

ORDINANCE NO. 296

AN ORDINANCE OF THE CITY OF PORT ST. JOE, FLORIDA REPEALING SECTIONS 30-26 THROUGH 30-40 OF THE CODE OF ORDINANCES OF THE CITY OF PORT ST JOE; PROVIDING FOR ADOPTION OF THE SUBSTANDARD STRUCTURE AND JUNK ABATEMENT CODE OF THE CITY OF PORT ST. JOE, FLORIDA; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITION OF NUISANCE; PROVIDING FOR DETERMINATION OF INTERESTED PARTIES; PROVIDING FOR THE DUTIES OF OTHER DEPARTMENTS; PROVIDING FOR RIGHT OF ENTRY; PROVIDING FOR CITY ACTION ON FAILURE TO COMPLY WITH DETERMINATIONS; PROVIDING ASSESSMENT OF COSTS; PROVIDING FOR LIENS; PROVIDING FOR APPEALS; PROVIDING FOR THE REPEAL OF ANY ORDINANCE IN CONFLICT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF PORT ST. JOE, FLORIDA AS FOLLOWS:

Chapter 30 of the Code of Ordinances of the City of Port St. Joe is hereby amended as follows:

1. Sections 30-26 through 30-40 are hereby repealed.
2. Section 30-1 Nuisances, shall read as follows:

1. Substandard Structure and Junk Abatement Code.

This article shall be known as the “Substandard Structure and Junk Abatement Code of the City of Port St. Joe, Florida” and may be cited as such.

2. Definitions. As used in this article, the following words and phrases shall have the meanings respectively ascribed to them:

*Inspector* shall mean the chief building inspector of the city or his assistants or other city employee designated by the Board of City Commissioners

*Nuisance* shall mean any of the following:

- (a) *Accumulation of abandoned materials:* Any accumulation of rubbish, trash, junk or other abandoned materials, metals, lumber or other things;
- (b) *Storage of junked automobiles:* Unsheltered storage for a period of thirty (30) days or more within the corporate limits of the city, except in licensed junk yards, of old and unused stripped junk or automobiles not in good and safe operating conditions, and of any other vehicles, machinery, implements or equipment or personal property of any kind which is no longer safe or usable for the purposes for which it was manufactured. Any vehicle which does not have a current tag shall be considered a junked automobile.
- (c) *Detrimental conditions or uses of property:* Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which the premises are located, including, but not limited to, the keeping or depositing on or the scattering over the premises of lumber, junk, trash, debris, or abandoned, discarded, unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers;
- (d) *Unfit or unsafe dwelling or structure:* Any dwelling or structure or any portion thereof, including accessory buildings, structurally unsafe, unstable, unsanitary, inadequately provided with exit facilities, constituting a fire hazard, unsuitable or improper for the use or occupancy to which they are put, constituting a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment, dangerous to life or property, or, by reason of fire, age, decay, deterioration, structural defects, improper design, unstable foundation, termites, acts of God or other causes, dangerous to the occupants thereof or to surrounding buildings and the occupants thereof, or a menace to the public health, or a fire hazard, or so unsafe as to endanger life or property or render the use of the public streets dangerous, or otherwise in material violation of the housing, building electrical, plumbing, mechanical, health or fire codes of the city;
- (e) *Hazardous vegetation:* Any vegetation constituting a health and welfare hazard; and
- (f) *Miscellaneous:* Such other acts or conditions which are declared by any other section of this Code or other ordinances to be or constitute nuisance.

### 3. Nuisances prohibited.

Any owner or occupant of premises maintaining a nuisance within the city shall be guilty of an offense punishable as set forth in Chapter 1 of this Code.

4. Determination of interested parties.

When the inspector verifies the existence of a nuisance, it shall be his duty to promptly prepare and submit to the city clerk or other person designated by the Board of City Commissioners, the notice and order required by this article. The city clerk, with assistance of the city attorney, shall determine the owner of record of the real estate upon which the nuisance is located, and send a notice and order of condemnation thereto. In addition, notice shall be given the lessee or occupants, if any, and any persons of record interest, including mortgagees, contract purchasers, agents with power of attorney, persons claiming an interest under *lis pendens* and the like.

5. Notice and order of condemnation.

- (a) The notice and order of the inspector may require the removal of rubbish, trash or junk or such measures as are reasonably necessary to abate the nuisance.
- (b) The notice and order of the inspector may require the vacation, demolition, removal, repair, restoration or replacement of any unfit or unsafe dwelling or of any part or parts thereof, including accessory buildings, provided:
  - (1) If the inspector shall determine that the cost to repair, restore or replace any such dwelling or structure or part thereof or accessory building, would exceed fifty (50) percent of the value of the dwelling structure after repair, restoration or replacement, he may only order the vacation or demolition and removal of the dwelling or structure. However, nothing herein shall prevent repair, restoration or replacement at the option of the owner or any other interested party;
  - (2) An order of repair, restoration or replacement by the inspector or an election by the owner or other interested party to repair, restore or replace, shall require the dwelling or structure to be brought within the standards specified by the various technical codes of the city adopted throughout this volume.
- (c) The required notice and order shall be in writing, signed by the inspector, with an accurate description of the nuisance and a legal description of the realty where it is located, including the street address, and shall state what the inspector orders to be done about the condition and the date within which the work ordered to be done is to be completed. The notice and order shall state that it may be appealed within thirty (30) days by written application to the inspector.

- (d) Except as otherwise provided below for unsafe or unfit dwellings or structures, the inspector may order any such work to be completed within such time as he may determine to be reasonable considering the nature of the nuisance, the danger to the public, and the amount of work involved to abate the nuisance.
- (e) In the case of an unfit or unsafe dwelling or structure, the notice and order shall require the owner and other interested parties to obtain a permit and begin specified repairs or improvements, or to begin to demolish and remove the dwelling or structure or portion thereof, within thirty (30) days after service of the notice and order. The notice and order shall require the work to be completed within sixty (60) days from the date of the permit for repair or demolition. Any repair or demolition permit necessary as a result of any condemnation herein shall not require a fee.
- (f) When the inspector and/or health officer verifies the existence of a rodent infestation in any dwelling or structure, or accumulation of rubbish, trash or junk therein, that is to be demolished or removed, in order to preclude the migration of rodents, the notice and order to the building official shall require that effective rodent extermination methods be employed by a licensed structural pest control operator prior to demolition or removal. Extermination techniques shall include ectoparasite control measures.

6. Duties of other departments.

Members of the fire department, police department, public works and sanitation departments shall make written reports to the inspector of all dwellings or structures which appear to be substandard housing within the terms of this article. Any such reports shall be submitted to the inspector as soon as practicable.

7. Rights of entry.

The inspector and his designees are hereby authorized to enter upon private property in order to enforce the provisions of this article. When necessary to obtain entry, the inspector and his designees may institute appropriate proceedings to obtain a search warrant or inspection warrant, whichever is necessary.

8. Service of notice and order.

It shall be the duty of the city clerk to see that the notice required herein and

order is delivered to the interested parties by personal delivery of a copy thereof to the party to be notified, by leaving a copy at his usual place of abode with some person of the family above fifteen (15) years of age and informing that person of the contents thereof, by either registered or certified United States mail with return receipt requested, or if the name of any such party or his place of residence or his post office address cannot be ascertained after diligent search or in the event a notice sent by either registered or certified mail shall be returned undelivered and the person to be notified is not residing within the city, by publishing a copy thereof once a week for two (2) consecutive weeks in a newspaper of general circulation within the city. A copy of any such notice and order shall be posted in a conspicuous place at the city hall and upon the dwelling or structure in question.

9. Extension of time to comply.

(a) In the case of an unfit or unsafe building or structure, if the interested parties shall have obtained a building or demolition permit within the thirty (30) day period and in good faith and in due time begun work to comply with the order, but it appears that they will not be able to complete the work by the date ordered, they may file a written request stating the reasons they have been unable to complete compliance and if reasonable grounds are shown therefore, the inspector is authorized to issue an amended order authorizing an extension of time, not to exceed sixty (60) days, in which to complete compliance with the original order.

(b) In the case of a nuisance which is not an unfit or unsafe dwelling or structure, the inspector may grant extensions of up to sixty (60) days to abate the nuisance as are reasonably necessary under the circumstances upon written request from the interested parties stating the reasons they have been unable to complete compliance and showing reasonable grounds for failure to complete compliance.

(c) The Board of City Commissioners, in exceptional cases, upon written request, may extend the completion date of the building inspector as merited by special hardship, unusual difficulty or uniqueness of the situation; however, in no event shall the completion date extend beyond a maximum period of one hundred eighty (180) days.

10. City Action on failure to comply.

(a) If the owner or other parties in interest fail to repair, restore or replace any such dwelling or structure or parts thereof, including accessory

buildings, within the time permitted by the notice and order of the inspector or agreed by the owner or party in interest, and in the absence of extenuating circumstances as would justify an extension of the time period therefore, the city clerk may order a vacation of the premises until compliance or a demolition of the structure.

- (b) If the owner or other parties in interest shall fail to comply with an order made pursuant to the provisions of this article within the time therein fixed, the city, acting through the city clerk, is authorized to vacate, demolish or remove or otherwise abate the nuisance in accordance with the order, either with city forces or by independent contractor submitting the lowest and best bid.

11. Assessment of cost of abatement; lien

- (a) Upon expiration of the thirty (30) day appeal period with no appeal having been taken, the city clerk, after proceeding under this article, shall as often as may be convenient, report the action taken toward abatement of the nuisance by the city and the city council shall assess the entire cost of the action against the real property, which assessment, when made, shall constitute a lien upon the property by the city. The lien of the city shall encompass, in addition to the abatement cost for the vacation or removal or abatement of the nuisance, all administrative, legal, postal and publication expenses, as well as rodent extermination when employed, as well as all other direct or indirect costs associated therewith. The lien upon the property shall be superior to all others except taxes.
- (b) The city clerk, after giving notice to the county tax collector, shall file a notice of the lien in the county's official record book showing the nature of the lien, the amount thereof and an accurate legal description of the property, including the street address. The lien shall date from the date of filing and recite the names of all persons notified or interested parties. Any such lien shall bear interest from the date at the rate of ten (10) percent per annum for individuals and fifteen (15) percent for corporate owners and shall be enforceable, if unsatisfied after the expiration of two (2) years time from the date of filing any such notice of lien, as other liens may be enforced by the city. All such recorded liens shall be included in a tax deed sale and no such deed shall be issued unless full payment of principal and interest is received. Upon notice of an impending county tax deed sale, the tax collector shall request the clerk of the circuit court to collect all monies due the city for the lien, together with interest.

12. Appeals generally.

- (a) Any interested party may appeal the decision of the inspector or city clerk to the Board of City Commissioners upon the filing, within thirty (30) days after service of the inspector's or city clerk's notice and order, of an application to the inspector setting forth the grounds for the appeal. Upon receipt of the notice of appeal, the inspector shall forthwith transmit a copy of the notice of appeal, together with all related documents of his department, to the Board of City Commissioners and the city attorney. Within ten (10) days after the filing of a notice of appeal, the Board of City Commissioners shall schedule a date for the hearing thereof and give notice of the date for the hearing to the interested parties in a manner as would afford them not less than ten (10) days notice. Under no circumstances shall the board establish a hearing date beyond sixty (60) days from the filing of the notice of appeal.
- (b) All appeal proceedings shall be public and notice thereof published in a newspaper of general circulation with the city at least ten (10) days prior to the date of the hearing. The findings of the Board of City Commissioners shall be encompassed in a resolution stating with particularity the grounds for the board's decision.

13. Appearance by counsel, etc.; witnesses sworn.

Any interested party appearing before the Board of City Commissioners may appear in person, by counsel or by an agent possessing power of attorney provided the agency's instrument appears in the county's official record book, but may not appear through any person otherwise a stranger to the record. All witnesses appearing before the board in proceedings under this article shall be sworn by the chairman or in his absence, by the person acting in his stead, except counsel representing a client.

14. Final appeal to circuit court.

An interested party, having exhausted his administrative remedies before the Board of City Commissioners, shall be entitled to seek review of the decision of the Board of City Commissioners by certiorari in the Circuit Court, Fourteenth Judicial Circuit, in and for Gulf County, Florida.

2. Section 30-2 Standard Unsafe Building Abatement Code:

- (1) This article shall be known as the "Standard Unsafe Building Abatement



Code of the City of Port St. Joe, Florida” and may be cited as such.

- (2) Enforcement. The provisions of this article shall be under the jurisdiction of and enforced by the general building inspector or his assistant.
- (3) The Standard Unsafe Building Abatement Code, 1985 edition, as promulgated by the Southern Building Code Congress, is hereby adopted by reference and in full, as if set out at length herein, except as amended, modified or deleted herein, as minimum standards for thermal and light efficiency relating to the construction and repair of certain structures in the city as set forth in such code.
- (4) The code adopted in subsection (1) contains the minimum standards for safe buildings within the city and any unauthorized deviations from the code are hereby prohibited.

7. REPEAL: All ordinances or parts of ordinances in conflict herewith are hereby repealed

8. EFFECTIVE DATE: This ordinance shall become effective as provided by law.

9. SEVERABILITY: If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

DULY PASSED AND ADOPTED by the Board of City Commissioners of Port St. Joe, Florida this 15th day of October, 2002.

THE CITY OF PORT ST. JOE

  
FRANK PATE, JR., MAYOR-COMMISSIONER

ATTEST:

  
City Clerk

The following commissioners voted yea: Mayor Pate, Commissioners Roberts and Horton

The following commissioners voted nay: None

The following commissioner absent: Commissioners Raffield and Williams