



**PROPERTY MAINTENANCE STANDARDS  
REVIEW COMMITTEE WORKSHOP AGENDA  
ARCADIA CITY COUNCIL  
CITY COUNCIL CHAMBERS  
23 NORTH POLK AVENUE, ARCADIA FL**

**TUESDAY, MAY 19, 2015  
5:00 P.M.**

**CALL TO ORDER AND ROLL CALL**

**AGENDA ITEMS**

- 1. Suggestions from the Property Maintenance Standards Review Committee: Changes to Code of Ordinances**
  - A. Removing ordinance regarding swimming in the Peace River (Sec. 70-4)
  - B. Removing the word "Metallic" and adding the word "Reflective" (Sec. 30-2)
  - C. Removing the words "Steam Whistle" (Sec. 50-70)
  
- 2. Suggestions to Implement the Following Ordinances**
  - A. Implement Standard Lien Reduction Ordinance
  - B. Implement Registration of Foreclosed Properties (please see attached)
  - C. Implement Minimum Maintenance Standards (please see attached)
  - D. Implement Code Enforcement Special Board to Replace Code Enforcement Special Master (please see attached)

**PUBLIC (Please limit presentation to five minutes)**

**ADJOURN**

*NOTE: Any party desiring a verbatim record of the proceedings of this hearing for the purpose of appeal is advised to make private arrangements therefore.*

**PLEASE TURN OFF OR SILENCE ALL CELL PHONES**

**Sec. 70-4. - Swimming in Peace River.**

(a)

All swimming is prohibited in those portions of the Peace River within the city limits.

(b)

This section does not prohibit boating activities in the Peace River.

*(Code 1986, § 19-7)*

---

**Sec. 30-2. - Posting of building numbers.**

It is hereby required that the owner, agent or occupant of each and every dwelling house, storeroom or other house in the city number the house for identification by numbering the house in metallic figures three inches high.

*(Code 1986, § 25-9)*

---

**Sec. 50-72. - Operation of radios or other mechanical sound-making devices or instruments in vehicles; exemption.**

(a)

It shall be unlawful and shall constitute a nuisance for any person operating or occupying a motor vehicle on a street, highway or on other public or private property, to operate or amplify the sound produced by a radio, tape player, compact disk player or other mechanical sound-making device or instrument on or within the motor vehicle so that the sound is:

(1)

Plainly audible at a distance of 100 feet or more from the motor vehicle; or

(2)

Louder than necessary for the convenient hearing by persons inside the vehicle in residential areas or areas adjoining churches, schools or hospitals.

(b)

The provisions of this section shall not apply to any law enforcement motor vehicle equipped with any communication device necessary in the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures.

(c)

The provisions of this section shall not apply to motor vehicles used for business or political purposes which in the normal course of conducting such business uses sound-making devices. The provisions of this subsection shall not be deemed to prevent the city, with respect to the street and highways within its boundaries and within the reasonable exercise of the police power, from regulating the time and manner in which such business may be operated.

(d)

The provisions of this section do not apply to the noise made by a horn or other warning device permitted by section 316.271, Florida Statutes, when used as intended.

(e)

If the vehicle is unoccupied at the time the violation is observed, the operator of the vehicle shall be deemed to be the person last operating the vehicle or, if the last operator cannot be determined, the registered owner of the vehicle.

(f)

If a notice or citation of a noise violation is not satisfied by full payment of the penalty imposed by that notice or citation within a period of 14 days of the date of the issuance of that notice or citation, the police department shall:

(1)

Cause to be sent to the person to whom the notice or citation was issued a summons for court appearance; or

(2)

Immobilize, by suitable device, the wheels of any motor vehicle owned by such person wherever it may be found on any street or right-of-way in the city and tag the vehicle such that the operator knows to contact the city police department to have the vehicle released.

(g)

Release by the city of a motor vehicle immobilized under this section may be had after:

(1)

Payment of the following:

- a. All parking violation fines; and
- b. All applicable fees assessed for the immobilization;

(h)

A vehicle immobilized under this section may be treated as abandoned under applicable laws of the state and city if no operator contacts the city within 12 hours after the immobilization device is affixed to the vehicle.

*(Code 1986, § 17-11; Ord. No. 960, § 1, 7-6-2010)*

**Cross reference**— Zoning, ch. 110.

---

**Sec. 50-70. - Noncompliance with article declared unlawful.**

It shall be a violation of this article, except as otherwise expressly permitted, to make, cause or allow the making of any noise or sound that exceeds the limits set forth in this article.

*(Code 1986, § 17-9; Ord. No. 960, § 1, 7-6-2010)*

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA RELATED TO MORTGAGED REAL PROPERTY; AMENDING THE CODE OF ORDINANCES OF THE CITY OF ARCADIA, FLORIDA BY CREATING ARTICLE X OF CHAPTER 30, "REGISTRATION OF REAL PROPERTY IN FORECLOSURE"; PROVIDING FOR PURPOSE INTENT AND APPLICABILITY; PROVIDING FOR PENALTIES AND ENFORCEMENT; REQUIRING MORTGAGEE REGISTRATION OF REAL PROPERTY MORTGAGES IN DEFAULT; PROVIDING FOR THE TERM OF REGISTRATION; CREATING MAINTENANCE REQUIREMENTS FOR CERTAIN REAL PROPERTY BY MORTGAGEES; PROVIDING SECURITY REQUIREMENTS; SETTING FORTH ADDITIONAL MAINTENANCE AND SECURITY REQUIREMENTS; PROVIDING SUPPLEMENTAL AUTHORITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the mortgage foreclosure crisis has serious negative implications for all communities trying to manage the resulting vacant properties, increases in crime, homelessness, and other problems resulting from family financial crisis; and

WHEREAS, the City Council of the City of Arcadia, Florida has determined local codes must be adopted to mitigate the negative impacts of foreclosures; and

WHEREAS, foreclosed homes quickly become nuisances, grass and weeds grow untended, swimming pools become stagnant public health hazards, landscaping either dies or grows out of control, windows are broken, and exteriors suffer damage, both from normal wear-and-tear as well as vandalism, thus resulting in loss of value on nearby properties and neighborhoods, and ultimately the entire community; and

WHEREAS, Property maintenance codes to implement community standards for the exterior and interior condition of structures have been adopted; and

WHEREAS, registration requires the personal contact information of the Mortgagee or other responsible party who may be liable for any violation of codes when such person is or was the person owning or managing, controlling, or acting as agent with regard to buildings or premises; and

**WHEREAS**, most mortgages contain clauses allowing Mortgagees to enter onto the mortgaged Property to prevent waste and damage, and to correct or abate nuisances; and

**WHEREAS**, in the absence of the Property owner, it is appropriate for the City of Arcadia to expect and require the Mortgagee to exercise authority and be responsible for inspecting and maintaining the mortgaged Property while the owner is in Default of the mortgage; and

**WHEREAS**, the City Council of the City of Arcadia, Florida finds that neighborhoods should be protected from becoming blighted through the lack of adequate maintenance and security of properties subject to mortgages that are in Default; and

**WHEREAS**, the City Council of the City of Arcadia, Florida finds that the Mortgagee's registration of Property subject to a mortgage which is in Default, will establish a contact person for the City of Arcadia to address concerns regarding the maintenance and security of the Property; and

**WHEREAS**, the City Council of the City of Arcadia, Florida finds that it is in the public interest to address safety and aesthetic concerns of the City of Arcadia to assure that Property subject to a mortgage in Default or foreclosure will continue to be maintained and secured and that blight will not occur.

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

**SECTION 1.** Findings. The Council hereby adopts and incorporates by reference herein all of the findings set forth above as findings of the Council.

**SECTION 2.** Amendment of the Code of Ordinances. The Code of Ordinances of the City of Arcadia is hereby amended to create a new Article X of Chapter 30, "Registration of Real Property in Foreclosure" to read as follows:

**Sec. 30-300. Purpose and Intent.**

It is the purpose and intent of this Article to establish a process to mitigate the level of deteriorating Property located within the City of Arcadia, which is in Default, for which a public notice of Default has been filed regardless of occupancy, is in foreclosure, or where ownership has been transferred to lender or Mortgagee by any legal method. It is further intended to establish a registration program as a mechanism to protect

neighborhoods from becoming blighted through the lack of adequate maintenance of properties subject to mortgages that are in Default.

**Sec. 30-301. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning.

**Accessible Property** means a Property that is accessible through a compromised or breached gate, fence, wall, etc.

**Accessible structure** means a structure or building that is unsecured or breached in such a way as to allow access to the interior space.

**Default** means that the Mortgagee files a foreclosure action or public notice of Default on the mortgage. A mortgage shall be considered in Default at such time as the Mortgagee declares said mortgage to be in Default and by recording a Notice of Lis Pendens, or by its actions, or commences foreclosure proceedings.

**Enforcement officer** means any law enforcement officer, building inspector, fire inspector, or code enforcement officer employed by the City of Arcadia, Florida.

**Evidence of vacancy** means any condition that on its own, or combined with other conditions present would lead a reasonable person to conclude that the Property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, lack of active electric, water or other utilities, stagnant swimming pool, statements by neighbors, passers-by, delivery agents or government officials, among other evidence.

**Foreclosure** means the judicial process by which a Property, placed as security for a mortgage loan, after a judicial process, is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

**Mortgagee** means the creditor, including but not limited to, trustees; service companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement. For purposes of this ordinance, the term Mortgagee does not apply to governmental entities.

**Property** means any real Property, or portion thereof, located in the City of Arcadia, Florida, that is under a current notice of Default, notice of Mortgagee's sale, pending tax assessor's lien sale and/or properties that have been the subject of a foreclosure sale where title is retained by the beneficiary of a mortgage involved in the foreclosure, and any properties transferred under a deed-in-lieu of foreclosure sale, a surrender of real Property to a Mortgagee pursuant to a bankruptcy proceeding or any other

legal means. For purposes of this ordinance, Property does not include any exterior elements and common areas that are jointly owned and/or where maintenance is the joint responsibility of a community association or home owner's association.

**Property manager** means an individual Property Manager, Property management company, Property maintenance company or similar entity designated by the owner or Mortgagee to be responsible for the maintenance of real Property subject to the provisions of this ordinance.

**Vacant** means any building or structure that is not lawfully occupied or inhabited by human beings.

### **30-302. Applicability.**

This Article relates to Property subject to a mortgage that has been determined by the Mortgagee to be in Default. This Article shall be considered cumulative and is not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the City of Arcadia above and beyond any other state, county, or local provisions for same.

### **30-303. Penalties.**

Any violation of this Article may be enforced by the City of Arcadia Special Master as authorized and constituted by Chapter 2, Article IV, Division 5 of the Arcadia Code of Ordinances.

### **30-304. Registration of Real Property Mortgagee Holding Mortgages in Default.**

- (a) Any Mortgagee who holds a mortgage on real Property located within the City of Arcadia, Florida shall perform an inspection of the Property that is the security for the mortgage upon Default by the mortgagor or issuance of a notice of Default. Within ten (10) days of the inspection, the Mortgagee shall register the Property with the City's Administrator or authorized designee, or the City's authorized representative, on forms provided for same. If the Property remains in Default, it shall be inspected by the Mortgagee or designee at least once monthly, until the mortgagor or other party remedies the Default.
- (b) Within ten (10) days of the date the Mortgagee declares its mortgage to be in Default, the Mortgagee shall register the Property as provided in Sec. 30-304 (a) and, at the time of registration, shall designate in writing a Property Manager to inspect, secure, and maintain the real Property subject to the mortgage in Default.

- (c) Registration pursuant to this section shall contain, at a minimum, the name of the Mortgagee and servicer along with their corresponding mailing addresses email addresses, and telephone numbers and the name of the Property Manager and said person's address, email address and telephone number. The Property Manager shall be responsible to inspect, secure and maintain the Property. The Property Manager named in the registration shall be available to be contacted by the City of Arcadia, Monday through Friday between 8:00 a.m. and 5:00 p.m., excluding holidays.
- (d) Any Property registration pursuant to this Article is valid for one (1) calendar year. An annual registration fee set by Resolution of the City Council of the City of Arcadia, Florida shall accompany each registration or modification of registration. No fee shall be charged for modifying contact information, provided the organizational information remains the same. The City of Arcadia may assign and delegate the collection of such fee to a third party independent contractor, as noted on the registration form.
- (e) This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to a beneficiary of a mortgage involved in the foreclosure and any properties transferred to the Mortgagee under a deed-in-lieu of foreclosure/sale or properties surrendered to a Mortgagee pursuant to a bankruptcy proceeding.
- (f) Any person or other legal entity that has registered a Property under this Article must report any change of information contained in the registration within ten (10) days of the change.
- (g) Properties subject to this Article shall remain under the annual registration requirement, inspection, security and maintenance standards of this section as long as they remain in Default.
- (h) Failure of the Mortgagee and/or Property owner of record to properly register or to revise the registration to reflect a change of circumstances as required by this Article shall constitute a violation punishable as provided in Sec. 30-303.

### **30-305. Maintenance Requirements.**

- (a) Properties subject to the provisions of this Article shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices except those required by federal, state or local law, discarded personal items including, but not limited to, furniture, clothing, household appliances, or any other items that give the appearance that the Property is vacant, shows evidence of vacancy or is not being properly maintained. Grass, weeds, overgrown brush or dead vegetation

which exceeds the maximum height provided by Sec. 50-102(12) of the Code of Ordinances of the City of Arcadia is prohibited.

- (b) Properties subject to the provisions of this Article shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure. Yards shall be landscaped and maintained pursuant to the standards set forth in the Code of Ordinances of the City of Arcadia. Landscaping shall include, but not be limited to, grass, ground cover, bushes, shrubs, hedges or similar ornamental plantings, decorative rock or bark or artificial turf/sod designed specifically for residential, commercial or industrial installation, as applicable. Landscaping shall not include weeds, gravel, broken concrete, asphalt or similar material.
- (c) Maintenance required under this Article shall include, but not be limited to, watering, irrigation, cutting and mowing of required landscape, and removal of all trimmings and weeds.
- (d) Pools and spas on properties subject to the provisions of this Article shall be kept in working order such that the water therein remains free and clear of pollutants and debris. Pools and spas shall comply with any of the applicable enclosure requirements set forth in the Florida Building Codes and local ordinances, including but not limited to, required permitting and inspections.
- (e) Failure of the Mortgagee and/or Property owner of record to properly maintain a Property subject to the provisions of this Article shall constitute a violation punishable as provided in Sec. 30-303.

**Sec. 30-306. Security Requirements.**

- (a) Properties subject to the provisions of this Article shall be maintained in a secure manner so as to be inaccessible to unauthorized persons.
- (b) A “secure manner” shall include, but not be limited to, the closure and locking of all windows, doors, gates and other openings of such size that may allow access to the interior of the Property and/or structure. Broken windows shall be secured by reglazing, or by boarding in accordance with City of Arcadia Code of Ordinances.
- (c) If a mortgage on a Property subject to the provisions of this Article is in Default a Property manager shall be designated by the Mortgagee. The Property Manager shall perform all work necessary to bring the Property into compliance with this Article and all other applicable codes and ordinances.

- (d) Properties subject to the provisions of this Article shall be posted with the name and twenty-four (24) hour contact telephone number for the Property manager. The posting shall be not less than eight and one half (8 1/2) inches by eleven (11) inches in size. The posting shall contain the following language: THIS PROPERTY IS MANAGED BY (Name of Property Manager). TO REPORT PROBLEMS OR CONCERNS CALL AND/OR E-MAIL (Telephone Number and/or E-Mail address of Property Manager).
- (e) The posting shall be placed on the interior of a window facing the street to the front of the Property or secured to the exterior of the building structure facing the street to the front of the Property, or if no such area exists, on a stake of sufficient size to support the posting. Exterior postings shall be constructed of rigid materials and printed with weather resistant materials.
- (f) Properties subject to the provisions of this Article shall be inspected by the Property Manager weekly so as to ensure continued compliance with this Article. Upon the request of the City's Administrator or authorized designee, the Property Manager shall provide a copy of the inspection reports.
- (g) Failure of the Mortgagee and/or Property owner of record to properly inspect and secure, post and maintain the notice required by this Article shall constitute a violation punishable as provided in Sec. 30-303.

**Sec. 30-307. Additional Authority.**

The Administrator or authorized designee shall have the authority to require the Mortgagee and/or owner of record of any Property, subject to the provisions of this Article, to complete additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably necessary to prevent further deterioration of the Property.

**Sec. 30-308. Adoption of Rules; Expenditure of Funds; Declaration of Municipal Purpose.**

The City Administrator, consistent with powers and duties prescribed in Chapter 2, Article IV, Division 2 of the City of Arcadia Charter, including those duties and authorities relating to emergency situations, is authorized and empowered to adopt rules and regulations, and expend funds as may be reasonably necessary and available to carry out the terms of this Article, the expenditure of such funds having been declared a proper municipal purpose.

**Sec. 30-309. Supplemental Provisions.**

Nothing contained in this Article shall prohibit the City of Arcadia from enforcing its codes and ordinances by any other means, including, but not limited to, injunction, abatement, or as otherwise provided by state or local law.

**SECTION 3. Codification.** The publisher of the City’s Code of Laws, the Municipal Code Corporation, is directed to incorporate the amendments included in Section 2 above into the Code of Ordinances.

**SECTION 4. Severability.** If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

**SECTION 5. Effective Date.** This ordinance shall be effective immediately upon final passage by the City Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA,  
on this \_\_\_ day of \_\_\_\_\_, 2015.

CITY OF ARCADIA, FLORIDA

\_\_\_\_\_  
JUDY WERTZ-STRICLLAND, MAYOR

ATTEST:

By: \_\_\_\_\_  
PENNY DELANEY,  
CITY CLERK

PASSED ON FIRST READING: \_\_\_\_\_, 2015.

PASSED ON SECOND READING: \_\_\_\_\_, 2015.

APPROVED AS TO FORM:

\_\_\_\_\_  
THOMAS J. WOHL, CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA;  
CREATING ARTICLE IX OF CHAPTER 30 OF THE CITY OF  
ARCADIA CODE OF ORDINANCES; PROVIDING FOR THE  
DETERMINATION, ENFORCEMENT, VIOLATION AND  
PENALTY FOR UNSAFE AND/OR DILAPIDATED BUILDINGS;  
PROVIDING FOR CODIFICATION; PROVIDING FOR  
SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, there exist in the City of Arcadia buildings that are, or may become, unsafe or dilapidated due to lack of maintenance or damage caused by weather, fire, vandalism, vermin, insects, or other conditions. Such buildings constitute a menace to the health, safety, welfare and reasonable comfort of citizens of the City of Arcadia. The existence of such buildings, if not remedied, creates blighted areas, curtails investments and tax revenues, and impairs economic values; and

**WHEREAS**, all buildings or structures of any kind, including all electrical, gas, mechanical, or plumbing systems which are unsafe or unsanitary, constitute a fire hazard, or are dangerous to human life or a hazard to safety or health, shall be abated by repair and rehabilitation or by demolition, in accordance with the provisions herein; and

**WHEREAS**, the duties of oversight, inspection and enforcement for possible noncompliance violations of building maintenance standards should established; and

**WHEREAS**, it appears to be in the best interest of the citizens of the City of Arcadia that Chapter 30 the Code of Ordinances be amended as set forth herein,

**NOW THEREFORE, BE IT ORDAINED** by the City Council of the City of Arcadia, Florida:

**SECTION 1.** Findings. The Council hereby adopts and incorporates by reference herein all of the findings set forth above as findings of the Council.

**SECTION 2.** Amendment of the Code of Ordinances. The Code of Ordinances of the City of Arcadia is hereby amended to create a new Article IX of Chapter 30 to read in its entirety as follows:

**“ARTICLE IX. - HOUSING CODE/PROPERTY MAINTENANCE STANDARDS.**

**Sec. 30-272. - Definitions.**

For the purpose of this article, the following definitions shall apply:

*Building* shall have the same meaning as set forth in the Florida Building Code, as it may be amended from time to time.

*Minimum maintenance standards* means the minimum standards to which buildings and structures are to be maintained within the City of Arcadia as set forth in section 30-274 below.

*Owner* means the fee simple title owner of real property located within the city limits of the City of Arcadia and includes any natural person, corporation or unincorporated association.

*Structure* shall have the same meaning as set forth in the Florida Building Code, as it may be amended from time to time.

*Undue economic hardship* means an exceptional financial burden that would amount to the taking of property without just compensation, or failure to achieve a reasonable economic return in the case of income producing property.

**Sec. 30-273. - Maintenance required.**

It shall be unlawful for any owner to withhold ordinary maintenance and repair or to fail to maintain buildings and structures to at least the standards provided herein.

**Sec. 30-274. - Minimum maintenance standards.**

The following minimum maintenance standards for all improved properties within the geographical boundaries of the City of Arcadia are hereby adopted:

- (1) *Buildings and structures:*
  - a. Every part of a building or structure shall be kept structurally sound. Rotten or weakened portions shall be removed, repaired or replaced in such a manner as to be compatible with the rest of the structure. All exposed wood shall be stained or painted. Every part shall be clean of graffiti, litter, dirt, mildew or other debris; and, where surfaces are painted, once painted or normally painted, not more than ten percent of such surface may be free of paint. Painted surfaces must be maintained without peeling.
  - b. Walls shall be repaired and painted to present a neat and clean appearance.
- (2) *Windows:*
  - a. Broken or missing window glass shall be replaced.
  - b. All windows must be tight fitting and window sashes with rotten wood, broken joints or loose mullions or muntins shall be repaired or replaced.
  - c. The exterior of windows may be covered for no more than 30 consecutive days, or 90 total days per year, however, if the material used to cover the window is metal, anchored to the structure and specifically manufactured to resist high winds, that material may cover the windows for up to 180 consecutive days or 180 total days per year. Examples of specifically manufactured materials include roll-type coverings, awning-style coverings and accordion style coverings but do not include wood of any type or scrap metal.
- (3) *Roofs:*
  - a. Chimneys and all other rooftop structures shall be kept in good repair.

b. All roofs, gutters and downspouts shall be maintained to prevent damage to the structure and adjoining properties. Leaky roofs shall be repaired or replaced.

(4) *Auxiliary structures:*

a. Auxiliary structures, whether attached to the principal structure or unattached, which are structurally deficient shall be properly repaired or demolished. All fences, lighting devices and retaining walls shall be structurally sound and be repaired and painted so as to present a neat and clean appearance.

(5) A building is unsafe or dilapidated when any of the following conditions exist:

a. There is an unusual sagging or leaning out of plumb of the building or any parts of the building and such effect is caused by deterioration or over-stressing to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.

b. The building has improperly distributed loads upon the floors or roofs, or the same are overloaded or have insufficient strength to be reasonably safe for the purpose used.

c. The building has been damaged or destroyed by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or nearby the structure.

d. The building is so dilapidated, decayed, unsafe, unsanitary, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or occupancy, or is likely to cause sickness or disease, so as to injure the health, safety, or general welfare.

e. The building has parts that are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general.

f. The building is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants, or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property.

g. The electrical or mechanical installations or systems create a hazardous condition contrary to the standards of the Florida Building Code.

h. An unsanitary condition exists by reason of inadequate or malfunctioning sanitary facilities or waste disposal systems.

A building that is unsafe or dilapidated constitutes a nuisance. No person shall permit an unsafe or dilapidated structure to exist on property under his or her ownership or control.

**Sec. 30-275. - Variances.**

Where, by reason of unusual circumstances, the strict application of any provision of this article would result in undue economic hardship upon any owner, the city council of the city may vary or modify strict adherence to such provision so as to relieve the undue economic hardship, providing such variance does not distract from the general purpose and intent of this article. An undue economic hardship must be unique to that specific property, shall not have been created by an owner or occupant of the property and the granting of the variance must not create a conflict with any other city ordinance.

**Sec. 30-276. - Existing building codes.**

Nothing in this article shall be construed as exempting any property owner from complying with all existing or future city building codes nor as preventing any property owner from making any use of his property not otherwise prohibited by statute, ordinances or regulations.

**Sec. 30-277. - Inspection and notice of noncompliance.**

The building official or a code enforcement officer shall inspect or cause to be inspected any building, structure or portion thereof which is suspected of failing to meet the minimum maintenance standards set forth herein. After such inspection, if the building official or code enforcement officer has determined that such building, structure or portion thereof fails to meet the minimum maintenance standards he or she shall issue a notice to the owner or owners of the building as listed on the most recent available tax rolls, by registered or certified mail, return receipt requested, or by hand delivery by the said building official, code enforcement officer or deputy sheriff, directing that it be repaired or demolished. Also, said notice shall be posted on the building. Failure of any person to receive notice shall not invalidate any proceedings under this section. Evidence of an attempt to serve notice, and proof of posting, shall be sufficient to show that these notice requirements have been met. Proof of posting with date and place of its posting shall be by affidavit of the person posting the notice. Attached to the affidavit shall be a copy of the notice posted. As applicable, the notice should contain generally the following information:

- (1) The name of the person upon whom the notice is served.
- (2) The street address of the building or structure and the legal description of the property on which it is located.
- (3) A statement indicating that the building or structure has been determined not to meet the minimum maintenance standards together with a report documenting the conditions determined to have rendered the building or structure in violation of the provisions of this article.
- (4) If repairs or alterations will remedy the conditions, a description of the nature and extent of the repairs or alterations necessary.
- (5) That within 45 days from sending the notice, a complete building permit application for necessary repairs must be submitted and repairs commenced, or the building must be demolished.
- (6) If the conditions are of such a character that repairs or alterations are not feasible or reasonably expected to remedy the conditions, notice that the building must be demolished. If the conditions are not remedied within 45 days after the notice of determination is sent, or a building permit for repairs is not applied for and repairs not completed within a reasonable period of time, the determination shall be referred by the code enforcement officer or building official to the code enforcement board for a condemnation public hearing concerning the subject building. The owner or owners shall be notified by the code enforcement officer or building official of the time, place and purpose of the public hearing. Also, said notice shall be posted on the building. Failure of any person to receive notice shall not invalidate any proceedings under this section. Evidence of an attempt to serve notice, and proof of posting, shall be sufficient to show that these notice requirements have been met. Proof of posting with date and place of its

posting shall be by affidavit of the person posting the notice. Attached to the affidavit shall be a copy of the notice posted.

**Sec. 30-278. - Enforcement, violations and penalties.**

(a) *Authorized officials.* The city building official, the city fire chief, code enforcement officer and the code enforcement special magistrate and anyone acting with or under their authority are hereby designated and authorized to enforce the terms of this article.

(b) *Condemnation.*

(1) If the owner of any building has failed to remedy unsafe or dilapidated conditions as provided in section 30-277, after the expiration of the 45-day period, the code enforcement special magistrate shall consider condemning the building.

(2) Each case before the code enforcement special magistrate may be presented by the code enforcement officer, building official or other city staff. At the hearing, the code enforcement special magistrate shall proceed to hear evidence and testimony on the cases before the code enforcement special magistrate. All testimony shall be under oath and shall be recorded. The special magistrate shall take testimony from the building official, code enforcement officer or city staff, the property owner and other witnesses called by either the city staff or the property owner. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(3) After hearing evidence and/or testimony on the case at said public hearing conducted by said code enforcement special magistrate that any building is unsafe or dilapidated in accordance with subsection 30-274(5), the code enforcement special magistrate may enter an order condemning it, requiring the owner to remedy the conditions by repair or removal by a date set by the code enforcement special magistrate, and providing that failure of the owner to do so will result in the code enforcement special magistrate authorizing the building official or code enforcement officer to take action to remedy the conditions, including demolition, and charging all expenses thereof against the real property. The code enforcement special magistrate may also take any other appropriate action to carry out the purpose and intent of this ordinance, including the imposition of fines pursuant to F.S. ch. 162. The code enforcement special magistrate, code enforcement officer, building official or his duly authorized representative or the property owner may request a postponement or continuance of a scheduled public hearing.

(4) If the conditions are not remedied within the time established by the special magistrate, the code enforcement officer or building official shall take whatever action determined necessary and appropriate to remedy the conditions, including vacating, fencing, securing, demolishing, or removing the unsafe or dilapidated building. In the event demolition or removal of the unsafe or dilapidated building is required by the building official, the code enforcement officer or building official shall notify the city council prior to said demolition or removal of said building.

(c) *Notice of condemnation.*

(1) A certified copy of the order of condemnation, together with a copy of the notice of determination containing information as provided in section 30-277 shall be sent by the building official or code enforcement officer, to each owner as listed on the most recent available

real property tax rolls, by registered or certified mail, return receipt requested, or by hand delivery by the building official, code enforcement officer or deputy sheriff.

(2) In addition, a certified copy of the order of condemnation, together with a copy of the notice of determination, shall be posted on the building following the adoption of the order of condemnation. Said notice shall be posted on the building following adoption of said order.

(3) Failure of any person to receive notice shall not invalidate any proceedings under this section. Evidence of an attempt to serve notice, and proof of posting, shall be sufficient to show that these notice requirements have been met. Proof of posting with the date and place of its posting shall be by affidavit of the person posting the notice. Attached to the affidavit shall be a copy of the notice posted.

(d) *Repairs after condemnation.* After the code enforcement special magistrate has condemned a building, no building permit application shall be accepted or permit issued for repairs of the building except as follows:

(1) The building official shall review any application for a permit to repair a condemned building, and shall determine whether repairs are feasible.

(2) If the proposed repairs are not reasonably expected to resolve the conditions or are otherwise not feasible, the permit shall be denied.

(3) If the repairs are feasible and are reasonably expected to resolve the conditions, a permit shall be issued only upon written condition that the owner or authorized agent specify the nature of the repairs, the date on which the repairs shall be complete, and that failure to complete the repairs within the time provided shall result in the building official taking remedial action with attachment of a lien for all costs or other action authorized by law.

(e) *Appeals to the city council.*

(1) The city council has the sole authority to hear and decide appeals from the decision or determination of the code enforcement special magistrate pursuant to the code enforcement board's authority under this article. Appeals may be taken by any person aggrieved or by any officer, board, department or agency of city government adversely affected by the decision or determination of the code enforcement special magistrate. An appeal shall be taken within ten working days after rendition of said decision or determination, by filing with the building official, code enforcement department and with the legal department, a written notice of appeal specifying its grounds. The appeal shall be on a form prescribed by the code enforcement department.

Upon receipt of the notice of appeal, the code enforcement officer shall transmit to the city council all documents, plans, papers, minutes, applications, recommendations or other materials relating to the appealed decision. The appeal of any decision of the code enforcement special magistrate shall be on evidence made on the record made before it.

(2) *Public hearing.* The city council shall hold a hearing on said appeal after publication of notice stating the time, place and purpose of the hearing in a newspaper of general circulation in the city at least ten days before said hearing. The applicant or his duly authorized agent shall also post, at least ten days prior to the date of such hearing, a notice provided by the

code enforcement department in a conspicuous place or places on the building or structure involved in the hearing. In all cases, affidavit proof with the date and place of the required publication and posting of the notices shall be present at the hearing. The city council shall decide the appeal within a reasonable time. It may, upon appeal, reverse, affirm or modify any order, decision or determination of the code enforcement special magistrate. If the city council finds that the city should pay the costs of an appeal, it may so authorize. No appeal shall be granted in whole or in part unless four members of the city council concur.

(f) *Administrative action.* The decision of the city council shall be final administrative action, reviewable by certiorari in circuit court as provided by law.

(g) *Assessment of costs of abatement; imposition of lien.* Any costs incurred by the City of Arcadia to correct dilapidated or unsafe conditions pursuant to this provision shall be charged to the owner of the property by resolution, and shall constitute a lien against the property in favor of the City of Arcadia. The resolution lien shall be entitled to the same priority as a lien for special assessments with the same rights of collection, foreclosure and sale, and resolution lien shall be superior to all others except taxes. Until payment is complete, such assessment shall be a legal, valid, binding obligation upon the real property.

(h) *Recording of lien.* As soon as possible after the assessment has been made as provided in this article by the building official or code enforcement officer, a certified copy of the special assessment lien shall be recorded in the official records of the DeSoto County in the office of the Clerk of the Circuit Court in and for DeSoto County, and the lien shall become effective as of the date of filing such copy with said clerk of the circuit court. The code enforcement officer or building official after recording of said lien, shall forward to the owner or owners a copy of the recorded lien by registered or certified mail, return receipt requested, or by hand delivery, by the building official, code enforcement officer or deputy sheriff.

(i) *Satisfaction of lien.* Upon satisfaction of the lien created under this article, the code enforcement officer or building official shall file an order of satisfaction, release and dismissal of lien with the clerk of the circuit court.

(j) *Penalties.* Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this article may be additionally punished as provided in this Code and as provided under F.S. ch. 162, as they may be amended from time to time.”

**SECTION 3. Codification.** The publisher of the City’s Code of Laws, the Municipal Code Corporation, is directed to incorporate the amendments included in Section 2 above into the Code of Ordinances.

**SECTION 4. Severability.** If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

**SECTION 5.** Effective Date. This ordinance shall be effective immediately upon final passage by the City Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF ARCADIA, FLORIDA

\_\_\_\_\_  
JUDY WERTZ-STRICKLAND, MAYOR

ATTEST:

By: \_\_\_\_\_  
PENNY DELANEY,  
CITY CLERK

PASSED ON FIRST READING: \_\_\_\_\_, 2015.

PASSED ON SECOND READING: \_\_\_\_\_, 2015.

APPROVED AS TO FORM:

\_\_\_\_\_  
THOMAS J. WOHL, CITY ATTORNEY

**162.05 Local government code enforcement boards; organization.**

(1) The local governing body may appoint one or more code enforcement boards and legal counsel for the enforcement boards. The local governing body of a county or a municipality that has a population of less than 5,000 persons may appoint five-member or seven-member code enforcement boards. The local governing body of a county or a municipality that has a population equal to or greater than 5,000 persons must appoint seven-member code enforcement boards. The local governing body may appoint up to two alternate members for each code enforcement board to serve on the board in the absence of board members.

(2) Members of the enforcement boards shall be residents of the municipality, in the case of municipal enforcement boards, or residents of the county, in the case of county enforcement boards. Appointments shall be made in accordance with applicable law and ordinances on the basis of experience or interest in the subject matter jurisdiction of the respective code enforcement board, in the sole discretion of the local governing body. The membership of each enforcement board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.

(3)(a) The initial appointments to a seven-member code enforcement board shall be as follows:

1. Two members appointed for a term of 1 year each.
2. Three members appointed for a term of 2 years each.
3. Two members appointed for a term of 3 years each.

(b) The initial appointments to a five-member code enforcement board shall be as follows:

1. One member appointed for a term of 1 year.
2. Two members appointed for a term of 2 years each.
3. Two members appointed for a term of 3 years each.

Thereafter, any appointment shall be made for a term of 3 years.

(c) The local governing body of a county or a municipality that has a population of less than 5,000 persons may reduce a seven-member code enforcement board to five members upon the simultaneous expiration of the terms of office of two members of the board.

(d) A member may be reappointed upon approval of the local governing body.

(e) An appointment to fill any vacancy on an enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend two of three successive meetings without cause and without prior approval of the chair, the enforcement board shall declare the member's office vacant, and the local governing body shall promptly fill such vacancy.

(f) The members shall serve in accordance with ordinances of the local governing body and may be suspended and removed for cause as provided in such ordinances for removal of members of boards.

(4) The members of an enforcement board shall elect a chair, who shall be a voting member, from among the members of the board. The presence of four or more members shall constitute a quorum of any seven-member enforcement board, and the presence of three or more members shall constitute a quorum of any five-member enforcement board. Members shall serve without

compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the local governing body or as are otherwise provided by law.

(5) The local governing body attorney shall either be counsel to an enforcement board or shall represent the municipality or county by presenting cases before the enforcement board, but in no case shall the local governing body attorney serve in both capacities.

History.—s. 1, ch. 80-300; s. 5, ch. 82-37; s. 4, ch. 86-201; s. 2, ch. 87-129; s. 4, ch. 89-268; s. 1, ch. 94-291; s. 1441, ch. 95-147.

Note.—Former s. 166.055.