

ORDINANCE NO. 2961

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, AMENDING CHAPTER XVIII, BUILDING AND BUILDING REGULATIONS OF THE CODE OF ORDINANCES PROVIDING THERETO A NEW SECTION 36 PROVIDING FOR THE DEMOLITION OF UNSAFE STRUCTURES; PROVIDING FOR A TITLE; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING FOR NOTICES; PROVIDING FOR EXTENSIONS OF TIME AND APPEALS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR EMERGENCIES; PROVIDING FOR COSTS AND LIENING OF PROPERTY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, there exists within the City of Bradenton unsafe structures which are a threat to the safety, health and general welfare of the citizens and residents and visitors of the City of Bradenton; and

WHEREAS, many such structures are deteriorated to a state or condition that makes it unreasonable or impractical or not possible to repair and so demolition is necessary; and

WHEREAS, such unsafe structures constitute a nuisance under State and Local Law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA:

1. The City Council of the City of Bradenton, Florida hereby amends Chapter XVIII of the City Code of Ordinances, by adding thereto a new Section 36 to provide as follows:

**Sec. 36-1 Title.**

This article shall be known and may be cited as the "City of Bradenton Unsafe Structures Ordinance."

**Sec. 36-2 Construction.**

This article is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof, which are public safety, health and general welfare, through structural strength, stability, sanitation, adequate light and ventilation,

and safety to life and property from fire and other hazards incident to the construction, alteration, repair, demolition and occupancy of buildings, structures or premises.

**Sec. 36-3 Applicability.**

(a) The provisions of this article shall apply to all unsafe buildings and unsafe structures and shall apply equally to new and existing conditions.

Alterations, repairs or rehabilitation work:

(b) The provisions of this article relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the State, City or County as historic buildings or structures when such buildings or structures are determined by the Building Official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures. The applicant must submit complete architectural and engineering plans and specifications bearing the signature and seal of a registered professional engineer or architect and a certificate of appropriateness or other approval from a State, County or City Board or agency with jurisdiction over historic buildings or structures.

(d) All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the Florida Building Code or applicable building code in a building or structure when erected, altered or repaired shall be maintained in good working order. The owner, or his or her designated agent, shall be responsible for the maintenance of buildings and structures.

**Sec. 36-4 Definitions.**

(a) In this article, unless the context otherwise requires:

*Approved* means approved by the Building Official or other authority having jurisdiction.

*Board* means the City of Bradenton Construction Trade Board.

*Building* means any structure built for the support, shelter or enclosure of person, animals, chattels or property of any kind which has enclosing walls for fifty (50) per cent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof". For the purpose of this article, each portion of a building separated from other portions by a fire wall shall be considered a separate building. Buildings located in areas of special flood hazard shall be defined as set forth in 44 CFR (Code of Federal Regulations) section 59.1.

*Building Official* means the officer or other designated authority charged with the administration and enforcement of the Florida Building Code, or his or her duly authorized representative.

*Department* means the building department or other agency charged with the administration and enforcement of the Florida Building Code.

*Notice* means attempted communication via US Mail, Publication and Posting.

*Owner* means any person, agent, firm or corporation having a legal or equitable interest in the property.

*Order* means required attention or action, effective immediately and is made by "placarding".

*Posted* means attempted communication through physical sign media displayed on site and posted into the ground.

*Structure* means that which is built or constructed.

*Temporarily Safe* means as determined by the Building Official and shall not be construed to imply entirely mitigated, remediated, complied with, or reduced in order.

*Unsafe building or unsafe structure* means 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 is endangered:

- (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 rating, 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 Florida Building Code for new buildings or structures or the applicable building code in effect at the time of construction for existing buildings or structures.

- (4) The building, structure 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 structure 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 or structures or the applicable building code in effect at the time of construction for existing buildings or structures.
- (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 Florida Building Code for new buildings or structures or the applicable building code in effect at the time of construction for existing buildings and structures.
- (6) The building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being occupied.
- (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 Florida Building Code, the applicable building code in effect at the time of construction, or a city, county or state law.
- (9) Any building, structure or portion thereof is in such a condition as to constitute a public nuisance.
- (10) Any building, structure or portion thereof is unsafe, unsanitary or not provided with adequate egress, or constitutes a fire hazard, or is otherwise dangerous to human life, or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.
- (11) Any building, structure or portion thereof has been declared unsafe by the Building Official pursuant to any former City code or ordinance and has not been repaired or demolished in compliance with said former City code or ordinance.

(b) Words not defined in this article shall have the meanings stated in the Florida Building Code. Words not defined in the Florida Building Code shall have the meanings stated in Webster's current New Collegiate Dictionary, as revised.

**Sec. 36-5. Administration and Enforcement.**

(a) The provision of this article shall be administered and enforced by the Building Official.

(b) Right of entry.

(1) The Building Official or his authorized representative may enter any building, structure or premises at all reasonable time to make an inspection or enforce any of the provisions of this article.

(2) When entering a building, structure or premises that is occupied, the Building Official shall first identify himself, present proper credentials and request entry. If the building, structure or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other persons having charge of the building and demand entry. If entry is refused, the Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

(c) The Building Official and other authorized representatives are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this article.

(d) Any requirement necessary for the strength or stability of an existing or proposed building or structure, or for the safety or health of the occupants thereof, not specifically covered by this article, shall be determined by the Building Official in accordance with the Florida Building Code or other approved standard, subject to appeal to the Board.

(e) Nothing contained in this article shall be deemed to waive sovereign immunity by the City or to impose any personal liability on any officer, employee or member of the Board acting in the discharge of his or her duties under this article.

**Sec. 36-6. Procedures.**

(a) The Building Official shall inspect or cause to be inspected any building, structure or portion thereof which is or may be unsafe. After the Building Official has inspected or caused to be inspected a building, structure or portion thereof and has determined that such building, structure or portion thereof is unsafe, he or she shall

initiate proceedings to cause the abatement of the unsafe conditions by repair, vacation or demolition or combination thereof.

(b) The following actions shall be taken by the Building Official when ordering the repair, vacation or demolition of any unsafe building or structure:

- (1) The building or structure shall be ordered repaired or demolished. At the option of the owner and in accordance with the Florida Building Code, the owner may choose either method of making the building or structure safe provided repair is permitted by the City Code of Ordinances including, but not limited to, its Land Use and Development Regulations.
- (2) If the building or structure poses an immediate hazard to life or to the safety of the public, it shall be ordered vacated immediately.

**Sec. 36-7. Notices.**

(a) The Building Official shall prepare and issue a written notice directed to the owner of record of the building or structure. The notice shall contain, but not be limited to, the following information:

- (1) The street address and legal description of the building, structure or premises.
- (2) A statement indicating the building or structure has been declared unsafe by the Building Official, and a detailed report documenting the conditions determined to have rendered the building or structure unsafe under the provisions of this article.
- (3) A statement advising that if the following required action as determined by the Building Official is not commenced within or completed by the time specified the Building Official may cause the work to be done and all costs incurred charged against the property and/or the owner of record:
  - a. if the building or structure is to be repaired, the notice shall require that all necessary permits be secured and the work commenced within sixty (60) days and continued to completion within such time as the Building Official determines. The notice shall also indicate the degree to which the repairs must comply with the provisions of the Florida Building Code.
  - b. if the building or structure is to be vacated, the notice shall indicate the time within which vacation is to be completed.

c. if the building or structure is to be demolished, the notice shall require that the premises be vacated, all required permits for demolition be secured and the demolition be completed within such time as determined reasonable by the Building Official.

(4) A statement advising that any person having any legal interest in the property may appeal the notice by the Building Official to the Board, that such appeal shall be in writing and shall be filed with the Building Official within thirty (30) days from the date of the notice, and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

(b) The notice and all attachments thereto shall be served upon the owner of record. A copy of the notice and all attachments thereto shall also be served on any person determined from official public records to have a legal interest in the property. Failure of the Building Official to serve any person herein required to be served other than the owner of records shall not invalidate any proceedings hereunder nor shall it relieve any other person served from any obligation imposed on him or her.

(c) The notice shall be served either personally or by certified mail, postage prepaid, return receipt requested, to each person at the address as it appears on the official public records. The failure of any person to receive notice, other than the owner of record, shall not invalidate any proceedings under this article. Service by certified mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

(d) If the notice to the owner sent by certified mail is returned undelivered and the address of such person cannot be ascertained by a diligent search and inquiry, service may be effected by the publication of a notice two (2) times, seven (7) days apart, in a newspaper of general circulation in the county, the first such publication to be made at least ten (10) days before the time required for any action or the date set for any hearing under this article. Such service shall be deemed complete upon the date of the second publication.

(e) A notice shall be posed on the property in a conspicuous location. The posted notice shall contain a statement indicating that the building or structure has been declared unsafe by the Building Official and a statement advising that the occupancy of the building or structure is prohibited. Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents to remove such notice without written permission of the Building Official, or for any person to enter the building or structure except for the purpose of removing personal property, making the required repairs or demolishing the building or structure.

(f) If the notice is not complied with nor an appeal filed within the allotted time, the Building Official may, however shall not be required to, file and record with the Clerk of the Circuit Court of Manatee County, Florida, a certificate describing the property and certifying that the building or structure is unsafe and that the owner of record has been served. This certificate shall remain on file until such time as the conditions rendering the building or structure unsafe have been abated. At such time, the Building Official shall file and record a new certificate indicating that corrective action has been taken and the building or structure is no longer unsafe from such conditions.

**Sec. 36-8. Extensions of Time.**

(a) The Building Official may approve one (1) or more extensions of time as he or she may determine to reasonable to complete the required repair or demolition, provided that such extensions do not exceed a total of one hundred twenty (120) days . Requests for extensions of time shall be submitted in writing stating the reasons therefore.

(b) The Building Official may approve extensions of time which exceed one hundred twenty (120) days for good cause. Documentation of the conditions constituting good cause shall be submitted with request for extensions of time for good cause. Good cause for an extension shall include, but not be limited to, the following circumstances:

- (1) Legal actions involving the property, such as foreclosure, eviction, probate or eminent domain.
- (2) Legal actions involving the property owner, such as bankruptcy, incompetency or guardianship.
- (3) Hospitalization or death of the property owner.
- (4) Natural disasters, such as hurricane, tornado or flood.
- (5) Other similar situations beyond the control of the property owner.

(c) All extensions of time approved by the Building Official shall be in writing and served by regular mail to the owner of record or other person requesting the extension.

(d) The Building Official may refer any request for extension of time to the Bradenton City Council for approval. If the Building Official denies an extension of time, or if the extensions of time without good cause exceed a total of one hundred twenty (120) days, the extension must be approved by the Bradenton City Council.

**Sec. 36-9. Appeals.**

(a) Any person entitled to service of notice may appeal any action of the Building Official, except extensions of time, under this article to the Board. Such appeal

shall be filed in writing with the Building Official within thirty (30) days from the date of service and shall contain at least the following information:

- (1) Identification of the building or structure concerned by street address or legal description.
- (2) A statement identifying the legal interest of each appellant.
- (3) A statement identifying the specific order or section being appealed.
- (4) A statement detailing the issue(s) on which the appellant desires to be heard.
- (5) The legal signatures of all appellants and their official mailing addresses.

(b) Upon receipt of any appeal, the Building Official shall as soon as practicable fix a date, time and location for the hearing of the appeal by the Board. Written notice of the date, time and location of the hearing shall be delivered personally or mailed to each appellant at the address on the appeal by certified mail, postage prepaid, return receipt requested.

(c) The Board shall provide for the final interpretation of the provisions of this article. The hearing on the appeal shall be conducted in accordance with Rules of Procedure adopted by the Board.

(d) The hearing shall offer the appellant reasonable opportunity to be heard on only those specific matters or issues raised by the appellant in his or her appeal. Failure of any person to appear at the hearing shall constitute a waiver of his or her right to an administrative hearing.

(e) Except for a vacation order, enforcement of any notice issued by the Building Official under the provisions of this article shall held in abeyance during the course of an appeal before the Board.

#### **Sec. 36-10. Implementation.**

(a) Any person who, after the order of the Building Official or the decision of the Board becomes final, fails or refuses to respond to the direction of such order, may be prosecuted as provided by law, including, but not limited to, section 1-15 of the City of Bradenton Code of Ordinances.

(b) The repair or demolition of any unsafe building or structure as required in the notice by the Building Official or the final decision by the Board shall be performed in an expeditious and workmanlike manner in accordance with the requirements of this

article, the Florida Building Code, all other applicable codes and accepted engineering practice standards.

(c) No person shall obstruct or interfere with the implementation of any action required by the final notice of the Building Official or the final decision of the Board. Any person found interfering with or obstructing such actions shall be prosecuted as provided by law, including, but not limited to, section 1-15 of the City of Bradenton Code of Ordinances.

**Sec. 36-11. Action by the City of Bradenton.**

(a) Whenever the required repair, vacation or demolition is not commenced within thirty (30) days after the effective date of any order, a notice shall be posted on the property in conspicuous location. This notice shall contain a statement indicating that the building or structure shall be repaired or demolished by the City of Bradenton and providing the approximate date of such action.

(b) Subsequent to posting the building, structure or premises, the Building Official may cause the building or structure to be repaired to the extent required to render it safe or, if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premises.

**Sec. 36-12. Emergencies.**

(a) Notwithstanding any other provision of the article, when, in the opinion of the Building Official, a building, structure or portion thereof, is in immediate danger of failure or collapse so as to endanger life or property, or a building, structure or premises contains a condition which presents an immediate threat to life or property, the Building Official shall make a reasonable effort to notify the owner of record and may take any of the following actions:

- (1) Order the occupant to vacate the building or structure immediately.
- (2) Purchase materials and employ labor and cause the necessary work to be done to render the building, structure or premises, or portion thereof, temporarily safe. Temporarily safe shall not, however, be construed to state or imply that the unsafe conditions have been remedied, mitigated or the order has been complied with.
- (3) Purchase materials and employ labor and cause the necessary work to be done to demolish the building or structure if, in the opinion of the Building Official, temporary measures are inadequate.

(b) After the immediate danger or immediate threat has been remedied by having the building or structure made temporarily safe, no further action shall be taken by the Building Official except in accordance with the other provisions of the article.

**Sec. 36-13. Costs and Liens.**

(a) The costs of repair or demolition, costs incurred for any emergency work, and all administrative costs, including, but not limited to, postage, recording fees and newspaper publication, shall be billed to the owner of record of the building or structure.

(b) If the owner fails to pay the bill within thirty (30) days after the date the bill is mailed, the costs shall be recorded as a lien on the property and shall be collected in any manner provided by law.

(c) Any monies received from the sale of a building or structure or from the demolition thereof, over and above the costs incurred, shall be paid to the owner of record or other person lawfully entitled thereto.

**Sec. 36-14. Violations and Penalties.**

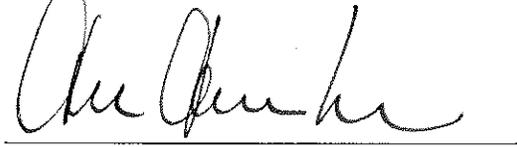
Any person, firm, corporation or agent who shall violate a provision of this article, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any building or structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of this article, any permit issued thereunder, or a detailed statement or drawing submitted and approved thereunder, shall be prosecuted as provided by state or local law, including but not limited to, the provision of Section 1-15 of the Code of Ordinances of the City of Bradenton.

The implementation of any of the provision of this Section 36 shall not in any way preclude the utilization of any other remedies available to the City to eliminate or remove the problems of unsafe buildings or structures including, but not limited to, injunction and Code Enforcement Board procedures.

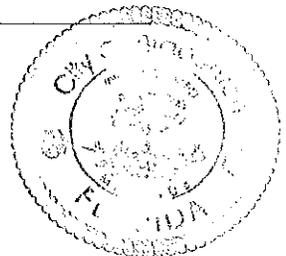
2. This Ordinance shall take effect immediately.

PASSED IN REGULAR SESSION, this 26<sup>th</sup> day of MARCH, 2014.

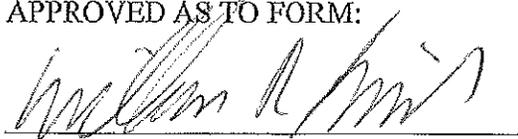
ATTEST:

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
President, City Council

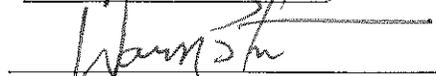


APPROVED AS TO FORM:

  
\_\_\_\_\_  
William R. Lisch, City Attorney

First Reading: 2-26-14  
Advertised: 3-13-14  
Second Reading: 3-26-14

APPROVED by me this 26<sup>th</sup> day of MARCH, 2014.

  
\_\_\_\_\_  
Wayne H. Poston, Mayor



# BRADENTON HERALD

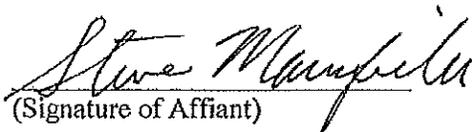
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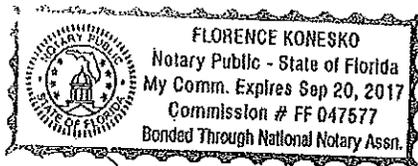
STATE OF FLORIDA  
COUNTY OF MANATEE

Before the undersigned authority personally appeared Steve Mansfield, who, on oath, says that he is a Legal Advertising Representative of The Bradenton Herald, a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copy of the advertisement, being a Legal Advertisement in the matter of **Notice of Public Hearing for Ordinance #2961** was published in said newspaper in the issue(s) of **03/13/2014**.

Affidavit further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

  
(Signature of Affiant)

Sworn to and subscribed before me this  
13 Day of March, 2014



SEAL & Notary Public

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

## CITY OF BRADENTON, FLORIDA NOTICE OF PUBLIC HEARING

### NOTICE IS HEREBY GIVEN PROPOSED ORDINANCE #2961

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, AMENDING CHAPTER VIII, BUILDING AND BUILDING REGULATIONS OF THE CODE OF ORDINANCES, PROVIDING THERETO A NEW SECTION 36, PROVIDING FOR THE DEMOLITION OF UNSAFE STRUCTURES; PROVIDING FOR A TITLE; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING FOR NOTICES; PROVIDING FOR EXTENSIONS OF TIME AND APPEALS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR EMERGENCIES; PROVIDING FOR COSTS AND LIENING OF PROPERTY; PROVIDING AN EFFECTIVE DATE

will be considered for the second reading and public hearing at the regular meeting of the Bradenton City Council to be held Wednesday, March 26, 2014 at 6 p.m. at City Hall, Bradenton, Florida. Interested parties may appear at the meeting and be heard. A copy of the proposed ordinance may be inspected by the public at the office of the City Clerk, City Hall, 101 Old Main Street, Bradenton, Florida.

Anyone requiring reasonable accommodation for this meeting as provided for in the Americans With Disabilities Act should contact Tim McCann at (941) 932-9497, within seven (7) days prior to the proceeding.

If any person determines to appeal any decision made by the City Council with respect to any matter considered at this public hearing, such person will need a record of proceedings for that purpose and will need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which any appeal is to be based.  
3/13/2014