

ARTICLE VI. - UNSAFE BUILDING ABATEMENT¹⁶¹

Footnotes:

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Editor's note— Section 1 of Ord. No. 2006-77, adopted Oct. 5, 2006, amended the title of Art. VI, Nuisance and Unsafe Building Abatement, to read as herein set out. Section 2 of said ordinance further provided for the deletion of § 30-203 and renumbering of §§ 30-204—30-208 as §§ 30-203—30-207.

Sec. 30-200. - Short title.

This article shall be known as the "Unsafe Building Abatement Ordinance", and may be cited as such.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 1, 10-5-2006)

Sec. 30-201. - Legislative findings and intent.

- (a) The board of county commissioners hereby declares that unsafe buildings upon real property within the county constitute a menace to the public health, safety and welfare of the county and its inhabitants, and the board of county commissioners shall have the authority to abate such unsafe buildings pursuant to the authority vested by F.S. ch. 125 and F.S. ch. 162 in the manner provided herein.
- (b) It is declared by the board of county commissioners that it shall be a violation of this article to create, maintain, or allow the creation or continuation of any unsafe building.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-202. - Definitions.

Terms not specifically defined in this article shall be interpreted in accordance with those definitions provided in the Escambia County Land Development Code, and Chapter 2, Florida Building Code, as may be amended from time to time. The following terms and phrases, when used in this article, shall have the following meanings, unless the context clearly indicates a different meaning:

- (a) *Abate* or *abatement* mean the cessation or removal of an unsafe building.
- (b) *Agent* means any person with valid oral or written authority to represent an owner of real property and to act on behalf of the owner, which may be evidenced by a notarized document signed by the owner.
- (c) *Building* means any structure having a roof supported by columns or walls.
- (d) *Dilapidation* means the substantial deterioration of a building or parts thereof, such that it is no longer adequate for the purpose for which it was originally intended, or has significant structural deficiencies.
- (e) *Dwelling* means any building, structure, trailer, mobile home, or roominghouse which is wholly or partially used or intended to be used, in whole or in part, for living or sleeping by human occupants.
- (f) *Gabage* means:

- (1) Any animal or vegetable waste materials resulting from the storage, handling, preparation, cooking, and serving of food;
 - (2) Market wastes;
 - (3) Trimmings and other discarded matter from meat or produce;
 - (4) Containers and packaging for any of the material identified in subsections (1) through (3) of this definition.
- (g) *Lot* means a tract, plot, parcel, or other portion of a subdivision or any other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for building development; provided, however, that north of Ten Mile Road this term shall apply only to lots of three acres or less in size.
- (h) *Owner* means the record owner of, whether one or more persons or entities, of fee simple title as set out in official records of the county to any lot or parcel of real property, their successors and assigns, but excluding those holding title merely as security for the performance of an obligation. If a lot or parcel is jointly owned by two or more persons or entities, then such joint owners shall constitute a single owner for purposes of this article.
- (i) *Parcel* means a unit of real property within legally established boundary lines, or a lot, or contiguous group of lots in single ownership or under single control, and considered a unit for purposes of development.
- (j) *Premises* means a lot, plot, parcel, or tract of land, including the buildings, structures and improvements on such premises.
- (k) *Responsible party* means the owner, agent, or other person committing, creating, owning, keeping or maintaining an unsafe building hereunder.
- (l) *Structure* means anything constructed, assembled, or erected, the use of which requires location on the ground or attachment to something having location on or in the ground; this shall include, among other things, buildings, swimming pools, mobile homes, fences, walls, tanks, signs, tents, trailers, dining cars, camp cars or similar structures on wheels or other supports used for living, business, or storage purposes. The term includes any structure equipped with a roof, permanent or temporary, such as porches, carports, awnings, canopies, screened enclosures, arbors, balconies and similar elements, but does not include unroofed surfaces such as paving, sidewalks, or those used for sports.
- (m) *Unsafe building* means any building that has any of the following conditions, such that life, health, property or safety of its occupants or the general public are endangered:
- (1) The building, dwelling or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or dwelling is less than it was prior to the damage and is less than the minimum requirement established by the Florida Building Code for new buildings.
 - (2) Any exterior appendage or portion of the building or dwelling is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Florida Building Code for new buildings.
 - (3) If for any reason the building, dwelling or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.
 - (4) The building, dwelling or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.
 - (5) The buildings, dwellings, or portion thereof has been constructed or maintained in violation of a specific requirement of the Florida Building Code or of a city, county, or state law.
 - (6) Any building, dwelling or portion thereof that is in such a condition as to constitute a public nuisance.

- (7) Any building, dwelling or portion thereof that is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-203. - Defining unsafe building conditions.

The following conditions existing on real property in the unincorporated areas of the county, upon confirmation by the building official, shall constitute prima facie evidence of maintaining an unsafe building within the meaning of section 30-202 injurious to the health, safety and welfare and shall include, but shall not be limited to:

- (a) A dwelling unit containing less than a kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition, properly installed and connected to an approved water and sewer system, and maintained in a sanitary working condition, free from defects, leaks, and obstructions.
- (b) A plumbing fixture not located within the dwelling unit and accessible to the occupants of same. The water closet, tub or shower and lavatory not located in a room affording privacy to the use and such room without a minimum floor space of thirty square feet with any dimensions less than four feet (1,219 mm). Bathrooms inaccessible from habitable rooms, hallways, corridors and other protected or enclosed areas.
- (c) A dwelling unit having an inadequate supply of both cold and hot water connected to the kitchen sink, lavatory, and tub or shower. All water shall be supplied through an approved distribution system connected to a potable water supply.
- (d) A dwelling unit having inadequately installed and maintained water heating facilities that are unsafe and in bad working condition and are incapable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120°F (49°C). Apartment houses may use a centralized water heating facility capable of heating an adequate amount of water to not less than 120°F (49°C).
- (e) A dwelling unit without a central heating system and without facilities to connect heating appliances.
- (f) A dwelling unit with unvented gas heaters.
- (g) A dwelling unit using any untested or unlisted liquid fueled, unvented heating appliances. (The terms "untested" and "unlisted" shall be interpreted in accordance with the provisions of Chapter 2, Florida Building Code.)
- (h) A dwelling unit that does not provide a smoke detector that is installed in accordance with the manufacturer's recommendations.
- (i) A dwelling unit with habitable rooms that have fewer than one window or skylight that can be easily opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size, without approved, equivalent ventilation.
- (j) A dwelling unit with fewer than two separate and remote receptacle outlets in every habitable room or space. Bedrooms that do not have at least one wall switch controlling a lighting outlet. Kitchens that have fewer than two separate and remote receptacle outlets and without a wall or ceiling outlet controlled by a wall switch. (Receptacles rendered inaccessible by appliances fastened in place or by appliances occupying dedicated space shall not be considered as these required outlets.) Every hall, water closet compartment, bathroom, laundry room or furnace

room shall have at least one ceiling-mounted or wall-mounted lighting outlet. In bathrooms, the lighting outlet shall be controlled by a wall switch. In addition to the lighting outlet in every bathroom and laundry room, there shall be provided at least one receptacle outlet. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

- (k) A common hall or inside stairway in a building, other than one-family dwellings, without adequate lighting or at least one footcandle intensity (10.76 lux) at the floor in the darkest portion of the normally traveled stairs and passageways.
- (l) Electrical outlets and fixtures, electrical wiring and equipment unconnected to a source of electric power in accordance with the provisions of the Florida Building Code.
- (m) A building foundation maintained in an unsafe manner and incapable of supporting the load which normal use may cause to be placed thereon.
- (n) An exterior wall with holes, breaks, loose or rotting boards or timbers, any condition which might admit rain or dampness to the interior portions of the walls or occupied spaces of a building, and any siding material not kept in repair.
- (o) A roof not structurally sound and not maintained in a safe manner and has defects which might admit rain and cause dampness in the walls or interior portions of the building.
- (p) Portions, additions or sections of a roof including, but not limited to, the fascia, eave, soffit, sheathing, rafter, tail, barge rafter, vent screening, gutter, downspout, roof jack, lead or metal flashing, not complete with trim strips, moldings, brackets, braces and supports in accordance with common building practices. An item displaying signs of deterioration, abuse or improper installation that could be construed to affect the purpose of that item or is causing damage to the immediate area or roof structure, that could allow dampness or admit rain to the interior of that building.
- (q) A dwelling unit without a safe, unobstructed means of egress, without a minimum ceiling height of seven feet (2,134 mm) leading to a safe and open space at ground level. Stairs without a minimum head room of six feet eight inches (2,032 mm).
- (r) An unsafe inside or outside stair, porch or any appurtenance thereto incapable of supporting the load that normal use may cause to be placed thereon and is in unsound condition and bad repair.
- (s) Any unenclosed structure over thirty inches (762 mm) above the ground level or any steps containing four or more risers without protective railing.
- (t) Windows that are not weathertight, watertight, rodentproof, in unsound working condition and/or bad repair.
- (u) Windows with missing window panes, have open cracks or holes.
- (v) Window sashes that are improperly fitted and not weathertight within the window frame.
- (w) Windows that meet the requirement for light and ventilation that are not easily opened or are not secured in position by window hardware.
- (x) Exterior doors, basement or cellar doors or hatchways that are not weathertight, watertight, rodentproof, in working condition, or in good repair.
- (y) Exterior doors that have improperly installed hardware that requires unreasonable effort to open, close and secure in an open or closed position.
- (z) Exterior door frames that are improperly maintained, without weatherstripping and thresholds to keep the door frame weathertight, watertight and rodent and insect resistant when the door is in a closed position.
- (aa) Exterior door jambs, stops, headers, and moldings that are insecurely attached to the structure, not maintained in good condition, split or deteriorating that minimizes the strength and security of the door in a closed position.

- (bb) Dwelling units without central air conditioning systems, without screens on all exterior openable windows and doors use or required for ventilation. Screens on windows and doors shall be stretched and fitted and maintained without open rips or tears.
- (cc) Garages, carports, storage buildings, and all other accessory structures unmaintained and in bad repair and unsound structural condition.
- (dd) Structural elements of a dwelling unmaintained, structurally unsound, and showing evidence of deterioration which makes it incapable of carrying normal loads.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-204. - Methods of abatement.

The conditions described under section 30-203 may be abated in the following ways:

- (a) Obtain appropriate building permits to correct all violations to the standards of the building codes in effect; or
- (b) Obtain a demolition permit to remove all violating structures, including the physical removal of demolition debris.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-205. - Inspection of the premises.

In order to ensure compliance with this article, the office of code enforcement may inspect any property, house, building, structure or other premises; however, at no time shall code enforcement personnel enter into any building or structure without the express permission of the responsible party or a warrant issued by a court of competent jurisdiction. Any such inspection shall pertain only to the subject matter covered by this article.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-206. - Enforcement.

This article may be enforced in any manner allowed, authorized, or provided by F.S. ch. 162, as amended. Any violation of this article also may be prosecuted by the state attorney in the same manner as a misdemeanor pursuant to F.S. § 125.69, as amended.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-207. - Condemnation following natural disaster or other declared local emergency.

Following a natural disaster or other declared state of local emergency, the board of county commissioners may, pursuant to its police power (and not pursuant to its power of eminent domain), confer on the building official by resolution the power to summarily condemn buildings, structures, and other properties that present a serious threat to the public health, safety and welfare, and to authorize all necessary action to correct the threat, including, but not limited to, demolition of the building or structure.

- (a) Prior to any corrective action by the county, the building official shall provide notice to the owners of the property. Such notice shall:
 - (1) Be in writing and sent by regular mail to the last known address of the owner according to the records of the tax collector.

- (2) Be posted on the building or structure or other obvious location on the property.
 - (3) State the reasons why the notice is being issued.
 - (4) State the period of time allowed for the owner or other person entitled to use or possession of the property to take corrective action.
 - (5) State the nature of the corrective action required to eliminate the serious threat to the public health, safety and welfare.
 - (6) State that if the corrective action is not voluntarily completed within the stated time as set forth in the notice, corrective action will be taken by the county.
- (b) No building, structure or property that has been condemned by the building official shall be inhabited or occupied until approval is secured from and the posted notice is removed by the building official. The building official shall remove the notice whenever the threat upon which the condemnation action is based has been eliminated.
 - (c) Any person aggrieved pursuant to this section may appeal the decision of the building official to the board of county commissioners. A notice of appeal shall be in writing and shall be filed within 15 days from the date of the notice issued by the building official. The notice of appeal shall state the location of the property, the date of the notice, the relief requested and the reasons therefore, and the grounds upon which the appeal is made.
 - (d) No notice of appeal filed later than fifteen days after the date of the notice issued by the building official shall be acted upon by the board of county commissioners. Upon receipt of the written notice of appeal, the board of county commissioners shall direct the county administrator to review all aspects of the appeal with the building official and the county attorney, and the county administrator shall take all reasonable steps to resolve the case in question. In the event that the administrative action of the county administrator does not result in a satisfactory resolution of the matter, the county administrator shall inform the board of county commissioners, in writing, that all administrative remedies have been exhausted.
 - (e) Upon receipt of a written notice from the county administrator that all administrative remedies have been exhausted, the board of county commissioners shall schedule a public hearing and shall notify the owner or the owner's duly authorized agent, in writing, of the time, date, and place at which the hearing will be held. The hearing shall be held no less than 30 days after the notice of appeal is filed. At the hearing, the owner or the duly authorized agent shall be given the opportunity to be heard, present evidence, and show cause why the decision of the building official should be modified, varied, or reversed.
 - (f) The board of county commissioners may vary the application of any provision of this section when in its judgment, the building official has misapplied the provisions of this section.
 - (g) The decision of the board of county commissioners to modify, vary, or reverse the application of any provisions of this section shall specify the manner in which such modification or variation is to be made, the conditions upon which it is made, and the reasons therefore.
 - (h) Every decision of the board of county commissioners shall be final. The proceedings of each hearing, including any findings and decisions of the board, shall be summarized in writing and entered in the public records of the board. A copy of the decision of the board of county commissioners shall be sent by certified mail to the appellant and the original shall be filed with the building official. The building official shall immediately take action in accordance with the decision of the board.
 - (i) Any person aggrieved by the decision of the board of county commissioners rendered pursuant to this section may seek relief therefrom in a court of competent jurisdiction as provided by the laws of the State of Florida.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Secs. 30-208—30-299. - Reserved.