

RESOLUTION NO. 18-R36

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, **CORRECTING A SCRIVENERS ERROR IN RESOLUTION 17-R38** ADOPTING RULES OF PROCEDURE FOR CONDEMNATION AND DEMOLITION OF STRUCTURES; PROVIDING FOR RETROACTIVITY; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Fort Pierce adopted Resolution 17-R38 on November 20, 2017 establishing Rules of Procedure for Condemnation and Demolition of Structures; and

WHEREAS, Exhibit A of the resolution was not the final version and did not contain the changes mandated by the City Commission at their conference agenda held on November 13th, 2017 and

WHEREAS, at the conference agenda held before this resolution was placed on the regular agenda for adoption, the City Commission reviewed the proposed resolution and mandated that certain changes be made to the resolution; and

WHEREAS, the changes mandated by the City Commission added the City Manager and other sources including the Code Enforcement Manager as individuals who could initiate the code enforcement process to demolish and condemn buildings; and

WHEREAS, prior to being placed on the regular agenda for adoption the relevant departments were incorporating changes mandated by the City Commission and unfortunately, all of the mandated changes by the City Commission were not captured in the final resolution; and

WHEREAS, the relevant departments made changes to the proposed resolution but the changes were not made on the same document; and

WHEREAS, the relevant departments changes were not incorporated into the Resolution presented to the City Commission when it was placed on the regular agenda for adoption; and

WHEREAS, the City Commission desires to remedy the scriveners error.

NOW THEREFORE, BE IT RESOLVED by the City Commission of the City of Fort Pierce, Florida:

SECTION 1. That the scrivener's error is hereby corrected and the Rules of Procedure for Condemnation and Demolition of Structures as outlined in "Exhibit A" are hereby adopted by the City of Fort Pierce.

SECTION 2. The provisions of this Resolution are declared to be severable and if any section, sentence, clause, or phrase of this Resolution shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

SECTION 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

SECTION 4. This Resolution shall be effective immediately retroactive, nunc pro tunc, to November 20, 2017.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this 16th day of July, 2018.

Linda Hudson, Mayor

ATTEST:

Linda Cox, City Clerk

Approved as to Form
And Correctness:

James M. Messer, Esq.
City Attorney

Rules of Procedure for Condemnation & Demolition of Structures

Exhibit A

These procedures are established to regulate the condemnation of structures or systems and the subsequent rehabilitation or demolition of such structures or systems.

Condemnation Procedures

1. The Code Compliance Manager will review all requests for condemnation and make a final determination of action to be taken based upon the following:
 - a. The recommendation from the Building Inspector.
 - b. Complaints from citizens, the Fort Pierce Police Department and/or other agencies.
 - c. Compliance with the City of Fort Pierce Charter Section 14 (9) that allows for the removal of any building or structure that constitutes a menace to business, health, or safety, or any building or structure that constitutes a fire hazard or which is unsightly or does not conform in architecture to adjacent or surrounding buildings which are hereby designated and declared to be a nuisance;
2. If the structure is to be condemned but can be repaired and does not require demolition, the procedures outlined in Section I – Condemnation with Rehabilitation shall be followed.
3. If the structure is to be condemned and must be removed by demolition, the procedures outlined in Section II – Condemnation with Demolition shall be followed.
4. If the structure is to be condemned due to its adverse impact on the neighborhood and businesses or any other condition that is not provided for in the International Property Maintenance Code Section 108 as adopted by the City Commission, the procedures outlined in Section III – Condemnation / Declaration of Nuisance shall be followed.
5. When, in the opinion of the Building Official or Code Official, there is imminent danger of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Building Official or Code Official shall take whatever steps are necessary, up to and including demolition of the structure, to preserve the life, health and safety of the community. When such action is taken, the procedures for demolition outlined in Section II shall commence as soon as reasonably possible after the fact.

SECTION I – CONDEMNATION WITH REHABILITATION

This Section is intended to address properties that have been declared unsafe by the Code Official but are not in such a state of disrepair as to require the demolition or removal of the structure. This section may be supplemented by nuisance abatement action provided for in Chapter 16 of the City's Code of Ordinances to properly secure such structure until the repairs have been completed.

These procedures may be suspended with the issuance of a valid building permit that will abate the violations or a Stipulation of Remediation that clearly outlines the steps required to remedy the violations and a timeline for compliance. The stipulation must be signed by both the interested party and a city representative and be notarized. Failure to comply with the conditions of the building permit or the stipulation will result in the procedures for condemnation automatically resuming.

1. Property is inspected by the Building Department.

- a. A Property Maintenance Inspection Report (PMIR) is completed to include a recommended action to be taken based upon the International Property Maintenance Code Section 108 as adopted by the City Commission on January 3, 2017.
 - b. Date stamped color photographs of the property conditions are taken and attached to the PMIR.
 - c. A Property Card is printed from the Property Appraiser's website.
 - d. File is forwarded to the Code Compliance Manager.
2. Notice of Violation and Affidavit of Unsafe Building is created.
 - a. The Notice of Violation must clearly identify the steps required to remedy all identified violations.
 - b. The notice must include a statement providing the owner(s) with their right to appeal the decision to the Construction Board of Adjustments and Appeals.
 3. The Affidavit of Unsafe Building with the attached Notice of Violation is recorded with the St. Lucie County Clerk of Courts.
 4. A copy of the recorded affidavit and notice is to be sent to all interested parties including the registered owner of title (from the Property Appraiser's card), any Registered Agent listed with the Division of Corporations, any heirs of estates listed with the St Lucie County Clerk of Court., any tenants and any additional names / addresses as may be provided.
 5. All notices are to be sent certified mail, return receipt requested.
 6. If the signed green card is not received within 10 business days, is returned unclaimed or unsigned, the notice shall be sent regular mail with an Affidavit of Mailing signed and placed in the file.
 7. Property is to be posted with the appropriate Notice of Condemnation. This may include an order for the structure to be vacated until such repairs have been completed.
 8. An Affidavit of Posting shall be signed and placed in the file along with a copy of the posting.
 9. Follow up inspections are to be conducted at least bi-annually to determine if additional action is needed.
 10. If no action has been initiated after a period of twenty-four (24) months, the Code Compliance Manager may either forward the property to the Legal Department to initiate foreclosure proceedings or forward the matter to the City Commission for demolition.

SECTION II – CONDEMNATION WITH DEMOLITION

This Section is intended to address properties that have been declared unsafe by the Code Official but are in such a state of disrepair as to require the demolition or removal of the structure.

These procedures may be suspended with the issuance of a valid building permit that will abate the violations or a Stipulation of Remediation that clearly outlines the steps required to remedy the violations and a timeline for compliance. The stipulation must be signed by both the interested party and a city representative and be notarized. Failure to comply with the conditions of the building permit or the stipulation will result in the procedures for demolition automatically resuming.

1. A Notice of Violation is created.
 - a. The notice must clearly state that the building has been declared unsafe and must be demolished.
 - b. A time to comply shall be established, determined by the severity of the condition, not to exceed 60 days.

- c. The notice is to be sent to all interested parties including the registered owner of title (from the Property Appraiser's card), any Registered Agent listed with the Division of Corporations, any heirs of estates listed with the St Lucie County Clerk of Court., any tenants and any additional names / addresses as may be provided.
 - d. All notices must be sent certified mail, with return receipt requested.
 2. An Affidavit of Unsafe Building with the attached Notice of Violation is recorded with the St. Lucie County Clerk of Courts.
 3. A Resolution is prepared for approval by the City Commission to establish a date of hearing.
 - a. The Resolution will be placed on the next available Commission agenda.
 - b. The Resolution may include multiple addresses that are being scheduled to be heard.
 - c. No evidence will be submitted or presented in support of this Resolution as it is only announcing a hearing date at which time such evidence shall be submitted and reviewed.
 - d. Following the adoption of the Resolution establishing the hearing date, a Notice of Hearing shall be mailed by registered or certified mail a certified copy of said resolution to all parties at least ten (10) days prior to the date of said hearing by the city clerk of the City of Fort Pierce. Notice issued under this section shall advise the property owner and potential parties in interest of their right to be heard on the demolition or to show cause why the demolition should not take place.
 4. A Resolution to Declare a Nuisance / Condemn & Demolish a structure is prepared for approval by the City Commission. Only a single property may be addressed per Resolution to Condemn and Demolish and in lieu of a specific date, shall state that demolition shall comply with the Rules of Procedure as adopted by the City Commission. Evidence to support the Resolution shall be presented and shall include, but is not limited to, the following:
 - a. A copy of the Notice of Violation and certified mail return receipt.
 - b. A copy of the recorded Affidavit of Unsafe Building.
 - c. A current copy of the property card from the Property Appraiser's website indicating the current owner of the property and if the property is homesteaded.
 - d. Confirmation from the FPUA as to the current status of utilities.
 - e. Property Status Statement indicating:
 - i. If the property is occupied.
 - ii. If there was any prior attempts for rehabilitation under Section I of these rules.
 - iii. If there is any additional code enforcement action upon the property.
 - iv. If the property is historic and requires a Certificate of Appropriateness prior to demolition.
 - f. Color photographs clearly depicting the current condition of the property.
 - g. A copy of the Property Maintenance Inspection Report, completed by the Building Inspector.
 - h. Any reports from the FPPD or citizen complaints regarding the property.
 5. If the City Commission finds cause to support the Resolution, staff shall commence the demolition procedures listed below no sooner than fifteen (15) days following adoption of the Resolution to allow the owner or other interested party the time to appeal the Commission's decision.
 6. Any person, firm or corporation having any lien on, or interest in the property ordered condemned or removed, shall have the right to appeal, however, such appeal shall not

operate as a stay of demolition until appeal bond has been filed with the clerk of the circuit court for St. Lucie County, Florida. The amount of which bond shall be set by the judge of the circuit court of St. Lucie County, Florida in an amount sufficient to cover all costs, attorney's fees and expenses of the City of Fort Pierce, reasonably incurred by the said city in protecting the public from dangers and damages arising from an incident to the building or structure involved in the said appeal. Provided, however, writ of error shall be issued out within three (3) days (Sundays excluded) and made returnable within fifteen (15) days from the date of said resolution.

DEMOLITION PROCEDURES

7. An Affidavit of Homestead Exemption Status is signed and placed in the file with a current Property Card from the Property Appraiser's and a copy of the Tax Card and tax record attached.
8. The historic status of the property is determined and an Affidavit of Historic Structure Status is completed.
 - a. If the structure is within a designated historic district or has otherwise been declared historic, the request is forwarded to the Historic Preservation Officer for the matter to be placed before the Historic Preservation Board to obtain a Certificate of Appropriateness to have the structure demolished.
 - b. If the structure is not historic, the Affidavit of Historic Structure Status is signed and placed in the file
9. A title search is to be conducted to determine if there are any additional interested parties that have not been notified. In the event that there are parties in interest, no demolition shall take place until the parties have had an opportunity to be heard but no later than fifteen (15) days following notice of interest.
10. A Final Notice of Demolition is sent regular mail to all interested parties identified in the title search providing for 15 days to contact the Code Enforcement office and initiate appropriate action to address the condition(s) that created the declared nuisance.
11. If all the above steps have been completed, there are no active permits to address the violations and no active Stipulation for Remediation, the matter will be forwarded to an approved City vendor.
 - a. The vendor will apply for a demolition permit with the Building Department.
 - b. The vendor will submit an estimate of costs to the Code Enforcement Department for approval.
 - c. Upon approval by the Code Enforcement Department and issuance of the demolition permit, the structure shall be demolished and the site properly graded and sodded.
 - d. A lien is placed upon the property and recorded with the Clerk, in accordance with the City Charter and applicable Florida law.

SECTION III – CONDEMNATION – DECLARATION OF NUISANCE

This Section is intended to address properties that do not match the criteria to be declared unsafe by the International Property Maintenance Code, but due to their condition constitutes a menace to the business, health, or safety of the community and abatement by demolition is necessary to remedy this nuisance. Such conditions include, but are not limited to, abandonment, repetitive calls to FPPD for illegal activities and/or complaints from local residents and businesses.

These procedures may be suspended with the issuance of a valid building permit that will abate the violations or a Stipulation of Remediation that clearly outlines the steps required to remedy the violations and a timeline for compliance. The stipulation must be signed by both the interested party and a city representative and be notarized. Failure to comply with the conditions of the building permit or the stipulation will result in the procedures for demolition automatically resuming.

1. Based upon a written request from the City Manager or the Fort Pierce Police Department or repetitive complaints received by the Code Enforcement Office identifying conditions that constitute a nuisance, a Notice of Violation is created complying with Chapter 16 of the Code of Ordinances to declare the property a nuisance and is sent to all interested parties including the registered owner of title (from the Property Appraiser's card), any Registered Agent listed with the Division of Corporations, any heirs of estates listed with the St Lucie County Clerk of Court., any tenants and any additional names / addresses as may be provided..
2. The property is posted in compliance with Chapter 16 of the Code of Ordinances advising all interested parties that the property is being declared a nuisance and an Affidavit of Posting is placed in the file.
3. A Resolution is prepared for approval by the City Commission to establish a date of hearing.
 - a. The Resolution will be placed on the next available Commission agenda.
 - b. The Resolution may include multiple addresses that are being scheduled to be heard.
 - c. No evidence will be submitted or presented in support of this Resolution as it is only announcing a hearing date at which time such evidence shall be submitted and reviewed.
 - d. Following adoption of the Resolution establishing a hearing date, a Notice of Hearing shall be mailed by registered or certified mail a certified copy of said resolution to all parties at least ten (10) days prior to the date of said hearing by the city clerk of the City of Fort Pierce. Notice issued under this section shall advise the property owner and potential parties in interest of their right to be heard on the demolition or to show cause why the demolition should not take place.
4. A Resolution to Declare a Nuisance / Condemn & Demolish a structure is prepared for approval by the City Commission. Only a single property may be addressed per Resolution to Declare a Nuisance and Demolish and in lieu of a specific date, shall state that demolition shall comply with the Rules of Procedure as adopted by the City Commission. Evidence to support the Resolution shall be presented and shall include, but is not limited to, the following:
 - a. A copy of the Notice of Violation and certified mail return receipt.
 - b. A copy of the Affidavit of Posting.
 - c. A current copy of the property card from the Property Appraiser's website indicating the current owner of the property and if the property is homesteaded.
 - d. Confirmation from the FPUA as to the current status of utilities.
 - e. Property Status Statement indicating:
 - i. If the property is occupied.
 - ii. If there was any prior attempts for rehabilitation under Section I of these rules.
 - iii. If there is any additional code enforcement action upon the property.
 - iv. If the property is historic and requires a Certificate of Appropriateness prior to demolition.
 - f. Color photographs clearly depicting the current condition of the property.
 - g. A copy of the written request and all related reports from the FPPD.
 - h. Any citizen complaints regarding the property.
5. If the City Commission finds cause to support the Resolution, staff shall commence the demolition procedures listed below no sooner than fifteen (15) days following adoption of the Resolution to allow the owner or other interested party the time to appeal the Commission's decision.

6. Any person, firm or corporation having any lien on, or interest in the property ordered condemned or removed, shall have the right to appeal, however, such appeal shall not operate as a stay of demolition until appeal bond has been filed with the clerk of the circuit court for St. Lucie County, Florida. The amount of which bond shall be set by the judge of the circuit court of St. Lucie County, Florida in an amount sufficient to cover all costs, attorney's fees and expenses of the City of Fort Pierce, reasonably incurred by the said city in protecting the public from dangers and damages arising from an incident to the building or structure involved in the said appeal. Provided, however, writ of error shall be issued out within three (3) days (Sundays excluded) and made returnable within fifteen (15) days from the date of said resolution.

DEMOLITION PROCEDURE

7. An Affidavit of Homestead Exemption Status is signed and placed in the file with a current Property Card from the Property Appraiser's and a copy of the Tax Card and tax record attached.
8. The historic status of the property is determined and an Affidavit of Historic Structure Status is completed.
 - a. If the structure is within a designated historic district or has otherwise been declared historic, the request is forwarded to the Historic Preservation Officer for the matter to be placed before the Historic Preservation Board to obtain a Certificate of Appropriateness to have the structure demolished.
 - b. If the structure is not historic, the Affidavit of Historic Structure Status is signed and placed in the file
9. A title search is to be conducted to determine if there are any additional interested parties that have not been notified. In the event that there are parties in interest, no demolition shall take place until the parties have had an opportunity to be heard but no later than fifteen (15) days following the notice of interest.
10. A Final Notice of Demolition is sent regular mail to all interested parties identified in the title search providing for 15 days to contact the Code Enforcement office and initiate appropriate action to address the condition(s) that created the declared nuisance.
11. If all the above steps have been completed, there are no active permits to address the violations and no active Stipulation for Remediation, the matter will be forwarded to an approved City vendor.
 - a. The vendor will apply for a demolition permit with the Building Department.
 - b. The vendor will submit an estimate of costs to the Code Enforcement Department for approval.
 - c. Upon approval by the Code Enforcement Department and issuance of the demolition permit, the structure shall be demolished and the site properly graded and sodded.
 - d. A lien is placed upon the property and recorded with the Clerk, in accordance with the City Charter and applicable Florida law.