

Regular Workshop – April 21, 2014
Agenda Item 12

Agenda Item: Public Nuisance Procedure Established in Town Code Section 150.22

Presenter: Town Manager and Staff

Summary: At the Town Commission's April 7, 2014 Special Meeting the Commission requested an item be placed on the April 21, 2014 Regular Workshop Meeting to discuss the Public Nuisance Procedures established in the Town Code.

Attachments: 4-14-14 Memo, Assistant Town Manager to Manager; Presentation, Public Nuisance Procedure Town Code 150.22

Recommended Action: None, informational only.

M E M O R A N D U M

Date: April 14, 2014

TO: Dave Bullock, Town Manager

FROM: Anne Ross, Assistant Town Manager

SUBJECT Public Nuisance Procedure Established in Town Code Section 150.22

At the April 7, 2014 Town Commission Special Meeting the Commission requested an item be placed on the April workshop to discuss the Public Nuisance procedures established in the Town Code. Therefore, Town staff has prepared a presentation outlining the provisions established in Town Code Section 150.22 Procedure for buildings which are nuisances.

The following documents are attached to this memo for your review:

1. Staff Presentation, Public Nuisance Procedure
2. Town Code Section 150.22

We will be prepared to answer any questions related to this issue or provide any additional information requested.



PUBLIC NUISANCE PROCEDURES

**TOWN COMMISSION WORKSHOP
APRIL 21, 2014**



TOWN CODE SECTION 150.22

PROCEDURE FOR BUILDINGS WHICH ARE NUISANCES

- **Subsection (A) Establishes Unsafe Conditions Constituting Dangerous Structures**
- **Subsection (C) Establishes Standards for Ordering Repair, Vacation, or Demolition**
- **Subsection (D) Tasks Building Official with Inspections and Initial Determination whether Public Nuisance Exists based on Conditions Described in Subsection (A)**



TOWN CODE SECTION 150.22

PROCEDURE FOR BUILDINGS WHICH ARE NUISANCES (CONT.)

- **Subsection (E) Requires Town Commission to Review Building Official Report and Determine whether a Public Hearing should be Scheduled**
- **Subsection (F) Establishes Public Hearing Notice Requirements**



TOWN CODE SECTION 150.22

PROCEDURE FOR BUILDINGS WHICH ARE NUISANCES (CONT.)

- Subsection (G) Establishes Public Hearing Procedures
- Subsection (H) Establishes Declarations Commission can make in Public Hearing Resolution
- Subsection (I) Establishes Resolution Posting Procedure
- Subsection (J) Establishes Provisions for Abatement Noncompliance



TOWN CODE SECTION 150.22

PROCEDURE FOR BUILDINGS WHICH ARE NUISANCES SUBSECTION (C) (3) GUIDELINES

- In any case where a "dangerous structure" is 50 percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter it shall be demolished. In all cases where a "dangerous structure" is a fire hazard existing or erected in violation of the terms of this section or any section of this Code or statute of the State of Florida, it shall be demolished.



TOWN CODE SECTION 150.22

PROCEDURE FOR BUILDINGS WHICH ARE NUISANCES SUBSECTION (C) (3) GUIDELINES

- Demolition is currently only option available if the building is more than 50% damaged, decayed, deteriorated or cannot be repaired
- Commission could consider adding securing the building as another option
 - Blocking access to building via perimeter fence
 - Securing building - boarding up entrances, windows, etc.
 - Order minimum repair of potential threat items

150.22 Procedure for buildings which are nuisances.

General. All buildings or structures, as these terms are defined in the town's land development regulations or building code, and including docks, davits, seawalls and other marine structures, which have any or all of the following defects shall be deemed "dangerous structures:"

- (A) *Unsafe conditions.* Where any of the following conditions cause the component or system to be beyond its limit, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the Florida Building Code as required for existing buildings:
- (1) Soils that have been subjected to any of the following conditions:
 - (a) Collapse of footing or foundation system;
 - (b) Damage to footing, foundation, concrete or other structural element due to soil expansion;
 - (c) Adverse effects to the design strength of footing, foundation, concrete, or other structural element due to a chemical reaction from the soil;
 - (d) Inadequate soil as determined by a geotechnical investigation;
 - (e) Where the allowable bearing capacity of the soil is in doubt; or
 - (f) Adverse effects to the footing, foundation, concrete or other structural element due to the groundwater table.
 - (2) Concrete that has been subjected to any of the following conditions:
 - (a) Deterioration;
 - (b) Ultimate deformation;
 - (c) Fractures;
 - (d) Fissures;
 - (e) Spalding;
 - (f) Exposed reinforcement; or
 - (g) Detached, dislodged or failing connections.
 - (3) Aluminum that has been subjected to any of the following conditions:
 - (a) Deterioration;
 - (b) Corrosion;
 - (c) Elastic deformation;
 - (d) Ultimate deformation;
 - (e) Stress or strain cracks;
 - (f) Joint fatigue; or
 - (g) Detached, dislodged or failing connections.
 - (4) Masonry that has been subjected to any of the following conditions:
 - (a) Deterioration;
 - (b) Ultimate deformation;
 - (c) Fractures in masonry or mortar joints;
 - (d) Fissures in masonry or mortar joints;
 - (e) Spalding;
 - (f) Exposed reinforcement; or

- (g) Detached, dislodged or failing connections.
- (5) Steel that has been subjected to any of the following conditions:
 - (a) Deterioration;
 - (b) Elastic deformation;
 - (c) Ultimate deformation;
 - (d) Metal fatigue; or
 - (e) Detached, dislodged or failing connections.
- (6) Wood that has been subjected to any of the following conditions:
 - (a) Ultimate deformation;
 - (b) Deterioration;
 - (c) Damage from insects, rodents and other vermin;
 - (d) Fire damage beyond charring;
 - (e) Significant splits and checks;
 - (f) Horizontal shear cracks;
 - (g) Vertical shear cracks;
 - (h) Inadequate support;
 - (i) Detached, dislodged or failing connections;
 - (j) Excessive cutting and notching.

Exceptions: When substantiated otherwise by an approved method, demolition of unsafe conditions shall be permitted when approved by the code official.

- (B) *Handrails and guardrails.* Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) high or more than 42 inches (1,067 mm) high, measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches (762 mm) high above the floor of the landing, balcony, porch deck or ramp, or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

- (C) The following standards shall be followed in substance by the town manager or designee and the town commission in ordering repair, vacation or demolition:
 - (1) If the "dangerous structure" can reasonably be repaired so that it will no longer exist in violation of the terms of this section, it shall be ordered repaired.
 - (2) If the "dangerous structure" is in such condition as to make it dangerous to the health, safety or general welfare of its occupant it shall be ordered to be vacated.
 - (3) In any case where a "dangerous structure" is 50 percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter it shall be demolished. In all cases where a "dangerous structure" is a fire hazard existing or erected in violation of the terms of this section or any section of this Code or statute of the State of Florida, it shall be demolished.
- (D) It shall be the duty of the building official to regularly and frequently require examination of buildings and structures within the town to determine whether the buildings and structures constitute a public nuisance as provided in subsection (A)

above. The building official shall make a detailed written report to the town commission which shall contain a detailed description of the examination and his opinion of whether the conditions found constitute the building or structure, or any part thereof, a public nuisance.

- (E) At the next regular meeting of the town commission, or at the next special meeting called therefor, the commission shall consider the report of the building official. If the commission finds that the building or structure described therein may constitute a public nuisance, the commission shall adopt a resolution setting a time, place, and date for a public hearing on whether or not the building or structure in fact is a public nuisance. The hearing shall not be held until notice thereof has been published at least once in a newspaper of general circulation in the town, at least seven days prior thereto. The town clerk, or designee, shall also post a notice of the public hearing on the building or structure. The town clerk, or designee, shall send a copy of the notice of hearing, by registered mail, to the owner of the premises, on which the building or structure is located, as it appears on the most current town or county tax assessment roll.
- (F) The public notice specified in subsection (E) above, shall contain a description of the property on which the building or structure is located sufficient for identification. The notice to the owner shall also describe, in general terms, the condition of the building or structure that is alleged to constitute the building or structure a public nuisance. The public notice and notice to the owner shall also contain the time, date and place that the public hearing will be held.
- (G) At the public hearing, the town commission shall hear and read the full report of the town manager or designee and hear any other evidence as the commission may deem relevant. At the hearing, the owner shall be allowed to present testimony and evidence showing that the conditions do not constitute a nuisance. The owner of the premises may appear either in person or by attorney. After the owner has been heard, the commission may consider any other matters that in their discretion appear relevant to a determination hereof.
- (H) At the conclusion of the public hearing, the town commission shall adopt a resolution declaring one or more of the following:
 - (1) That the conditions alleged by the town manager or designee to exist in the building or structure do not exist.
 - (2) That the conditions existing in the building or structure do not constitute a public nuisance.
 - (3) That the conditions alleged by the town manager or designee to exist in the building or structure have been remedied and that the building or structure does not now constitute a public nuisance.
 - (4) That the conditions existing in the building or structure constitute the building or structure a public nuisance, and it is hereby condemned.
 - (5) Any other provisions that will appropriately decide and determine the issues.
 - (6) A description of the conditions existing which constitute the building or structure a public nuisance, if any.
 - (7) That upon the failure of the owner to correct and abate the conditions constituting the building or structure a public nuisance within a reasonable period of time, which shall be stated in the resolution and shall be not less than three days from the date thereof, the town will abate the conditions constituting the building or structure a public nuisance or by appropriate pleadings, institute

suit in a court having jurisdiction over the property for a mandatory injunction and any other relief as the town deems necessary and proper, or both.

- (I) Upon the adoption of a resolution under subsection (H) above, the town clerk, or designee, shall post a copy thereof on the structure and shall mail a copy thereof to the owner of the premises on which the building or structure is located, if the address of the owner is known to the town clerk.
- (J) If the nuisance has not been abated before the period of time specified in the resolution has elapsed, the town shall take the action set forth therein and all funds expended in the abatement of the public nuisance, including all attorneys' fees, court costs and expenses, shall be a lien on the premises and superior to all other liens except other liens for special assessments. The liens may be enforced against the property by foreclosure as provided by law for foreclosure of tax liens or may be collected as otherwise provided by law.

(71 Code, §§ 6-23--6-30; Ord. 89-09, passed 6-5-89; Amd. Ord. 92-09, passed 3-2-92; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 04-12, passed 7-12-04; Ord. No. 2012-26, § 7, 7-1-13)

Cross reference-- *Dangerous or unsanitary buildings and structures, procedures for abatement, § 150.21.*



End of Agenda Item