the costs of demolishing the building or buildings either by the parish or by persons doing so under contract with the parish shall be separately calculated and assessed in each instance where the parish demolishes or causes the demolition of a building or buildings pursuant to this article; said costs to include any outstanding amounts owed to the Department of Water and Sewer.

The inspection shall certify all administrative expenses, Department of Water and Sewer expenses, and costs of demolishing a building or buildings by the parish or by persons doing so

under contract with the parish, as a charge which shall be assessed the owners thereof. Such charge shall bear interest at the rate of ten (10) percent per annum until paid.

Provided, further, if an order has been issued pursuant to this article for the repair or demolition of a building or buildings and the building or buildings are subsequently repaired or demolished by the owners prior to the Parish moving for demolition the owner shall be held liable for all administrative expenses incurred by the parish.

Provided, further, if an order has been issued pursuant to this article for the repair or demolition of a building or buildings and the parish has let a contract for demolition, and the building or buildings are subsequently repaired or demolished by the owners prior to completion of the contract let by the parish, the administrative expenses and all costs for cancellation of the contract shall be certified as a charge which shall be assessed against the owners thereof. Such charges shall bear interest at the rate of ten (10) percent per annum until paid.

(b) At the completion of any work performed pursuant to this chapter, or preparation in anticipation thereof, the proprietary party and/or owner of the premises shall be sent a notice fulfilling the requirements provided in section 2.5-7 of this Code, itemizing the cost of the work in accordance with this article. The Director of Community Development shall provide such list of costs incurred by the Parish. The proprietary party and/or owner of the premises shall be given thirty (30) days from receipt thereof to make payment to the parish.

(c) In addition to the other provisions of this article, the parish is also authorized to have recorded in the mortgage office of the parish, a sworn statement showing the costs and expenses incurred for the work and the date, place or property on which the work was done, and the recordation of such sworn statement shall constitute a lien and privilege on the property and shall remain in full force and effect for the amount due in principle and interest, plus costs for filing the lien, and costs of court, if any, for collection until final payment has been made.

D. Execution of written release upon payment of charges or where lien placed on property through error; execution of written notice of compliance.

(a) Upon full payment of the charge assessed against any property, or in the event the lien is placed on the property through error, the Parish President is hereby authorized to execute, for and on behalf of the parish, a written release.

(b) Upon compliance with an order of the hearing officer to repair or demolish a building, the chief compliance inspector or manager of resident services shall be and is hereby authorized to execute a written "notice of compliance" setting forth the date the notice of compliance is issued, the date the parish found the building to be repaired or demolished in compliance with the order; and if the building had not been demolished, whether or not the building is in such condition that it may be occupied.

(c) A fee shall be imposed for such release of lien provided hereunder in an amount to be fixed by the clerk of court.

E. Adding cost and/or fines to ad valorem tax bill.

(a) In addition to any other provisions regarding collection of costs for work performed pursuant to this article, if payment is not received within thirty (30) days of the original invoice date, the parish president may, at his option, levy the charges for such work plus fifteen (10) percent collection charges as an assessment to be added to the annual ad valorem tax bill of the premises or property involved.

(b) The sheriff effecting collection shall be reimbursed fifteen (10) percent of the amount of such charges actually collected from the proprietary party and/or owner of the premises or property involved.

(c) Demolition costs, court costs, hearing costs, administrative fees, and any other fines assessed to a violator, if not paid timely pursuant to this section or a court order may be placed on the tax rolls for collection.

F. Violations; penalty for disregarding or removing notices or orders.

(a) The owner of any "dangerous" structure who fails to comply with any order to repair, vacate, demolish or secure said building by any person authorized by this article to give such order shall be guilty of a misdemeanor.

(b) The occupant or lessee in possession, who fails to comply with any order to vacate, and anyone having an interest in said building as shown by the mortgage and conveyance records of the parish where the land is located, and under a legal duty to repair, who fails to repair or secure said building in accordance with any order given as provided for in this article, shall be guilty of a misdemeanor.

(c) Any person removing any notice provided for in this article shall be guilty of a misdemeanor.

(d) Each day that any violation of the above subsections continues shall constitute a separate offense.

(e) Violation of any of the above subsections shall be punishable as provided in section 2.5-7 of this Code.

G. Emergencies

(a) In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a "dangerous building," as defined herein, is immediately repaired, vacated, demolished or secured, or where said dangerous building is within one thousand (1,000) feet of a school placing school children in danger, a resident inspector shall report such facts to the director of Community Development. If the director Community Development, finds that there is in fact an immediate danger to the health, life or safety of any person unless the building is immediately repaired, vacated, demolished or secured, or where said dangerous building is within one thousand (1,000) feet of a school placing school children in danger, he shall cause the immediate repair, vacation, demolition or securing of such building.

(b) Whenever the director Community Development causes a building to be repaired, vacated, demolished or secured pursuant to this section, he shall cause a notice, as described in this article, to be posted on the building.

Further, whenever the director Community Development causes a building to be repaired, vacated, demolished or secured pursuant to this section, he shall also cause notice to be given to

the owners and lien holders of the building, all persons having possession of any portion thereof, and all other persons who may have an interest in the building that a hearing will be held concerning the orders issued in connection therewith, and whether the building constitutes a "dangerous building." The notice shall set forth the specific conditions which render the building a dangerous building within the standards set forth in this article, the date, time and place of such hearing, that all persons having an interest in the building may appear in person and/or be represented by an attorney, and may present testimony and may cross-examine all witnesses. The notice shall comply with the provisions set out in section 2.5-7 of this Code, however, the hearing shall be held as soon as it is reasonably possible, but in no case later than ten (10) days after the director of department Community Development has caused the building to be repaired, vacated, demolished or secured, unless all persons having either an ownership interest or a possessory interest in the building request a continuance of the hearing. At such a hearing, the burden shall be upon the parish to show that there was an immediate danger to health, life or safety, or said dangerous building is within one thousand (1,000) feet of a school placing school children in danger, necessitating immediate action, and whether the building constitutes a dangerous building within the provisions of this article at the time of the hearing. After completion of the presentation of the testimony by all parties appearing, the hearing officer shall make written findings of fact as to whether or not the dangerous building is within one thousand (1,000) feet of a school placing school children in danger, or the building was an immediate danger to health, life or safety necessitating the action taken by the director Community Development, and whether the building was a dangerous building within the provisions of this article. If the hearing officer finds that the dangerous building is within one thousand (1,000) feet of a school placing school children in danger or there was an immediate danger to public health, life or safety that required the action that was taken, all administrative expenses and any cost of repair or demolition shall be calculated and assessed the owners of the building, and shall constitute a lien and privilege on the land on which the building stands or stood, which shall bear interest as provided in this article. If the hearing officer finds that the building, at the time of the hearing, constitutes a dangerous building within the provisions of this article, he shall issue an order for its abatement as set out in this article. The provisions in this article shall be applicable to any such order.

H. Cleanup after demolition or removal of structures

(a) Within thirty (30) days after any building or structure is demolished or removed from any lot or tract of land:

- (1) All debris must be removed from the property;
- (2) All holes or depressions in the ground must be filled to grade level;
- (3) All lumber, pipes and all other building materials must be removed from the property or stored in such a manner that they are not a hazard to safety and do not create a condition where rats are likely to live or mosquitoes likely to breed;
- (4) All pipes and conduits must be removed from above grade and must be removed or sealed below grade;

(5) All piers, pilings, steps, foundations, slabs and other appurtenances must be removed above grade unless otherwise specified in a court order.

(b) Each owner and each person having control over the property on which the building or structure stood prior to removal or demolition is individually responsible for completing such work or causing such work to be completed.

I. Notice to complete work.

Whenever it shall come to the knowledge of the director of community development, parish attorney's office or a hearing officer designated pursuant to Chapter 2.5 of this Code that a building or structure has been demolished or removed and that the work required in this article has not been completed, the parish attorney's office or hearing officer may institute contempt proceedings or cause written notice to be given as provided in section 2.5-7 of this Code, setting out the work required by this article which has not been completed. If a notice is provided, the owner of the property or person having control over the property to complete or cause to be completed all work required by this article within thirty (30) days of service of such notice.

J. Penalty

(a) Any person failing to comply with the any law, ordinance herein, or to comply with the order of a court of competent jurisdiction shall be punishable as provided by this code and/or by work performed by the parish at the expense of the owner via placement of a lien. Each day such work is not completed in violation of this article shall constitute a separate offense.

(b) Any judgment rendered in favor of the Parish of St. Bernard for failing to comply with any law or ordinance herein shall be assessed an administrative fee in the amount of five hundred dollars (\$500.00) in connection with general administrative expenses associated with inspection, locating owners, conduction hearing, issuing notices and other administrative functions.