

COPY

Bill No. 504

Ordinance No. 504

AN ORDINANCE CREATING THE OFFICE OF BUILDING INSPECTOR; PROVIDING FOR THE VACATION, REMOVAL, REPAIR OR DEMOLITION OF ANY BUILDING OR STRUCTURE WHICH IS OR THREATENS TO BE A PUBLIC NUISANCE; FOR THE ASSESSMENT OF THE COST OF VACATION, REPAIR OR DEMOLITION THEREOF AS A MUNICIPAL LIEN OR ASSESSMENT AGAINST THE PREMISES AND TO PROVIDE FOR THE RECOVERY OF SUCH COST IN AN ACTION AT LAW; AND AN ORDINANCE PERTAINING TO INSURANCE PROCEEDS FROM DAMAGE OR LOSS TO BUILDINGS OR STRUCTURES.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. MARY AS FOLLOWS:

DANGEROUS BUILDING ORDINANCE

SECTION I

(A) Definitions:

(1) Building. Any structure having a roof supported by columns or walls built for the support, or enclosure of persons, animals, chattels, or property of any kind, but not including any vehicle, trailer (with or without wheels) nor any movable device, such as furniture, machinery, or equipment. For purposes of this Ordinance, building shall include manufactured homes, mobile homes and house trailers.

(2) Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground and including, but not limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, and pergolas.

SECTION II-DANGEROUS BUILDING DEFINED

All buildings or structures which have any or all of the following defects are hereby declared to be dangerous buildings:

(A) 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.

(B) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants and the people of this City.

(C) Those which have become or are so dilapidated, decayed, unsafe, insanitary, 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 health, morals, safety or general welfare of those living therein.

(D) Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

(E) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(F) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(G) Those which are so vermin, rodent, insect, termite, or other pest infested as to be dangerous to the health, morals and safety or general welfare of the people of this city.

(H) Those buildings the foundations of which do not support the main support structures of the buildings so that the buildings are subject to collapse.

(I) Those buildings the steps, stairs, porches, and appurtenances of which are incapable of supporting the load for which they were designed or to which they may reasonably and foreseeably be subjected.

(J) Those buildings which are uninhabited and which are open at door, window, wall or roof.

(K) Those buildings in the process of demolition upon which no substantial work has been performed for a period of thirty (30) days immediately prior to the time a notice under provisions of Section IV shall issue to complete the demolition thereof.

(L) Those buildings under construction upon which no substantial work has been performed for a period of ninety (90) days immediately next prior to the time a notice under provision of Section IV shall issue to complete the construction thereof.

(M) Those buildings, wall or structures existing in violation of any provision of any other Code or the ordinances of the City of St. Mary, Missouri.

SECTION III-STANDARDS FOR REPAIR, RECONDITIONING, REMODELING, VACATION OR DEMOLITION

The following standards shall be followed in substance by the Building Inspector and the Director of Public Works in ordering repair, reconditioning, removal, vacation or demolition of buildings:

(A) If the "dangerous building" can reasonably be repaired, reconditioned or remodeled so that it will no longer exist in violation of the terms of this ordinance, it shall be ordered repaired, reconditioned or remodeled.

(B) If the "dangerous 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 or demolished.

(C) In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this ordinance or any ordinance of the City of St. Mary, Missouri, or statute of the State of Missouri, it shall be demolished.

(D) For purposes of this Ordinance, the Building Inspector shall be the City Marshall or such other person appointed by the Board of Aldermen of the City of St. Mary.

(E) For purposes of this Ordinance the Director of Public Works shall be such person appointed by the Board of Aldermen of the City of St. Mary.

SECTION IV-DUTIES OF BUILDING INSPECTOR

The Building Inspector shall have and perform the following duties:

(A) Inspect any building, wall or structure about which complaints are filed with the City Clerk by any person to the effect that a building, wall or structure is or may be existing in violation of the terms and provisions of this ordinance.

(B) Inspect any building, wall or structure reported (as hereinafter provided) by the Fire or Police Departments of the City of St. Mary, Missouri as probably existing in violation of the terms and provisions of this ordinance.

(C) Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building or structure, as shown by the land records of the Recorder of Deeds of Ste. Genevieve County, Missouri, of any building found by the Building Inspector to be a "dangerous building" found within the definitions set forth in Section II of this ordinance that:

(1) The owner must vacate, or repair, recondition, remove or demolish said building or structure in accordance with the terms of the notice;

(2) That the occupant or lessee must vacate said building or structure or may have it repaired in accordance with

the notice and remain in possession;

(3) That the mortgagee, agent, or other person having an interest in the building or structure, as shown by the land records of the Recorder of Deeds of Ste. Genevieve County, Missouri, may at his own risk, repair, recondition, vacate, remove or demolish said building or structure or have such work or act done; provided, that any person notified under this subsection to so repair, vacate, recondition, remove or demolish any building or structure shall be given at least thirty (30) days from the date set out in the notice for such reconditioning, vacating, removing or demolishing of said "dangerous building" to begin.

(D) Set forth in the notice provided for in Subsection (C) of this section, a description of the building or structure, so found to be a "dangerous building", together with a statement of the particulars which make the building or structure a "dangerous building" as defined by Section II of this ordinance and detrimental to the health, safety or welfare of the residents of the City of St. Mary, Missouri, and an order requiring that the repairing, reconditioning, vacating, removing or demolishing of said "dangerous building" be commenced within a time at least thirty (30) days of the notice provided for in Subparagraph (C) of this section, and that said work on said "dangerous building", when begun, shall proceed continuously and without unnecessary delay.

(E) Report to the Board of Aldermen any non-compliance with the notice provided for in Subsections (C) and (D) of this section.

(F) If the Building Inspector shall complete the inspection of the building or structure and determine that it is a "dangerous building" as defined in Section II of this ordinance, he shall place a notice on such building or structure found by him to be a "dangerous building" reading as follows:

"This building has been found to be a dangerous building by the Building Inspector of the City of St. Mary, Missouri. This notice is to remain on this building until it is vacated, repaired, reconditioned, removed or demolished in accordance with the notice which has been given to the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Ste. Genevieve County, Missouri. It is unlawful to remove, deface or mutilate this notice until such notice is complied with."

PROVIDED, however, that the posting of said notice shall not be construed as to deprive any person entitled thereto by this ordinance of notice and hearing as prescribed by this ordinance.

(G) Appear at all hearings conducted by the Director of Public Works and testify as to the condition of said building or structure so found by him to be a "dangerous building".

SECTION V-DUTIES OF THE DIRECTOR OF PUBLIC WORKS

The Director of Public Works of the City of St. Mary, Missouri shall:

(A) Supervise all building inspections required by this ordinance and cause the Building Inspector to make inspections and perform all the duties as required by this ordinance.

(B) Upon receipt of the report of the Building Inspector provided for in Subparagraph (E) of Section IV of this ordinance, and upon the failure of the owner, occupant, mortgagee, lessee and all other persons having an interest in said building or structure, as shown by the land records of the Recorder of Deeds of Ste. Genevieve County, Missouri, to commence the work of repairing, reconditioning, vacating, removing or demolishing said building or structure so found to be a "dangerous building" by the Building Inspector, within the time specified in the notice provided for by Subparagraphs (C) and (D) of Section IV of this ordinance or upon failure of the owner, occupant, mortgagee, lessee and all other persons having an interest in said building or structure as shown by the land records of the Recorder of Deeds of Ste. Genevieve County, Missouri, to proceed continuously with the repairing, reconditioning, vacating, removing or demolishing of said building or structure so found to be a "dangerous building" by the Building Inspector without unnecessary delay after the beginning of the work of such repairing, reconditioning, vacating, removing or demolishing, as set out in the notice provided for by Subparagraph (F) of Section IV of this ordinance, the Director of Public Works shall give at least thirty (30) days written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building or structure, as shown by the land records of the Recorder of Deeds of Ste. Genevieve County, Missouri, to appear before him on the date specified in the notice and show cause, if any, why the building or structure so found to be a "dangerous building" should not be repaired, reconditioned, vacated or demolished, as required by the notice and statement of particulars provided for in Subsections (C) and (D) of Section IV of this ordinance.

(C) Hold a full and adequate hearing on the date specified in the notice and hear such testimony as the Building Inspector, owner, occupant, mortgagee, lessee, agent and any other person having an interest in said building or structure, as shown by the land records of the Recorder of Deeds of Ste. Genevieve County, Missouri, shall offer.

(D) After said hearing, if the evidence supports a finding that the building or structure is a "dangerous building" as defined by Section II of this ordinance, and detrimental to the health, safety or welfare of the residents of the City of St. Mary, Missouri, the Director of Public Works shall issue an order making specific findings of fact, based upon competent and substantial evidence, showing the building or structure to be a "dangerous building" as defined by Section II of this ordinance detrimental to the health, safety or welfare of the residents of the City of St. Mary, Missouri, and commanding the owner, occupant, mortgagee, lessee, or agent or any other person having an interest in such "dangerous building" to repair, recondition, vacate, remove or demolish any building so found to be a "dangerous building" as defined by Section II of this ordinance, within such reasonable time, at least thirty (30) days from the date of the order, within which to repair, recondition, vacate, remove, or demolish said "dangerous building", unless in the judgment of the Director of Public Works it is determined to be necessary to extend such time to do or have done the work or act required by the order. The Director of Public Works shall specify in writing an additional notice of the date to which said extension is made. Provided, that any person so notified shall have the privilege of either repairing or vacating such "dangerous building" within said time if such repair will comply with this ordinance and other ordinances of the City of St. Mary, Missouri, or the owner, mortgagee or any person having an interest in said "dangerous building" as shown by the land records of the Recorder of Deeds of Ste. Genevieve County, Missouri, may at his own risk, repair, recondition, vacate, remove or demolish said "dangerous building" in order to prevent the City of St. Mary, Missouri, from acquiring a lien against the land where the "dangerous building" stands as provided in Subsection (E) of this section.

(E) If the owner, occupant, mortgagee or lessee fails to comply with the order or extension thereof, provided for in Subsection (D) of this section, within the time specified in the order or extension thereof, the Director of Public Works shall cause such "dangerous building" to be repaired, vacated and repaired, or vacated and demolished as the facts may warrant, under the standards hereinbefore provided for in Section III of this ordinance and the Director of Public Works shall certify the charge for such repair, vacation or demolition to the City Collector of the City of St. Mary, Missouri, as a special assessment represented by a special tax bill against the land upon which said "dangerous building" existed or is located. The charge for the abatement of the public nuisance shall include the actual cost of repair, vacation or demolition, and a reasonable charge for administering the provisions of this ordinance, provided, however, such charge of administering the provisions of this ordinance shall not exceed Fifty Dollars (\$50.00). The tax bill shall be a lien upon the land upon which said "dangerous property" existed or is located, and may be assigned, and shall

be collected and enforced as special tax bills. At the request of the taxpayer, the tax bill may be paid in installments over a period of not more than five (5) years. The tax bill from the date of its issuance shall be a lien on the land upon which said "dangerous building" existed or is located.

(F) Obligation to Obtain Permits, Licenses. It shall be the obligation of the person proposing to repair, recondition, vacate, remove or demolish a building or structure to obtain all licenses and permits necessary. Such person shall comply with all other ordinances of the City of St. Mary. Failure to apply for all permits and licenses within thirty (30) days of receipt of the notice provided in Section IV (C) or V (D) or failing to obtain such permits or licenses within one hundred twenty (120) days of receipt of the notice provided in Section IV (C) or V (D) shall be deemed an abandonment of the proposed action.

SECTION VI-EMERGENCY CASES

In cases where it reasonably appears that there is an immediate danger to the health, safety or welfare of any person unless a "dangerous building" as defined by Section II of this Ordinance is immediately repaired, reconditioned, removed, vacated or demolished, the Building Inspector shall report such facts to the Director of Public Works who shall cause the immediate repair, reconditioning, vacation or demolition of such "dangerous building". The costs of such emergency repair, remodeling, vacation or demolition of such "dangerous building" shall be collected in the same manner as provided in Subsection (E) of Section V of this ordinance.

SECTION VII-NOTICES-HOW SERVED

The notices provided for in Subsections (C) and (F) of Section IV of this ordinance, and Subsection (B) of Section V of this ordinance may be served by personal service upon the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the "dangerous building" as shown by the land records of the Recorder of Deeds of Ste. Genevieve County, Missouri. The said notices may also be served upon the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said "dangerous building" as shown by the land records of the Recorder of Deeds of Ste. Genevieve County, Missouri, by certified mail, return receipt requested, directed to the last known address of each. Provided that if service of said notices cannot be had either by personal service or certified mail return receipt requested, then and in either of these events, service of said notices may be had by publication of such notices in an official newspaper of general circulation in Ste. Genevieve County, Missouri once a week for three consecutive weeks, the first publication to be at least twenty-one (21) days from the date of the hearing set out in the notice.

SECTION VIII-PENALTY FOR FAILURE TO COMPLY WITH NOTICES OR ORDERS

(A) The owner of any "dangerous building" as defined in Section II of this ordinance, who shall fail to comply with any notice, order or extension thereof, to repair, recondition, vacate, remove or demolish said building or structure and to proceed continuously with said work of repairing, reconditioning, vacating, removing or demolishing when started and without unnecessary delay when said notice is given by any person authorized by this ordinance to give such notice or make such order or extension thereof, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500.00) for each offense and a further sum of fifty dollars (\$50.00) for each and every day such failure to comply continues beyond the date fixed by the notice or order or extension thereof.

(B) The occupant or lessee in possession who fails to comply with any notice to vacate, or an extension thereof, and who fails to repair, or recondition said "dangerous building" in accordance with any notice or order or extension thereof, given or made as provided in this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500.00) for each offense and a further sum of fifty dollars (\$50.00) for each and every day such failure to comply continues beyond the date fixed in the notice or order or extension thereof for compliance.

SECTION IX-PENALTY FOR MOVING, DEFACING OR MUTILATING NOTICE

Any person removing, defacing or mutilating the notice placed on a "dangerous building" as provided by Subsection (G) of Section IV of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not exceeding five hundred dollars (\$500.00) for each offense.

SECTION X-TESTS

Whenever there is insufficient evidence of compliance with the provisions of this ordinance or evidence that any material or any construction does not conform to the requirements of this ordinance, or in order to substitute claims for alternate materials or methods of construction, the Director of Public Works may require tests as proof of compliance to be made at the expense of the owner or his agent.

SECTION XI-TEST METHODS

Test methods shall be as specified by this ordinance for the material in question. If there are no appropriate test methods

specified in this ordinance, the Director of Public Works shall determine the test procedure to be used. Copies of the results of all such tests shall be retained by the Director of Public Works for a period of not less than two years after the making thereof.

SECTION XII-DUTIES OF FIRE DEPARTMENT

The Chief of the Fire Department of the City of St. Mary, Missouri, shall make a report in writing to the Director of Public Works of all buildings or structures which are, may be, or are suspected to be "dangerous buildings" as defined in Section II of this ordinance. Such reports must be delivered to the Director of Public Works within 24 hours of the discovery of such buildings by any employee of said Fire Department.

SECTION XIII-DUTIES OF POLICE DEPARTMENT

The City Marshall of the City of St. Mary, Missouri, shall make a report in writing to the Director of Public Works of any buildings or structures which are, may be, or are suspected to be "dangerous buildings" as defined in Section II of this ordinance. Such reports must be delivered to the Director of Public Works within 24 hours of the discovery of such buildings by any employee of the said Police Department.

SECTION XIV-ADMINISTRATIVE LIABILITY

No officer, agent or employee of the City of St. Mary, Missouri, shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this ordinance. Any suit brought against any officer, agent or employee of the City of St. Mary, Missouri, as a result of any act required or permitted in the discharge of his duties under this ordinance shall be defended by the City Attorney until the final determination of the proceedings therein.

SECTION XV-BOARD OF APPEALS ESTABLISHED

There is hereby established a Board of Appeals which shall have the following powers:

(A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Director of Public Works in the enforcement of this ordinance.

(B) To require attendance of witnesses and production of records and other documents necessary to the conduct of a full and impartial hearing.

(C) The Board of Appeals shall consist of seven (7) members

as follows:

- (1) The Mayor of the City of St. Mary
- (2) One additional member of the Board of Aldermen as elected by that Board.
- (3) Three appointed citizens
- (4) The City Marshall of the City of St. Mary
- (5) The Fire Chief of the City of St. Mary

(D) Four members shall constitute a quorum. The Board of Appeals shall elect their own Chairman and Secretary. The City Attorney shall be present at all hearings and shall represent the position of the Director of Public Works. The appellant may be represented by Counsel.

(E) Appeals shall be taken within fifteen (15) days from the service of notice as provided for in Section VII of this ordinance.

(F) The Notice of Appeal shall set forth the following:

- (1) The full name and address of the appellant;
- (2) The name and address of counsel for the appellant if he intends to appear with counsel at the hearing;
- (3) The allegations of error appealed from.

(G) An appeal stays all proceedings in furtherance of the action appealed from.

(H) The Board of Appeals shall fix a reasonable time (not less than ten (10) days) for the hearing of the appeal. The Board of Appeals shall render its decision in writing within ten (10) days of the conclusion of the hearing after which appeal may be taken to the Circuit Court as provided by Chapter 536, R.S.Mo. 1969. Notice of the decision of the Board of Appeals shall be given by ordinary mail

(1) To the appellant at the address given in the Notice of Appeal;

(2) To the Director of Public Works at the City Hall, St. Mary, Missouri.

SECTION XVI

If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion,

or other casualty loss, and if the covered claim payment is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure, then the following procedure shall apply:

(A) The insurer shall withhold from the covered claim payment ten percent (10%) of the covered claim payment, and shall pay that amount to the City to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this section. If a special tax bill or assessment is issued by the City for the expenses of demolition of such building as a "dangerous building", the moneys held by the City shall be applied toward payment of special tax bill or assessment. If there is any excess, it shall be paid by the City to the insured or as the terms of the policy, including any endorsements thereto, provided.

(B) The City shall release the proceeds and any interest which has accrued on such proceeds received under subsection (A) of this section to the insured or as the terms of the policy and endorsements thereto provided within thirty (30) days after receipt of such insurance moneys, unless the City has instituted legal proceedings under the provisions of this Ordinance. If the City has proceeded under the provisions of this Ordinance, all moneys in excess of that necessary to comply with the provisions of this Ordinance for the removal of the building or structure, less salvage value, shall be paid to the insured.

(C) The City may certify that, in lieu of payment of all or part of the covered claim payment under this section, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the city shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without deduction. It shall be the obligation of the insured or other person making claim to provide the insurance company with the written certificate provided for in this subsection.

(D) No provision of this section shall be construed to make the City a party to any insurance contract.

(E) If there are no proceeds of any insurance policy as set forth in Section XVI of this Section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from the date of its issuance shall be a lien on the property until paid.

(F) The City Clerk is hereby directed to deliver a copy of this Ordinance to the Missouri Director of Insurance within fourteen (14) days after the passage and approval of this Ordinance.

SECTION XVII-SAVING CLAUSE

Should any section, sentence or clause of this ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences or clauses.

SECTION XVIII-REPEAL AND DATE OF EFFECT

This ordinance shall be in full force and effect 30 days after its final passage and approval, and, at that time, all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

READ THREE TIMES AND PASSED THIS 11th DAY OF October, 1988.

Attest:

Jo Ann E. Donze
City Clerk

Robert L. Grass
MAYOR

ALDERMEN	AYE	NAY	ABSTAIN	ABSENT
Francis Bader	X			
Henry Coffman				X
Robert Schultz	X			
Stephen Schwent	X			

I, JoAnn E. Donze, Clerk of the City of St. Mary, Missouri, do hereby certify that the foregoing ordinance was duly passed and adopted by the Board of Aldermen of the City of St. Mary, Missouri at a regular meeting thereof assembled this the 11th day of October, 1988.

Jo Ann E. Donze
CITY CLERK