



# MEMORANDUM

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**TO:** Mayor and Members of the City Council

**FROM:** Montre' Freeman, City Manager  
Reginald Goodson, Development Services Director  
Todd Henry, Minimum Housing Inspector

**DATE:** August 23, 2024

**RE:** Consideration – Adopt Condemnation and Demolition Ordinance for 905 South Martin Street

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***BACKGROUND:***

The property at 905 South Martin Street has been found to be unfit for human habitation. The demolition process was started on this property on May 5, 2023 (Attachment A). A copy of the initial letter is also available on OpenGov, (the web program that tracks projects for the Elizabeth City Government), which is the official report of record. The letter sent April 23, 2024 (Attachment B) began the current process.

A hearing with the property owner, Mrs. Eudora Harvey, was set for May 2, 2024; however, no one associated with the property attended the hearing. Following the May 2, 2024 hearing, the facts of the case were put in writing and mailed to the homeowner. A "Notice" of the current findings of the property, which determined it to be unfit for human habitation replaced the one that had already been placed on the front door on May 5, 2023. The mandated timeline of the prescribed process had been strictly adhered to, and everything is prepared for the next steps.

***ANALYSIS:***

The property at 905 South Martin St. falls under the scope and intent of the Elizabeth City Minimum Housing Code; 101.2 & 101.3. This property is in violation of section 108 – Unsafe Structures and Equipment and needs to be demolished because it has been found to be dangerous to the life, health, property and safety of the public. The procedures for the investigation, notice and hearing set forth by sections 106 and 107 have been strictly followed and the property is prepared to have it demolished.

**101.2 Scope.** The provisions of this code shall apply to all existing residential structures and premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the

occupancy of existing structures and premises, and for administration, enforcement and penalties.

**101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

**108.1.1 Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible

**108.1.3 Structure unfit for human occupancy.** A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

**106.1 Notice to owner or to person or persons responsible.** Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed in Sections 106.2 and 106.3. Notices for condemnation procedures shall also comply with Section 108.3.

### ***Next Steps:***

It is recommended by the Minimum Housing Inspector that a City Ordinance be signed ordering the demolition of the property at 905 South Martin St. Elizabeth City, NC 27909 (Map 29, Block D, Parcel #24 and Tax I.D. 891312867799).

### Following **Section 110 Demolition**

**110.1 General.** The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owners option.

**110.2 Notices and orders.** All notices and orders shall comply with Section 106.

**110.3 Failure to comply.** If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be

demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

***STAFF RECOMMENDATION:***

By motion, adopt the attached ordinance declaring the structure located at 905 South Martin Street to be condemned and authorize demolition of same.



**ORDINANCE #2024-08-01  
CONDEMNATION AND DEMOLITION**

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**AN ORDINANCE DIRECTING THE BUILDING INSPECTOR TO REPAIR OR DEMOLISH THE BUILDING HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED UNTIL REPAIRED, OR THAT THE STRUCTURE BE DEMOLISHED.**

**WHEREAS**, the City Council of the City of Elizabeth City finds that the property described herein is unfit for human habitation under the local and state codes, and that all of the provisions of said codes have been met as a condition of the adoption of this Ordinance; and

**WHEREAS**, said structure should be repaired to meet the requirements of the Code or demolished as directed by the Building Inspector, and should be placarded by placing thereon a notice prohibiting use for human habitation; and

**WHEREAS**, the owners of said structure has been given a reasonable opportunity to bring the premises up to the standards of the subject codes in accordance and pursuant to an order issued by the Building Inspector on **April 5 2024**; and the owner has failed to comply with said order.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Elizabeth City that:

**Section 1.** The Building Inspector is hereby directed to post on the house at **905 South Martin Street**. (Map 29, Block D, Parcel #24 and Tax I.D. 891312867799) a sign containing the legend:

**"This building is unfit for human habitation; the use or occupancy of this building for human habitation is prohibited and unlawful."**

**Section 2.** The Building Inspector is hereby authorized and directed to proceed to repair or demolish the above-described structure in accordance with his order to the owner thereof dated **April 5 2024** and after abatement, then charge the property owners for all expenses incurred, including any accrued interest after the initial billing.

**Section 3.** It shall be unlawful for any person to remove or cause to be removed said placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building herein declared to be unfit for human habitation.

**Section 4.** This Ordinance shall become effective upon receipt of acceptable Title Search by the City Attorney.

**ADOPTED**, this 26<sup>th</sup> day of August 2024.

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E. Kirk Rivers  
Mayor

*Attest:*

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April D. Onley, NCCMC  
City Clerk

(SEAL)





**CITY OF ELIZABETH CITY**  
**Department Of Inspections**  
**FINDINGS OF FACT AND DEADLINE ORDER**

**To: Mrs. Eudora Harvey**

Owners and parties in interest in the building(s) located at **905 South Martin St. Elizabeth City, NC 27909**

The undersigned Minimum Housing Inspector of the City of Elizabeth City, pursuant to law, conducted a hearing at the time and place stated in the Complaint and Notice heretofore issued and served, or at a time to which said hearing was continued with previous notice to the above-named owners and parties in interest or their agents or attorneys. At said hearing, the Answer, if any, filed by the owners and parties in interest was read and considered, and the evidence, contentions, and views of the owners and parties in interest were carefully analyzed and considered by the undersigned. In addition to other evidence presented, the undersigned personally inspected the building above described and such inspection and examination has been considered, along with the other evidence offered at this hearing. Upon the record and all of the evidence offered and contentions made, the undersigned Minimum Housing Inspector does hereby find the following facts namely:

1. The above-named owners and parties in interest with respect to the building located at the place specified above were duly served as required by law with written Complaint and Notice of Hearing which set forth the complaint that the said building located at the above address is unfit for human habitation and violates the City and N.C. State Building Code(s) and the particulars thereof, and fixing a time and place for a hearing upon such complaint as provided by law; and at such hearing the following owners, persons in interest, or their agents or attorneys, were present and participated therein, to wit:

**They were not present for the hearing, nor responded to the Notice**

2. That the building above described is unfit for human habitation and violates the City and N.C. State Building Code(s) by reason of the conditions found to be present and to exist in and about said building as follows:

**A. The dwelling is found to be Dilapidated and an imminent danger to the public.**

IT IS THEREFORE ORDERED that the owners of the building above-named and designated be and are hereby ordered and required to bring such building into compliance with the subject codes by (repairing and remedying the described conditions and rendering the same fit for human habitation) OR (demolishing and removing said building from the premises) by a date not later than the **17th** day of **May, 2024**. Failure to bring the subject structure into full compliance OR demolish it by said deadline will result in condemnation and demolition of the building by the City, **without further notice to you**. You will then be billed for all expenses incurred including any accruing interest after the initial billing.

This the **3<sup>rd</sup>** day of **May, 2024**.

Todd R. Henry - Minimum Housing Inspector (252)-337-6672,

## Demolition Checklist 905 S. Martin St.

| Demolition Checklist 905 S. Martin St.        |   |            |              |  |           |  |
|---|---|------------|--------------|--|-----------|--|
| Ref.: Minimum Housing Code for Elizabeth City |   |            |              |  |           |  |
| Section 106: Violation Notice and Orders      |   |            |              |  |           |  |
| Section 107: Procedures for Condemnation      |   |            |              |  |           |  |
| Section 108: Unsafe Structures and Equipment  |   |            |              |  |           |  |
| Section 109: Emergency Measures               |   |            |              |  |           |  |
| Section 110: Demolition                       |   |            |              |  |           |  |
|   |   |            |              |  |           |  |
|   |   | Time Frame | Code Ref     | Complete   | Date      |  |
| <b>Step 1</b>                                 | <b>Selection of property</b>  |            |              |  |           |  |
| a.  | Petition filed by at least 5 residents of the City  |            |              |  |           |  |
| b.  | Petition by City Council  |            |              |  |           |  |
| c.  | Minimum Housing Inspector's Petition  |            |              |  |           |  |
| <b>Step 2</b>                                 | <b>Investigation</b>  |            |              |  |           |  |
| a.  | Exterior Investigation by MHI   | ASAP       |              | 5/5/2023   | 3/21/2024 |  |
| b.  | Interior Investigation by MHI - If needed   |            |              |  |           |  |
| <b>Step 3</b>                                 | Notify individual of violation (First Letter - Sent by certified or first-class mail)   |            |              |  |           |  |
|   | Set Hearing date to review facts in person  |            | 106.2, 106.3 |  | 4/5/2024  |  |
|   | Not less than 10 nor more than 30   | 10-30 days |              | X  |           |  |
|   | Owners given the time to respond or correct any of the initial findings   |            |              | X  |           |  |
|   | If the notice is returned showing that the letter was not delivered, a copy shall be posted in a conspicuous place on the structure |            | 106.3        | No response from owners the sign was posted on front door 4/5/24 |           |  |
| <b>Step 4</b>                                 | Administrative Hearing - Time and location set and homeowner notified in first letter.  |            |              |  |           |  |
|   | Determination of the facts and any evidence brought forth. Is the Dwelling fit for human habitation?                                |            |              |  | 5/3/2024  |  |
|   | Is dwelling located in Historic District  |            |              |  | No        |  |
|   | If so, Historic Preservation Commission hearing is also required  |            |              |  | N/A       |  |
| <b>Step 5</b>                                 | Code Official written determination of property following the hearing (Second Letter)   |            |              |  |           |  |
|   | New letter sent to property owner giving a time frame not to exceed 90 days to comply with findings from hearing.                   | 10-90 days | 107.2        |  | 5/3/2024  |  |
|   | Order to Repair, Alter, or Improve the Dwelling during the specified amount of time.  |            |              |  | X         |  |

|                |  |  |  |       |  |  |  |  |   |  |
|----------------|--|--|--|-------|--|--|--|--|---|--|
|                | Requires that the property be vacated during Rehabilitation - Sign stating this notice added to a prominent location on property.  |  |  |       |  |  |  |  | X |  |
| <b>Step 5b</b> | Send property address to Deeds office to check and see if they are working on a Foreclosure for the property   |  |  |       |  |  |  |  |   | Sent 5/14/24   |
| <b>Step 6</b>  | Failure to comply with order   |  |  | 107.3 |  |  |  |  |   |  |
|                | No action or appeal by homeowner   |  |  |       |  |  |  |  | X |  |
|                | After given time frame, submit an ordinance request to City Council (At the next regular session meeting) to have City Attorney petition the superior court for an order directing the owner to comply | Time until regular session council meeting |  | 107.3 |  |  |  |  |   | Presenting to City Council at regular meeting 12 August 2024 |
|                | Placard placed on dwelling stating decision  |  |  |       |  |  |  |  |   |  |
| <b>Step 7</b>  | After City Council decision, there will be 10 days allowed for appeal (Special Cases for emergency actions, i.e. dangerous conditions)   | 10 days                                    |  | 107.5 |  |  |  |  |   |  |
|                | Appeals shall be taken by filing with the code official and with the Board of Zoning Adjustment  |  |  | 107.5 |  |  |  |  |   |  |
|                | Complaints or orders issued by the code official shall be served either in person or by registered or certified mail   |  |  | 107.7 |  |  |  |  |   |  |
|                | Any individual with a connection to the property has the right to petition the superior court for up to 30 days.   |  |  |       |  |  |  |  |   |  |
| <b>Step 8</b>  | City Council directs MHI to move forward with the demolition process.  |  |  | 107.8 |  |  |  |  |   |  |
| <b>Step 8</b>  | Record the ordinance for demolition with the office of the Register of Deeds   |  |  | 107.8 |  |  |  |  |   |  |



