

ORDINANCE NO. 2002 - 16

AN ORDINANCE AMENDING HERNANDO COUNTY CODE OF ORDINANCES, CHAPTER 8, BUILDING AND BUILDING REGULATIONS; BY AMENDING ARTICLE II, SECTION 8-136(b), AMENDMENTS TO CODE, BY PROVIDING FOR A DEFINITION OF: "BOARD OF ADJUSTMENTS AND APPEALS"; "STANDARD BUILDING CODE"; "UNFIT"; AND BY MODIFYING THE DEFINITION OF "UNSAFE BUILDING" TO CHAPTER 2 OF THE STANDARD UNSAFE BUILDING ABATEMENT CODE; THROUGH THE ADDITION OF SUBSECTIONS 301.2, 301.3, 301.4, 301.5, AND 301.6 TO CHAPTER 3 OF THE STANDARD UNSAFE BUILDING ABATEMENT CODE ; AND THROUGH THE ADDITION OF SUBSECTIONS 701.1, 701.2, AND 701.3 TO CHAPTER 7 OF THE STANDARD UNSAFE BUILDING ABATEMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY:

SECTION 1. HERNANDO COUNTY CODE OF ORDINANCES, CHAPTER 8, SECTION 8-136(b), AMENDMENTS TO CODE, IS HEREBY AMENDED BY PROVIDING FOR A DEFINITION OF "BOARD OF ADJUSTMENTS AND APPEALS"; "STANDARD BUILDING CODE"; "UNFIT"; AND BY MODIFYING THE DEFINITION OF "UNSAFE BUILDING" TO CHAPTER 2 OF THE STANDARD UNSAFE BUILDING ABATEMENT CODE AS FOLLOWS:

202 - DEFINITIONS

BOARD OF ADJUSTMENT AND APPEALS -means the Hernando County Board of Construction and Regulation (HCBCR). All references to the board of adjustment and appeals shall be considered synonymous with and a direct reference to the HCBCR as established and provided in ordinance 2001-21 as amended.

STANDARD BUILDING CODE - means, Florida Building Code (FBC). All references to the standard building code or other model codes used prior to the implementation of the FBC shall be considered synonymous with and direct references to, the FBC.

UNFIT - means unsanitary, unsuitable or improper for the use of occupancy for which it is intended. Unfit structures/buildings include those structures/buildings to be used as habitable space that do not meet the minimum requirements for existing buildings by the FBC."

UNSAFE BUILDING - means any building or structure that is unfit or any building or structure that has any of the following conditions such that the life, health, property or safety of its occupants or the general public are endangered:

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TALLAHASSEE, FLORIDA

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1. Any means of egress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.
2. Any means of egress or portion thereof, such as but not limited to fire doors, closing devices and fire resistive ratings, is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic.
3. The stress in any material, member or portion thereof, due to all imposed loads including dead load exceeds the stresses allowed in the Standard Building Code for new buildings.
4. The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirement established by the Standard Building Code for new buildings.
5. Any exterior appendage or portion of the building or structure is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Standard Building Code for new buildings.
6. If for any reason the building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.
7. The building, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.
8. The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Standard Codes or of a city, county or state law.
9. Any building, structure or portion thereof that is in such a condition as to constitute a public nuisance.
10. Any building, structure 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.

SECTION 2. HERNANDO COUNTY CODE OF ORDINANCES, CHAPTER 8, SECTION 8-136(b), AMENDMENTS TO CODE, IS HEREBY AMENDED THROUGH THE ADDITION OF SUBSECTIONS 301.2, 301.3, 301.4, 301.5, AND 301.6 TO CHAPTER 3 OF THE STANDARD UNSAFE BUILDING ABATEMENT CODE TO READ AS FOLLOWS:

301.2 Unfit or Unsafe Structures.

All structures that are unsafe or unfit are nuisances and are hereby declared unlawful. They shall be abated by: repair, rehabilitation, or demolition of and removal in accordance with the procedures set forth in this code and all other applicable codes and/or laws governing such. This prohibition may be enforced by any legal, equitable, or administrative means available to Hernando County, including administrative hearings authorized by Ordinance 2001-21 and any future amendments thereto.

301.3 Authority to Order Vacation, Repair, or Demolition.

The Building Official or his/her designee is authorized to order the vacation, demolition, or removal of any unsafe building, or to order the repair and/or replacement of any part or parts of

any structure in the County when such part or parts, by reason of fire, age, decay, moisture intrusion, flood, deterioration, structural defects, improper design, unstable foundation, or termite infestation are dangerous to the occupants thereof, or a menace to the public health, or a fire hazard, or is so unsafe as to endanger life or property or to render the use of public streets dangerous.

In the event the owner of record or other interested party fails to comply with any Notice of Unsafe Building or compliance agreement within the time therein fixed, the Building Official or his/her designee is authorized to initiate procedures to demolish, remove, repair, and/or rehabilitate the unfit or unsafe building utilizing independent duly licensed contractors; except that in a case of a valid bonafide emergency, the Building Official is authorized to demolish the structure or take any other necessary action to abate the emergency posing an immediate threat to the public health, safety and welfare. The Building Official is also authorized to utilize the services of duly licensed independent architects, engineers and contractors to determine the condition of the structure in question, and such costs shall be assessed in the same manner as provided in Chapter 7.

301.4 Authority to Order Rodent Control.

When the County Health Officer verifies the existence of rodent infestation in a structure or on the premises on which a structure is located that is to be demolished or removed, the Building Official may require that a licensed pest control operator exterminate the rodents using ecto parasite control measures to preclude the migration of rodents, and such costs shall be assessed in the same manner as provided in Chapter 7.

301.5 Authority to Enter into a Compliance Agreement.

A. The Building Official or his/her designee is hereby authorized to enter into and negotiate a compliance agreement with the owner, in a form approved by the County Attorney, for abatement of the unfit or unsafe structure. Such agreement shall be controlling and will govern the subsequent courses of action to abate the unsafe or unfit conditions through repair and/or rehabilitation work. All repair and/or rehabilitation work shall conform to the minimum requirements of the FBC and/or other applicable laws.

B. The compliance agreement shall establish completion dates for the submittal of permit documents and for the completion of demolition, repair and/or rehabilitation work. The compliance agreement shall provide for the demolition and removal of the unfit or unsafe structure by Hernando County if the completion dates are not met. The cost of demolition and removal shall be assessed on the property in the form of a lien.

301.6 Authority to Secure Open and Vacant Structures/Buildings.

A. The Building Official or his/her designee is hereby authorized to secure all open and vacant structures, including above and in ground pools, which are abandoned, unattended, unprotected or otherwise unsecured. Before securing any such structure or pool the current owner shall be notified by certified mail at least five (5) days prior to proceeding. Upon receipt of the notification, the owner of record may secure the structure/building/pool, or may appeal the

determination that a structure is open and vacant to the board of adjustment and appeals.

B. All openings including open windows and doors shall be secured with exterior plywood and suitably coated with an appropriate neutral paint color blending with or harmonizing with the exterior colors of the building so as to be as inconspicuous as possible. Pools shall be provided minimal temporary barrier protection to include but not be limited to a fence, repair of an existing fence, repair of an existing screen enclosure or other approved measure as deemed appropriate by the Building Official.

C. Where an open and vacant structure or pool is secured by Hernando County after written notice to the owner of record as determined by the most current records of the Hernando County Property Appraisers Office, the Building Official shall cause the entire cost of securing, including all administrative costs to be assessed against the property in the form of a lien recorded in the public records of Hernando County.

D. All open and vacant structures that have been secured shall also be subject to inspection, and the owner of record shall be assessed a fee for each inspection. For the purpose of ensuring that the structure is locked and secured, inspections may be conducted at thirty (30) day intervals, and a fee as set forth in the department fee schedule adopted by resolution, or a minimum fee of \$50.00 for each inspection will be assessed against the property in the form of a lien.

SECTION 3. HERNANDO COUNTY CODE OF ORDINANCES, CHAPTER 8, SECTION 8-136(b) AMENDMENTS TO THE CODE, IS HEREBY AMENDED THROUGH THE ADDITION OF SUBSECTIONS 701.1, 701.2, AND 701.3 TO CHAPTER 7 OF THE STANDARD UNSAFE BUILDING ABATEMENT CODE TO READ AS FOLLOWS:

701.1 Assessment of Costs and Lien on Property.

A. The Building Official shall assess the entire cost of demolition and removal including asbestos abatement, the sodding or seeding of the lot, and rodent extermination against the real property in the form of a lien. This lien upon such property shall be superior to all others except property taxes, and shall include all administrative costs including postal expenses, the cost of newspaper publications, staff time, recording and documentation of inspection (photos, reports, filming), landfill, permit(s), and other associated costs.

B. When the owner of record or other interested party has abated the unfit or unsafe structure as a result of having received a Notice of Unsafe Building, all costs incurred by the County to the date of abatement shall be assessed against the property in the form of a lien.

C. A lien shall be filed in the County's official record book showing the nature of such lien, the amount thereof, and an accurate legal description of the property, including the street address and the date of filing, and shall recite the names of the interested parties notified. Such lien shall bear interest from such date at the rate of 18 percent (18%) per annum and may be foreclosed if unsatisfied after the expiration of one (1) year from the date of filing as other liens may be

enforced by the County.

701.2 Enforcement

Upon a petition to the circuit court, a lien shall be enforceable in the same manner as a court judgement by the sheriffs of this state, including execution and levy against the personal property owned by the violator, but such order shall not be deemed to be a court judgement except for enforcement purposes. Costs incurred by the county and recorded as a lien shall continue to accrue interest charges until judgement is rendered or a suit is filed pursuant to this code, whichever occurs first. A lien arising from the costs incurred by the county runs in favor of Hernando County, and Hernando County may execute a satisfaction or release of the lien entered pursuant to this code. After 1 year from the filing of any such lien which remains unpaid, the Building Official or his/her designee may authorize the County Attorney to foreclose on the lien or sue to recover a money judgement for the amount of the lien plus accrued interest. No lien created pursuant to the provision of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. The money judgement provisions of this code shall not apply to real property or personal property which is covered under s. 4(a), Art. X of the State Constitution.

The county shall have the right to compromise or settle any lien by accepting payment of less than the full amount of the lien as to any accrued interest and for good cause. For liens where a proposed compromise or settlement amount as to any accrued interest is equal to or greater than two-thirds of the accrued interest plus the original principal amount, the Building Official or designee shall have final authority to determine existence of good cause and approve such a compromise or settlement and to sign or certify a satisfaction of the lien on behalf of the county for entry in the official records.

701.3 Duration of Lien

Such a lien shall constitute notice to any subsequent purchasers, successors in interest, or assign. A lien shall not continue for a period longer than 20 years after recording unless within that time an action is commenced pursuant to this code or applicable law, in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. Hernando County shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien affected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

SECTION 4. SEVERABILITY

It is declared to be the intent of the Board of County Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. INCLUSION IN THE CODE

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of Hernando County as an addition or amendment thereto and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

SECTION 6. EFFECTIVE DATE

This ordinance shall become effective upon filing with the Department of State.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION THIS 13th DAY OF AUGUST, 2002.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

Attest: *Karen Nicolai*
KAREN NICOLAI, Clerk

By: *Hannah M. Robinson*
HANNAH M. ROBINSON, Chairperson

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY *William Bayless* 08/13/02
County Attorney's Office