

ORDINANCE 20-_____

AN ORDINANCE OF THE COUNTY OF PINELLAS, RELATED TO HOUSING CODE ENFORCEMENT; PROVIDING THAT THE PINELLAS COUNTY CODE BE AMENDED BY REVISING SECTION 22-277 RELATING TO POWERS AND DUTIES OF HOUSING OFFICIAL; REVISING SECTION 22-278 RELATING TO UNSAFE BUILDINGS; REVISING SECTION 22-279 RELATING TO INSPECTIONS; REVISING SECTION 22-280 RELATING TO CONDEMNED DWELLINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREAS EMBRACED; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pinellas County (the “County”), is Florida’s most densely populated county and continuing Code violations on one or more properties can have negative consequences on neighboring properties and the communities in which they are situated;

WHEREAS, the County seeks to encourage compliance with its code and promulgate policies that provide adequate remedies to correct violations and gain compliance;

WHEREAS, the County recognizes that properties that are allowed to remain in a state of violation fall into further states of disrepair and consequently threaten the health, safety, welfare, and quiet enjoyment of the communities in which they are located; and

WHEREAS, the County has examined its existing procedures in Chapter 22, Article VI, Division 2 of the Pinellas County Code and adopts these amendments in an effort to provide clearer procedures and more expeditious resolutions of code violations;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, that:

SECTION 1. Section 22-277 of the Pinellas County Code is hereby amended to read as follows:

Sec. 22-277. - Powers and duties of housing official.

Extenuating circumstances, as used in Chapter 22, Article VI, Division 2 of the Pinellas County Code, means any readily identifiable, and objectively demonstrable, unusual or extreme circumstance that might reasonably and foreseeably interfere with, or significantly limit, the achievement of Code compliance on an unsafe structure, including, but not limited to, a personal or family illness, a death of a loved one, a recent weather disaster, a recent loss of employment or income source, and/or a temporary or permanent disability.

Hazard, as used in Chapter 22, Article VI, Division 2 of the Pinellas County Code, means a foreseeably dangerous risk to people or property.

Housing official, as used in Chapter 22, Article VI, Division 2 of the Pinellas County Code, means the Division Manager of the Pinellas County Code Enforcement Division.

Interested parties or interested party, as used in Chapter 22, Article VI, Division 2 of the Pinellas County Code, means all individuals and entities having a properly recorded interest in an unsafe structure as shown on a title search report.

Unsafe structure, as used in Chapter 22, Article VI, Division 2 of the Pinellas County Code, means all residential dwellings, apartment houses, rooming houses, buildings, structures, and their premises used as such that are unsafe, insanitary, unfit for human habitation, not provided with adequate egress, or those that constitute a fire hazard or are otherwise dangerous to human life, or, in relation to their existing use, constitute a hazard to safety or public health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

(a) *Right of entry.*

- (1) The housing official or its duly authorized representative is authorized to enforce the provisions of this article, and upon presentation of proper identification to the property owner, duly authorized agent of the property owner, or apparent legal resident of the property, may enter any building, structure or premises in the county during reasonable hours to perform any duty imposed or authorized by this article. This right of entry is subject to the following guidelines:
 - a. There must be an identified public interest which justifies inspection of the building, structure or premises; and
 - b. The property owner, duly authorized agent of the property owner, or resident consents to the entry; and
 - c. Entry into the building, structure or premises may not be gained by force.
- (2) In the event that the housing official is refused consent to enter a building, structure, or premises to perform an inspection under this article, the housing official may apply for an inspection warrant. The application for an inspection warrant will be submitted to any court authorized to issue inspection warrants under state law.

(b) *Emergency order.* In cases of emergency where extreme hazards are known to exist within a building, structure or on the premises which presents a potential imminent threat of loss of life or severe property damage, the limitations of subsection (a) of this section will not apply.

SECTION 2. Section 22-278 of the Pinellas County Code is hereby amended to read as follows:

Sec. 22-278. - Unsafe structures to be secured, repaired, rehabilitated, and/or demolished.

A. Securing Repairing, or Rehabilitating Unsafe Structures. All unsafe structures and nuisances are hereby declared to be in violation of this article and may be secured, repaired, and/or rehabilitated in accordance with the following procedures:

- (1) **Notice.** Whenever the housing official determines that there are reasonable grounds to believe that there has been a violation of any provision of this article, or of any

rule or regulation adopted pursuant thereto, the housing official must give notice of an alleged violation to the person or persons responsible therefor. A notice of violation must:

- a. Be in writing.
- b. Include a statement of the reason(s) it is being issued.
- c. Allow, based on the foreseeable tasks to be completed, between seven (7) and sixty (60) days to achieve compliance.
- d. Advise that, notwithstanding (c) above, where hazards are known to exist within a building or structure that present the potential imminent threat of loss of life or severe property damage, the housing official may take or require immediate corrective action to be taken, including, but not limited to, action taken to alter, upgrade, secure, repair, or remodel any unsafe structure.
- e. State that if such corrections are not voluntarily completed within the stated time, as set forth in the notice, the housing official is authorized to work with the County Attorney to institute legal proceedings charging the owner with a violation of this article, or seek injunctive relief to obtain compliance, or both.
- f. Contain the provisions of this article providing for hearing and appeal.

(2) **Method of Notice.** Any written notice required under this subsection will be considered properly served so long as it is sent by certified mail, return receipt requested, and by regular mail.

(3) **Failure to Comply.** In the event that the owner does not, after due notice has been given and all rights of appeal have been exhausted, comply with the notice to correct violations of such premises, the housing official is authorized to cause such premises to be altered, upgraded, secured, repaired, or remodeled. The housing official will grant extensions where extenuating circumstances are present and/or when additional time is needed to secure permits for work.

(4) **Contractors.** The housing official is authorized to implement the provisions of subsection (3) of this section through any available public agency or by contracting with an independent licensed contractor submitting the lowest and best qualified bid for the performance of the necessary work in connection with the correction of violations. All work performed under this Section, whether by the County or a contractor working on the County's behalf, will be performed by a person and/or entity licensed to do such work. All applicable certifications and permits required by the County must be obtained from the Building Department or the department issuing such certifications and permits before any work is commenced.

(5) **Assessment of Costs and Liens.** Costs incurred under subsection (4) of this Section will be charged to the owner and will constitute a lien upon the property and may be collected in the manner provided by law.

B. **Demolishing Unsafe Structures.** When, upon re-inspection after any applicable timeframes for compliance granted under this section have expired, an unsafe structure where

extreme hazards exist remains in continuous and hazardous non-compliance for thirty (30) calendar days following a court or Special Magistrate ruling, order, or judgment setting forth the grounds of non-compliance, the County may demolish said unsafe structure, subject to the processes within this subsection. A Special Magistrate is hereby authorized to issue an order permitting the County to demolish an unsafe structure following a demolition hearing. The County must be represented by the Pinellas County Attorney's Office in any hearing seeking demolition to ensure that all appropriate processes, including the notice of a demolition hearing being provided to all property owners, occupants, and interested parties, is met.

(1) **Notice of Demolition Hearing.** The County will provide notice of intent to demolish an unsafe structure to all owners and interested parties as shown on a title search by: (i) certified and regular mail, at the address of record listed with the Pinellas County Tax Collector and Pinellas County Property Appraiser; (ii) posting notice at the unsafe structure; and (iii) posting notice on the County's official website. The County will also provide notice to all interested parties shown on the title search at the last address of record shown on the document from which the title search establishes their interest in the real property.

The County will provide notice to any occupants by certified and regular mail at the address of the unsafe structure.

The County's notices of intent to demolish an unsafe structure must be provided by mail and posted at least (10) calendar days before a hearing is scheduled to occur.

(2) **Contents of Notice.** The County's notice of intent to demolish an unsafe structure must, at a minimum: (i) set forth the date, time, and location of a hearing; (ii) inform all property owners, occupants, and interested parties of their option to obtain and pay for a court reporter to be present to make a transcript for any subsequent appeal; (iii) inform all property owners, occupants, and interested parties that they may be represented by counsel, present and confront witnesses, and testify; (iv) state the County's mailing address for any correspondence concerning the demolition procedures; and (v) state the basis upon which the County seeks a demolition order for the unsafe structure, which must be the same grounds upon which a previous court or Special Magistrate found the property to be non-compliant.

(3) **Demolition Hearing.** A Special Magistrate may authorize the County to demolish an unsafe structure if the Special Magistrate finds that the County has shown, by a preponderance of the evidence, that: (i) a court or Special Magistrate previously found the property to be in non-compliance for being an unsafe structure, and the unsafe nature of the structure is the basis upon which the County seeks a demolition order; (ii) the property remained in non-compliance as an unsafe structure for thirty (30) continuous days following a court or Special Magistrate's ruling, order, or judgment, or the amount of time to achieve compliance expressly provided within the ruling, order, or judgment, whichever is greater; (iii) the property owner(s), occupants and all interested parties were provided notice in conformity with all provisions of this ordinance; and (iv) the property has not been brought into compliance with respect to any hazardous violations by the demolition hearing date.

The formal rules of evidence and procedure will not apply at the demolition hearing. Fundamental notions of procedural due process and the essential requirements of the law must be observed. A Special Magistrate's determination must be supported by competent, substantial evidence, which must be documented in any ruling, order, or judgment denying or granting the County's demolition request. The Special Magistrate has discretion to admit relevant evidence, irrespective of whether such evidence would be admissible in a court of law. Among other things, each party to the hearing will have the opportunity to: call, direct examine, and cross-examine witnesses under oath; be represented by counsel; introduce relevant evidence; impeach any witness; testify; and submit rebuttal evidence.

Each demolition hearing will be electronically recorded; however, failure of the County to record a hearing will not invalidate the hearing or any orders or rulings issued in relation thereto. The property owner(s), occupants, or any interested parties must take any necessary action, including obtaining a court reporter, to ensure the creation of a record for purposes of an appeal, should they desire the creation of a record for appeal.

The demolition hearing must not be used as a substitute to an untimely appeal from an earlier ruling, order, or judgment finding a structure to be an unsafe structure. The demolition hearing will only be held to determine if a previously determined unsafe structure is subject to demolition.

(4) **One-Time Extension.** At the demolition hearing, the Special Magistrate may grant a property owner, occupant, or interested party(ies) a one-time extension of up to thirty (30) additional days to achieve compliance concerning an unsafe structure as long as the additional extension will foreseeably result in compliance. The Special Magistrate will set a date for re-hearing on the County's demolition request before granting a one-time extension.

(5) **Appeal.** An aggrieved party will have thirty (30) calendar days from the date of a Special Magistrate's ruling, order, or judgment to seek appellate review by filing a Notice of Appeal in the Circuit Court of the Sixth Judicial Circuit.

(6) **Approval of the Pinellas County Board of County Commissioners.** After a Special Magistrate has entered an order authorizing the County to demolish an unsafe structure, and once the time period to file an appeal has passed with no notice of appeal having been filed, or after the favorable resolution of an appeal in the County's favor, a demolition request will be submitted to the Board of County Commissioners for approval.

(7) **Demolition.** The County is authorized to utilize a licensed contractor to demolish an unsafe structure in accordance with the process in this ordinance.

(8) **Remaining Lot.** The County will cause the lot upon which a recently demolished unsafe structure sat to be properly filled, graded, and seeded with grass seed or sodded as part of a demolition process.

(9) **Assessment of Costs and Liens.** Costs incurred under subsection (7), (8), and/or (11) of this Section will be charged to the owner and will constitute a lien upon the property and may be collected in the manner provided by law.

(10) **Foreclosure Permitted.** After three (3) months from the recording of a lien pursuant to this ordinance, the County is authorized to foreclose on any lien that remains unpaid, to the extent permitted by applicable law.

(11) **Emergency Demolition.** Where an unsafe structure poses an imminent danger to the public safety, health, or welfare, staff in conjunction with the County Attorney's Office is authorized to seek an emergency injunction or any other relief available in a court of competent jurisdiction to demolish the unsafe structure. When the County shows that the imminent danger to the public safety, health, or welfare posed by the unsafe structure is such that its immediate removal is the only remedy sufficient to achieve compliance and maintain safety, and the remedies of altering, upgrading, securing, repairing, or remodeling the unsafe structure will not achieve compliance and safety, a court may grant an emergency demolition. The notice and other process provisions of this ordinance, other than the assessment of Costs and Liens, will not apply where an emergency demolition is sought, instead the notice as required by the formal court process will be sufficient.

SECTION 3. Section 22-279 of the Pinellas County Code is hereby amended to read as follows:

Sec. 22-279. - Inspections.

The housing official is authorized to make or cause to be made inspections to determine the condition of dwellings, dwelling units, rooming units, and premises in the interest of safeguarding the health and safety of the occupants of dwellings and of the general public. The County may seek an inspection warrant as provided by state law.

SECTION 4. Section 22-280 of the Pinellas County Code is hereby amended to read as follows:

Sec. 22-280. - Condemned dwellings.

(a) *Designation of; procedures.* The designation of dwellings or dwelling units as unfit for human habitation, and the procedure for the condemnation and placarding of such unfit dwellings or dwelling units, will be carried out in compliance with the following procedures:

- (1) *Designation; placarding.* Any dwelling or dwelling unit found to have any of the following defects may be condemned as unfit for human habitation and be so designated and placarded by the housing official:
 - a. One which is so damaged, decayed, dilapidated, insanitary, unsafe, vandalized, or vermin-infested that it creates an imminent serious hazard to the health or safety of the occupants or of the public.
 - b. One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or of the public.
- (2) *Form and service of notice.* Whenever the housing official has declared a dwelling or multifamily dwelling as unfit for human habitation, as defined in this article, the housing official will give notice to the owners and occupants by certified mail, return receipt requested, and by regular mail.

- (3) *Vacating of condemned dwelling.* Any dwelling or dwelling unit condemned as unfit for human habitation and so designated and placarded by the housing official must be vacated as soon as possible, but in no event longer than the period of time specified on the placard, which must be between one (1) and seven (7) days after notice of such condemnation has been given by the housing official to the owner and occupants of the dwelling. Such notice will require the building, structure or portion thereof to be vacated forthwith and not be reoccupied until the specified repairs and improvements are completed, inspected, and approved by the housing official.
- (4) *Occupancy of dwelling.* No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation may be used for human habitation until approval is secured from, and such placard is removed by, the housing official. The housing official must remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
- (b) *Removal of placard.* No person may deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such pursuant to this section, except as provided in subsection (a)(4) hereof.

SECTION 5. Severability.

If any Section, Subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by a Court of Competent Jurisdiction, such holding may not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 6. Areas Embraced.

This Ordinance will be in effect in the unincorporated areas of Pinellas County.

SECTION 7. Inclusion in Code.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an amendment thereto, and will be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Land Development Code.

SECTION 8. Filing of Ordinance: Effective Date.

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance will be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance will become effective upon filing of the Ordinance with the Department of State.