

ORDINANCE NO. 2013-1992

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA CREATING DIVISION 5 OF ARTICLE VI OF CHAPTER 6 OF THE NEW PORT RICHEY CODE OF ORDINANCES TO ENACT THE CITY'S DEMOLITION AND BLIGHTED BUILDINGS ORDINANCE; PROVIDING FOR CRITERIA FOR DEMOLITION; AUTHORIZING ORDERS TO DEMOLISH AND NOTICE PROVISIONS FOR SUCH DEMOLITION; ESTABLISHING CRITERIA FOR DETERMINATION OF BLIGHTED STRUCTURES OR SLUM WITHIN THE CITY OF NEW PORT RICHEY; PROVIDING FOR RECOUPMENT OF COSTS OF THE CITY OF NEW PORT RICHEY; AUTHORIZING IMPOSITION OF LIENS FOR COSTS OF THE CITY OF NEW PORT RICHEY RELATING TO THE DEMOLITION OR SECURITY OF BLIGHT OR SLUM; DEFINING ENFORCEMENT MECHANISMS FOR THE CITY OF NEW PORT RICHEY UPON A DETERMINATION OF BLIGHT OR SLUM; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of New Port Richey wishes to promote the health and safety of citizens and residents by reducing unsafe and hazardous structures and buildings within the City;

WHEREAS, the City of New Port Richey desires the adoption of a long term solution to confront property deemed a blight and slum within New Port Richey;

WHEREAS, the City of New Port Richey desires to create an enforcement mechanism including, without limitation, demolition to cure blight, slum, and unsafe hazards upon property in the City;

WHEREAS, the City of New Port Richey desires a mechanism for recoupment of its costs related to City action required to demolish, secure, or abate blight, slum, and unsafe hazards upon property in the City;

WHEREAS, the City of New Port Richey requires the power to lien any property subject to its necessary demolition, security, or abatement of blight, slum, or unsafe hazards upon property in the City;

WHEREAS, the City of New Port Richey seeks to closely align its enforcement method for buildings or structures deemed a blight, slum, or unsafe hazard with the Pasco County demolition ordinance so as to cooperate with Pasco County in demolition, securitization, and abatement of these structures as well as partner in grant programs for reimbursement of demolition, security, and abatement costs;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA:

Section 1. Division 5 of Article VI of Chapter 6 of the City of New Port Richey Code of Ordinances is hereby enacted to read as follows:

Sec. 6-196. - Definitions.

Blighted structure or condition means a deteriorated or deteriorating structure which endangers life or property by fire or other causes, unsanitary or unsafe condition(s) or deterioration of the site and its improvements, which condition(s) impair or arrest the sound growth of the City of New Port Richey or are a menace to the public health, safety, morals or welfare of the City of New Port Richey.

Interested party means the owner as defined below and any other person or entity who has previously requested real property ad valorem tax notices with respect to the subject property in accordance with F.S. § 197.344, as the same may be renumbered or amended from time to time, and any mortgage holders or other lien holders of record, and the occupants, if any, of the structure.

Owner means:

(1)

The holder of the title in fee simple, whether a single person, a group of persons or one or more companies, associations or corporations as shown by the public records of the county.

(2)

A person who alone or jointly or severally with others, as shown by the public records of the county:

a.

Has legal title to a dwelling unit, with or without accompanying actual possession thereof.

b.

Has charge, care or control of a dwelling or dwelling unit, as owner or as personal representative, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possession, assignee of rents, lessee or other person, firm or corporation in control of a building.

c.

The duly authorized agent of any of the foregoing.

Slum structure or condition means buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age, or obsolescence cause inadequate provision for ventilation, light, air, sanitation or open spaces; the existence of condition(s) which endanger life or property by fire or other causes; or any combination of factors which contribute to ill health, transmission of disease, juvenile delinquency or crime, or are detrimental to the public health, safety, morals or welfare.

Sec. 6-197. - Criteria for demolition.

In determining whether a slum or blighted structure should be demolished, the building official or a licensed building inspector working under the supervision of the building official must find the existence of one or more of the following criteria:

(1)

The structure, or a portion thereof has been extensively damaged by fire, flood, wind, or other natural phenomena such that the building or structure is substantially destroyed or poses an immediate and manifest danger to the life, health, or safety of the general public or occupant.

(2)

The structure is so unsanitary or so utterly fails to provide the amenities essential to decent living that it is manifestly unfit for human habitation, or is likely to cause sickness or disease, so as to work injury to the life, health or safety of the general public or occupant. "Amenities essential to decent living" include, but are not limited to, the availability of potable water, at least one working toilet, and protection from exposure to the elements.

(3)

The structure, or a portion thereof, as a result of decay, deterioration, or dilapidation is likely to fully or partially collapse.

(4)

The condition of the structure, or a portion thereof, poses an immediate threat to life or property by fire or other causes.

(5)

The site to be cleared by demolition consists of the remains, debris, wall, chimney, or floors of or left from a building or structure that has partially or completely collapsed, fallen, or been torn down.

(6)

There is a serious and substantial falling away, hanging loose, or loosening of the siding, block, brick, or other building material creating a hazard for occupants or the public.

(7)

The structural parts have become so dilapidated, decayed, or deteriorated, or there is an unusual sagging or leaning out of plumb of the building or any part thereof caused by deterioration or over-stressing of the structure or structural parts, that the structure is manifestly unsafe.

Sec. 6-198. - Order to demolish, posting and contents.

If, after inspection, the building official, or a licensed building inspector working under the supervision of the building official, finds a slum or blighted structure meets one or more of the criteria for demolition set forth in section 6-197 above, the City Manager or his designee shall issue a notice stating that the structure should be demolished. Such notice shall be conspicuously posted on the structure or conspicuously displayed on the premises to which it relates, and shall, at a minimum contain the following language:

ORDER TO DEMOLISH SLUM OR BLIGHTED STRUCTURE

This structure has been found by the City of New Port Richey to be a slum or blighted structure that shall be demolished pursuant the Article VI, Division 5 of the City of New Port Richey Code of Ordinances. THIS STRUCTURE SHALL BE VACATED AND SHALL NOT BE OCCUPIED. Persons inhabiting this structure should vacate immediately, but in no case more than 48 hours after posting of this notice. The owner(s) of this structure shall demolish this structure and clear the site within 60 days of this order or the City of New Port Richey will cause the structure to be demolished and cleared at the owner's expense. Demolition and clearance will include all tangible personal property on the site, such as vehicles, appliances, etc. THE OWNER OR ANY OTHER INTERESTED PARTY MAY APPEAL THIS FINDING WITHIN 30 DAYS OF THE DATE INDICATED BELOW BY SUBMITTING A WRITTEN PETITION TO: Development Director, Development Department of the City of New Port Richey, (Address and Phone). CAUTION: FAILURE TO APPEAL WITHIN 30 DAYS OR TO DEMOLISH THIS STRUCTURE WITHIN 60 DAYS WILL RESULT IN THE DEMOLITION OF THIS STRUCTURE WITHOUT FURTHER NOTICE OR HEARING. IT IS UNLAWFUL TO REMOVE OR TO MUTILATE THIS NOTICE UNTIL THE DEMOLITION ORDER IS COMPLIED WITH. FAILURE OF THE OWNER OR AN INTERESTED PARTY TO APPEAL WITHIN 30 DAYS OR TO DEMOLISH THIS STRUCTURE WITHIN 60 DAYS IS A VIOLATION OF THE CITY OF NEW PORT RICHEY’S ORDINANCES.

Sec. 6-199. - Written notice.

(a)

Before posting the order to demolish a structure pursuant to section 6-198, the City Manager or his designee shall initiate service of written notice to the owner and all interested parties. The written notice shall set forth, at a minimum, the following information:

(1)

The street address where the slum or blighted structure is located, and the legal description of the property;

(2)

A statement indicating that the structure has been determined by the building official or an inspector working under the supervision of the building official to be a slum or blighted structure that meets the criteria for demolition, and describing how the structure meets the demolition criteria set out in 6-197.

(3)

Documentation of the condition of the structure referencing specific violations of codes and/or building standards;

(4)

A statement indicating that the date by which the owner or interested party must demolish and clear the structure;

(5)

A statement advising that if the owner or interested party does not demolish and clear the structure, that the City of New Port Richey will cause it to be demolished, and that demolition and clearance may include the removal and disposal of all tangible personal property on the site;

(6)

A statement of the right of appeal as provided in this Division, the address to which written appeals shall be sent, and the date by which an appeal must be received.

(b)

The notices required by this section shall be sent to the owner and interested parties by certified mail, return receipt requested at the addresses shown by the public records of the county, or may be served by any other method for service of legal notices authorized by section 2-237 of this Code. The lack of a signed return receipt shall not constitute a failure to notify any required person.

(c)

Notice shall also be published in a newspaper of general circulation in the City of New Port Richey once a week for two consecutive weeks. The published notice shall contain the street address of the subject property and the names of the owner(s) and any interested parties. The published notice shall state that the subject property is a slum and blighted structure and shall be demolished, and shall include a statement of the right of appeal as provided in this Division, the address to which written appeals shall be sent, and the date by which an appeal must be received.

(d)

A notice shall also be filed in the public records of the county which provides; the street address and legal description of the property; that the building official has determined that one or more structure(s) on the property meet the criteria for demolition under this Division; that at the time of filing the determination of the building official is not final and can be appealed; that the City of New Port Richey, through its Development Department is following the process outlined in this Division to obtain an order authorizing demolition of the structure(s); and directing inquiries to the Development Division.

Sec. 6-200. - Final order.

The order to demolish a slum and blighted structure as provided for in section 6-198 shall automatically become a final order authorizing demolition in the event that no written appeal from the notice, along with the required fee for the cost of the appeal, is received by the Development Director of the City of New Port Richey Development Department on or before 30 calendar days after the date of posting.

Sec. 6-201. - Recording final order.

Whenever the order to demolish a slum and blighted structure becomes a final order authorizing demolition, as provided in section 6-200 or pursuant to a decision by the City Council as provided in section 6-202, the City Manager or his designee shall file a copy of such final order, together with the street address and/or legal description of the subject property, with the clerk of the circuit court of the county, who shall cause the same to be recorded among the public records of the county. The recording of such final order or other appropriate instrument as herein

provided shall constitute constructive notice to any subsequent purchasers, transferees, grantees, mortgagors, mortgages, lessees, lienors, and all persons having, claiming, or acquiring any interest in the property described therein, or affected thereby.

Sec. 6-202. - Appeal to the City Council.

(a)

The owner or any interested party may appeal the order of demolition to the City Council by submitting a written petition in a form approved by the City Manager or his designee and a \$400.00 fee on or before 30 calendar days of the date indicated on the posted notice to: Development Director, Development Department of the City of New Port Richey, (address and phone). Upon receipt of both the written petition for an appeal and the \$400.00 fee, the Development Director shall promptly arrange a time for the hearing before the City Council and provide written notice thereof to the petitioner, who may appear to show:

(1)

That the structure does not meet the criteria for demolition set out in 6-197.

(2)

That the structure cannot be demolished within the time specified by the order.

(3)

That the structure can be reconstructed, repaired, or restored. If a petitioner is appealing based on this subsection, the petitioner must submit, with the written petition for appeal, the following documentation regarding the proposed reconstruction, repair, or restoration: list of proposed work to the structure; estimated cost; timetable for obtaining permits; and timetable for completion of the work. The City Council may stay a demolition order to give the petitioner time for such reconstruction, repair, or restoration.

(b)

A written petition for an appeal will not be accepted without the required \$400.00 fee. Proof of indigence or inability to pay, in the form of a sworn financial statement, will be accepted in lieu of the \$400.00 fee.

(c)

The City Council shall hear and consider all facts material to the appeal and may affirm, reverse or modify the order of demolition. Any person aggrieved by the decision of the City Council may seek judicial review of the board's order in Circuit Court.

Sec. 6-203. - Demolition and clearance.

(a)

Within 60 days of posting of the demolition order, the owner(s) shall cause the demolition and clearance of the slum or blighted structure.

(b)

It shall be the responsibility of the owner(s) to apply for the appropriate demolition permits prior to such demolition and clearance.

(c)

The City Manager or his designee shall be authorized to demolish and clear slum or blighted structures that are the subject of a final demolition order on the owner(s) behalf and at the owner's expense if:

(1)

No appeal has been filed within the specified time frames, along with the required fee or proof of indigence as provided in section 6-202.

(2)

The owner(s) fails to complete such demolition and clearance within 60 days of the date of posting; or

(3)

The owner fails to complete such demolition and clearance within ten days of a City Council order upholding the demolition order, or within ten days of a date set for demolition by the City Council, or within ten days of a final order of a court with jurisdiction over the demolition order.

(4)

A second title search shall be performed in the 72 hours preceding any demolition by the City of New Port Richey or its agent.

(5)

Any demolition by the City of New Port Richey or its agent shall be performed pursuant to a demolition permit obtained from the building official.

(d)

Demolition and clearance of the structure(s) by the City of New Port Richey may include the demolition and clearance or removal of all tangible personal property, vehicles, and other items, and may also include additional structure(s) on the parcel that the building official or a licensed building inspector working under the supervision of the building official determines pose a threat to the life, health, or safety of the general public as a result of the demolition or clearance activities on the parcel.

(e)

It shall be a violation of this Division for any person to obstruct or interfere with any demolition or clearance in accordance with this Division by the City Manager or his designee.

(f)

It shall be a violation of this Division for any person to inhabit a structure that is the subject of a final demolition order.

(g)

It shall be a violation of this Division for any owner to fail to obey a final order to demolish a structure pursuant to this Division.

(h)

It shall be a violation of this Division for any person to remove or mutilate a demolition order posted on a structure or property before completion of demolition and clearance.

Sec. 6-204. - Recovery of demolition, and clearance costs; imposition of lien.

(a)

The demolition and clearance by an owner(s) or by the City of New Port Richey in the manner provided for in this Division is deemed to constitute an activity performed for the protection, benefit, and welfare of the general public and also for the benefit of the property itself. As a result, the owner(s) shall be responsible for the costs of demolishing and clearing the structure(s) and parcel, whether the owner(s) or the City of New Port Richey completes the demolition and clearance.

(b)

If it is necessary for the City of New Port Richey to demolish and clear a slum or blighted structure in accordance with this Division, the City may perform the work itself or may contract with an individual, firm, or other legal entity for such services. An invoice shall be submitted to the owner(s) for payment of the costs incurred by the City or its contractor. The owner(s) shall be required to pay all costs incurred, including any administrative costs, within 30 days of the date of the invoice. If payment is not made by the owner(s) within 30 days of the date of the invoice, the City of New Port Richey shall impose a lien upon the property for the costs of demolition, clearance, administrative costs, and recording fees. The lien shall be of the same priority as liens for ad valorem taxes, and as it represents costs expended for the benefit of the property itself, the lien shall be superior to all other encumbrances, whether secured and regardless of priority. Such lien shall be duly recorded in the official records of the county and shall accrue interest at the rate of eight percent from the date of recording. Upon foreclosure of the lien, the City of New Port Richey shall be entitled to all costs and attorney's fees incurred as a result.

Sec. 6-205. - Vacant slum or blighted structures.

(a)

Slum or blighted structures that do not meet the criteria for demolition but which are unoccupied, vacant, unguarded, and open at the doors or windows, or which otherwise provide access to the interior may be temporarily secured at the direction of the City Manager or his designee after notice to the owner and interested parties of the condition and a reasonable time of not less than ten days is given for the owner or interested parties to secure the structure.

(b)

Materials or methods for securing the building or structure shall be as follows:

(1)

Windows and doors shall be repaired or replaced, closed, and locked to prevent unauthorized entry. Other openings shall be sealed with solid sheathing, consisting of one-inch boards or minimum one-half-inch exterior grade plywood or equivalent, securely nailed in place with 8d nails and painted a similar color as the main structure; or

(2)

Windows, doors, and other openings shall be secured with solid sheathing, consisting of one-inch boards or minimum one-half-inch exterior grade plywood or equivalent, securely nailed in place with 8d nails and painted a similar color as the main structure. Where there is no frame or where the frame is loose or defective, a subframe or two by four-inch lumber shall be provided to secure the sheathing.

(3)

The City Manager or his designee may approve alternatives or additions to the above methods, providing the alternatives or additions are at least equivalent to the above in strength.

(c)

If it is necessary for the City of New Port Richey to secure a vacant slum or blighted structure in accordance with this Division, the City may perform the work itself or may contract with an individual, firm, or other legal entity for such services. An invoice shall be submitted to the owner(s) for payment of the costs incurred by the City of New Port Richey or its contractor. The owner(s) shall be required to pay all costs incurred, including any administrative costs, within 30 days of the date of the invoice. If payment is not made by the owner(s) within 30 days of the date of the invoice, the City of New Port Richey shall impose a lien upon the property for the costs of securing the structure, administrative costs, and recording fees. The lien shall be of the same priority as liens for ad valorem taxes, and as it represents costs expended for the benefit of the property itself, the lien shall be superior to all other encumbrances, whether secured and regardless of priority. Such lien shall be duly recorded in the official records of the county and shall accrue interest at the rate of eight percent from the date of recording. Upon foreclosure of the lien, the City of New Port Richey shall be entitled to all costs and attorney's fees incurred as a result.

Section 2. This Ordinance shall become effective immediately upon enactment.

Section 3. If any phrase or portion of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

Section 5. The above and foregoing Ordinance was read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 7th day of November, 2012.

The above and foregoing Ordinance was read and approved on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 20th day of November, 2012.

ATTEST:



Doreen M. Summers, CAP-OM
City Clerk

(Seal)



Bob Consalvo
Mayor-Council Member

APPROVED AS TO LEGAL FORM AND CONTENT

By: 
Michael S. Davis, City Attorney