

ORDINANCE 2015 – 15

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA; AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA BY AMENDING CHAPTER 58, ARTICLE III, SECTION 58-80, DEFINITIONS; BY AMENDING CHAPTER 58, ARTICLE III, SECTION 58-84, UNSAFE AND DILAPIDATED BUILDINGS PROHIBITED; BY AMENDING CHAPTER 58, ARTICLE III, SECTION 58-85, NOTICE OF DETERMINATION THAT A BUILDING IS UNSAFE OR DILAPIDATED; BY AMENDING CHAPTER 58, ARTICLE III, SECTION 58-86, CONDEMNATION BY THE CLCA; BY AMENDING CHAPTER 58, ARTICLE III, SECTION 58-87, NOTICE OF CONDEMNATION; BY AMENDING CHAPTER 58, ARTICLE III, SECTION 58-88, REPAIRS AFTER CONDEMNATION; BY AMENDING CHAPTER 58, ARTICLE III, SECTION 58-91, ASSESSMENT OF COSTS OF ABATEMENT; IMPOSITION OF LIEN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:

(Words in ~~strike-through~~ type are deletions; words in underscore type are additions.)

SECTION I: Chapter 58, article III, section 58-80 of the Code of Ordinances, County of Volusia is amended to read as follows:

Sec. 58-80. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1 *Building* shall have the same meaning as set forth in the Florida Building Code, as it may be
2 amended from time to time.

3 *Building official* means the chief building official of the county or his duly authorized
4 representative.

5 *Contractor Licensing & Construction Appeals Board (CLCA)* shall mean the board created
6 pursuant to ~~e~~Chapter 22, ~~a~~Article ~~VII~~, ~~s~~Section ~~22-5-1-1~~ 22-31.

7 *County council* means the seven duly constituted members of the county council.

8 *Owner* means any person, group of persons, firm or firms, joint venture, corporation or
9 corporations, or any other legal entity having legal title to the real property on which a building
10 or structure is subject to the terms of this article.

11 *Person aggrieved* means a person whose legal right is invaded by a decision complained of, or
12 whose ~~pecuniary~~ financial interest is directly affected by a decision. The person's interest must
13 be specific and personal, not common to all members of the community.

14 *Structure* shall have the same meaning as set forth in the Florida Building Code, as it may be
15 amended from time to time.

16 **SECTION II:** Chapter 58, article III, section 58-84 of the Code of Ordinances, County
17 of Volusia is amended to read as follows:

18 **Sec. 58-84. Unsafe and dilapidated buildings and structures, buildings and structures in**
19 **imminent danger prohibited.**

20 (a) A building or structure is unsafe or dilapidated when any of the following conditions exist:

1 (1) There is an unusual sagging or leaning out of plumb of the building or structure or
2 any parts of the building or structure and such effect is caused by deterioration or over-stressing
3 to such an extent that there is a reasonable likelihood that the walls or other structural members
4 may fall or give way.

5 (2) The building or structure has improperly distributed loads upon the floors or
6 roofs, or the same are overloaded or have insufficient strength to be reasonably safe for the
7 purpose used.

8 (3) The building or structure has been damaged or destroyed by fire, wind, or other
9 causes and has become dangerous to life, safety, or the general health and welfare of people
10 within or nearby the building or structure.

11 (4) The building or structure is so dilapidated, decayed, unsafe, unsanitary, or so
12 utterly fails to provide the amenities essential to decent living that it is unfit for human habitation
13 or occupancy, or is likely to cause sickness or disease, so as to injure the health, safety, or
14 general welfare.

15 (5) The building or structure has parts that are so attached that there is a reasonable
16 likelihood they may fall and injure members of the public or property in general.

17 (6) The building or structure is vacant and not sufficiently secured to prevent easy
18 access to trespassers and vagrants, or is otherwise untended or unkempt to the extent that it poses
19 a general health or safety hazard for neighboring people or property.

20 (7) The electrical or mechanical installations or systems create a hazardous condition
21 contrary to the standards of the Florida Building Code.

22 (8) An unsanitary condition exists by reason of inadequate or malfunctioning sanitary
23 facilities or waste disposal systems.

1 (b) A building or structure in imminent danger exists when:

2 (1) Unsound conditions of a structure, building system or portion thereof are likely to
3 cause illness or physical injury to a person entering or occupying the structure;

4 (2) Structurally unsound conditions will likely cause a portion of the building or
5 structure is to fall, be carried by the wind, or otherwise detach or move, and in doing so cause
6 physical injury or damage to a person or property nearby; or

7 (3) The condition of the property is such that it harbors or is inhabited by pests,
8 vermin or organisms injurious to human health, the presence of which constitutes an immediate
9 hazard to persons in the vicinity.

10 ~~(b)-(c)~~ A building or structure that is unsafe, ~~or~~ dilapidated or in imminent danger constitutes a
11 nuisance. No person shall ~~permit~~ allow an unsafe or dilapidated building or structure, or a
12 building or structure in imminent danger, to exist on property under his or her ownership or
13 control.

14 **SECTION III:** Chapter 58, article III, section 58-85 of the Code of Ordinances, County
15 of Volusia is amended to read as follows:

16 **Sec. 58-85. Notice of determination that a building or structure is unsafe, ~~or~~ dilapidated or**
17 **in imminent danger.**

18 (a) Upon identification of a building or structure as unsafe or dilapidated by the building official,
19 notice shall be sent by the building official to the owner or owners of the building or structure as
20 listed on the most recent available tax rolls, by registered or certified mail, return receipt
21 requested, or by hand delivery by the said building official or deputy sheriff, directing that it be
22 repaired or demolished. Also, said notice shall be posted on the building or structure. Failure of
23 any person to receive notice shall not invalidate any proceedings under this section. Evidence of

1 an attempt to serve notice, and proof of posting, shall be sufficient to show that these notice
2 requirements have been met. Proof of posting with date and place of its posting shall be by
3 affidavit of the person posting the notice. Attached to the affidavit shall be a copy of the notice
4 posted.

5 (b) As applicable, the notice should contain generally the following information:

6 (1) The name of the person upon whom the notice is served.

7 (2) The street address of the building or structure and the legal description of the property
8 on which it is located.

9 (3) That the building or structure has been determined to be unsafe, ~~or~~ dilapidated, or in
10 imminent danger, ~~providing and in a~~ summary manner, the conditions upon which the
11 determination is based.

12 (4) If repairs or alterations will remedy the conditions, providing in a ~~the~~ summary
13 manner the nature and extent of the repairs or alterations necessary.

14 (5) If the conditions are of such a character that repairs or alterations are not feasible or
15 reasonably expected to remedy the conditions, notice that the building must be demolished.

16 (6) That within ~~forty-five (45)~~ thirty (30) days or within five (5) days for imminent
17 danger cases from sending the notice, a complete building permit application for necessary
18 repairs must be submitted and repairs commenced, or the building must be demolished.

19 (c) If the conditions are not remedied within ~~45~~ thirty (30) days or five (5) days for imminent
20 danger cases after the notice of determination is sent, or a building permit for repairs is not
21 applied for and repairs not completed within a reasonable period of time, the determination shall
22 be referred by the building official to the CLCA for a condemnation public hearing concerning
23 the subject building or structure. The owner or owners shall be notified by the building official of

1 the time, place and purpose of the public hearing. Also, said notice shall be posted on the
2 building or structure. Failure of any person to receive notice shall not invalidate any proceedings
3 under this section. Evidence of an attempt to serve notice, and proof of posting, shall be
4 sufficient to show that these notice requirements have been met. Proof of posting with date and
5 place of its posting shall be by affidavit of the person posting the notice. Attached to the
6 affidavit shall be a copy of the notice posted.

7 (d) Should any unsecured building, structure or property be deemed an imminent danger as set
8 forth in this chapter, the building official is authorized, without CLCA approval, to secure the
9 building, structure or property after notice has been provided to the property owner in
10 accordance with subsection (c).

11 **SECTION IV:** Chapter 58, article III, section 58-86 of the Code of Ordinances, County
12 of Volusia is amended to read as follows:

13 **Sec. 58-86. Condemnation by the CLCA.**

14 (a) If the owner of any building or structure has failed to remedy unsafe or dilapidated conditions
15 as provided in Section 58-85(c), after the expiration of the thirty (30)45-day period, or the 5 day
16 period for imminent danger cases, the CLCA shall consider condemning the building or
17 structure.

18 (b) Each case before the CLCA shall be presented by the building official or other county staff.
19 At the hearing, the CLCA shall proceed to hear evidence and testimony on the cases before the
20 CLCA. All testimony shall be under oath and shall be recorded. The ~~board~~ CLCA shall take
21 testimony from the building official or county staff, the property owner, and other witnesses
22 called by either the county staff or the property owner. Formal rules of evidence shall not apply,
23 but fundamental due process shall be observed and shall govern the proceedings.

1 (c) After hearing evidence and/or testimony on the case at said public hearing conducted by ~~said~~
2 ~~board~~ the CLCA that any building or structure is unsafe, ~~or~~ dilapidated or found to be an
3 imminent danger in accordance with subsections 58-84(a) and (b), the CLCA may adopt a
4 resolution condemning it, requiring the owner to remedy the conditions by repair or removal by a
5 date set by the CLCA, and providing that failure of the owner to do so will result in the CLCA
6 authorizing the building official to take action to remedy the conditions and charging all
7 expenses thereof against the real property. The CLCA may also take any other appropriate action
8 to carry out the purpose and intent of this article. The CLCA, the building official or his duly
9 authorized representative, or the property owner may request a postponement or continuance of a
10 scheduled public hearing.

11 (d) If the conditions are not remedied within the time established by the ~~board~~ CLCA, the
12 building official shall take whatever action determined necessary and appropriate to remedy the
13 conditions, including vacating, fencing, securing, demolishing, or removing the unsafe or
14 dilapidated building or structure. In the event demolition or removal of the unsafe or dilapidated
15 building or structure is required by the building official, the building official shall notify the
16 county council prior to said demolition or removal of said building or structure.

17 **SECTION V:** Chapter 58, article III, section 58-87 of the Code of Ordinances, County
18 of Volusia is amended to read as follows:

19 **Sec. 58-87. Notice of condemnation.**

20 (a) A certified copy of the resolution of condemnation, together with a copy of the notice of
21 determination containing information as provided in subsections 58-85(a) and (b), shall be sent
22 by the building official, to each owner as listed on the most recent available real property tax

1 rolls, by registered or certified mail, return receipt requested, or by hand delivery by the building
2 official or deputy sheriff.

3 (b) In addition, a certified copy of the resolution of condemnation, together with a copy of the
4 notice of determination, shall be posted on the building or structure following the adoption of the
5 resolution of condemnation. Said notice shall be posted on the building or structure following
6 adoption of said resolution.

7

8 **SECTION VI:** Chapter 58, article III, section 58-88 of the Code of Ordinances, County
9 of Volusia is amended to read as follows:

10 **Sec. 58-88. Repairs after condemnation.**

11 After the CLCA has condemned a building or structure, no building permit application shall be
12 accepted or permit issued for repairs of the building or structure except as follows:

13 (1) The building official shall review any application for a permit to repair a condemned
14 building or structure, and shall determine whether repairs are feasible.

15 (2) If the proposed repairs are not reasonably expected to resolve the conditions or are
16 otherwise not feasible, the permit shall be denied.

17 (3) If the repairs are feasible and are reasonably expected to resolve the conditions, ~~a permit~~
18 ~~shall be issued only upon written condition that the owner or authorized agent specify the nature~~
19 ~~of the repairs, the date on which the repairs shall be complete, and that~~ the owner shall obtain a
20 permit within thirty (30) days of the CLCA hearing date unless otherwise specified in the
21 Resolution of Condemnation. ~~Failure to complete the repairs within the time provided~~ abide by
22 the conditions of the permit or if the permit expires, is cancelled or revoked shall result in the

1 building official taking remedial action with attachment of a lien for all costs or other action
2 authorized by law.

3 **SECTION VII:** Chapter 58, article III, section 58-91 of the Code of Ordinances, County
4 of Volusia is amended to read as follows:

5 **Sec. 58-91. - Assessment of costs of abatement; imposition of lien.**

6 Any costs incurred by the County of Volusia to correct dilapidated unsafe conditions pursuant to
7 this provision shall be charged to the owner of the property, and shall constitute a lien against the
8 property in favor of the County of Volusia. ~~The lien shall be entitled to the same priority as a lien~~
9 ~~for special assessments with the same rights of collection, foreclosure and sale, and lien shall be~~
10 ~~superior to all others except taxes.~~ Until payment is complete, such assessment shall be a legal,
11 valid, binding obligation upon the real property. Thirty days after filing the lien, interest shall
12 accrue at the rate of 12 percent per annum.

13 **SECTION VIII: AUTHORIZING INCLUSION IN CODE** - The provisions of this
14 ordinance shall be included and incorporated into the Code of Ordinances of the County of
15 Volusia, as additions or amendments thereto.

16 **SECTION IX: SEVERABILITY** - Should any word, phrase, sentence, subsection or
17 section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or
18 unconstitutional, then that word, phrase, sentence, subsection or section so held shall be severed
19 from this ordinance and all other words, phrases, sentences, subsections, or sections shall remain
20 in full force and effect.

21 **SECTION X: CONFLICTING ORDINANCES** - All ordinances or part thereof, in
22 conflict herewith are, to the extent of such conflict, repealed.

23 **SECTION XI: EFFECTIVE DATE** - A certified copy of this Ordinance shall be filed

1 with the Department of State by the County Manager within ten (10) days after enactment by the
2 County Council and this Ordinance shall take effect upon filing with the Department of State.

3 **ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA,**
4 **IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS**
5 **AT THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA**
6 **AVENUE, DELAND, FLORIDA, THIS 1st DAY OF OCTOBER A.D., 2015.**

7

8 COUNTY COUNCIL
9 ATTEST: COUNTY OF VOLUSIA, FLORIDA

10

11 /s/
12 James T. Dinneen, County Manager

/s/
Jason P. Davis, County Chair