

ORDINANCE NO. 592

AN ORDINANCE OF THE TOWN OF OCEAN RIDGE, FLORIDA, PERTAINING TO PUBLIC HEALTH AND SAFETY; AMENDING ARTICLE VII OF CHAPTER 67 OF THE CODE OF ORDINANCES PERTAINING TO THE DEMOLITION OR REPAIR OF UNSAFE STRUCTURES BY ADDING A NEW DIVISION 2 TO AUTHORIZE THE TOWN TO UTILIZE THE UNIFORM NON-AD VALOREM ASSESSMENT METHOD TO IMPOSE, LEVY, AND COLLECT NON-AD VALOREM ASSESSMENTS IF COSTS ARE INCURRED BY THE TOWN AND NOT REIMBURSED BY THE PROPERTY OWNER; PROVIDING THE PURPOSE AND INTENT OF THE REVISION TO ARTICLE VII OF CHAPTER 67; REQUIRING NOTICES OF ASSESSMENT; ESTABLISHING THE TOWN AS A SPECIAL ASSESSMENT DISTRICT; AUTHORIZING AN AGREEMENT WITH THE PALM BEACH COUNTY PROPERTY APPRAISER AND TAX COLLECTOR; PROVIDING FOR ANNUAL NON-AD VALOREM ASSESSMENT ROLLS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VII of Chapter 67 of the Town of Ocean Ridge's Code of Ordinances currently contains regulations concerning demolition or repair of unsafe structures.

WHEREAS, Currently, Article VII, Division 1 of Chapter 67 provides that if the Town demolishes or repairs an unsafe structure and is not reimbursed by the property owner, the costs of repair or demolition and removal of the debris will be charged to the owners and if not paid within 30 days from the date of the invoice, shall become a lien upon the property from which the unsafe building was repaired or removed.

WHEREAS, the Town now intends to amend Article VII of Chapter 67 and add a Division 2 to provide that if property owners do not pay the costs and expenses associated with the demolition of unsafe structures, the Town may use the uniform method of collecting non-ad valorem assessments to reimburse the Town for costs and expenses incurred when the Town demolishes unsafe structures.

WHEREAS, the Town Commission finds that properties with unsafe structures that are cleaned-up by the Town by demolition receive special benefits and will benefit from the demolition in a manner greater than other properties within the Town.

WHEREAS, the use of the assessments to demolish or repair unsafe structures will add financial value to the assessed properties equal to or greater than the amount of the assessment.

WHEREAS, the demolition or repair of unsafe structures will render the assessed properties more attractive for use and habitation providing a measure of public safety and economic value to not only the assessed property but the general neighborhood.

WHEREAS, in order to collect the costs and expenses for demolition of unsafe structures, when such costs are not paid timely by or on behalf of property owners, the Town Commission finds that it is fair, equitable and necessary to levy a non-ad valorem assessment against the benefited property to reimburse the Town for costs and expenses incurred when the Town demolishes unsafe structures.

WHEREAS, the uniform method of collecting non-ad valorem assessments, as authorized by Section 197.3632 of the Florida Statutes, provides for the collection of non-ad valorem assessments by including such assessments on the tax bills issued for the collection of ad valorem taxes.

WHEREAS, the Town has statutory authority to use the uniform method for the levy, collection, and enforcement of non-ad valorem assessments set forth in Chapter 197 of the Florida Statutes.

WHEREAS, the Town Commission finds that the use of the uniform method of collecting non-ad valorem assessments as authorized by section 197.3632 of the Florida Statutes will result in the efficient and effective collection of costs and expenses that have been paid by the Town for the demolition of unsafe structures, but not timely reimbursed by or on behalf of the property owner.

WHEREAS, the Town Commission now intends to amend its Code of Ordinances to provide for the assessment of property where the Town undertakes the demolition of unsafe structures and is not reimbursed for the costs and to authorize the use of the uniform method for the imposition and collection of non-ad valorem assessments against those properties.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, AS FOLLOWS:

Section 1. Findings of Fact. The WHEREAS clauses set forth above are adopted herein as findings of fact.

Section 2. Amendment of Article VII, Chapter 67. The Code of Ordinances of the Town of Ocean Ridge is hereby amended by adding a new Division 2 to Article VII of Chapter 67 providing as follows:

Division 2. Alternative Procedures for Demolition or Repair of Unsafe Structures.

Sec. 67-185. Demolition and removal; notification

(a) *By owner.* Unsafe structures shall be demolished and the debris removed to an authorized landfill or substantially repaired within thirty (30) days of notification by the Town Building Official. Notification shall be sent to the record owners of the real property upon which the structure is located and the holder of any mortgage liens against the property.

(b) *By Town.* In the event an unsafe structure is not substantially repaired or demolished and the debris removed within thirty (30) days of notification by the Town Building Official and pursuant to the procedures stated in this Article, the Town is authorized and empowered to substantially repair, demolish, and/or remove the structure. The cost of substantially repairing, demolition, or the removal of the structure incurred by the Town, including the actual cost of the substantial repair, demolition, the removal of the structure, title work costs and expenses, all administrative and legal expenses, and other identifiable costs incurred by the Town, shall be assessed against the property as authorized in section 67-190. All assessments shall be paid in full no later than the close of Town business on the twentieth (20) business day after the property owner has received notice of the assessment. Thereafter, the unpaid amount of the assessment will accrue interest at the rate of 12% per annum or at the maximum rate allowed by law, whichever is less.

(c) The thirty-day time periods contained in subsections (a) and (b) of this section may be enlarged by the Town Building Official, in a decision which is rendered in writing by the Town Building Official, upon receipt by the Town Building Official of the owner's written request for an enlargement of time. In the written request, the owner must show cause as to why the enlargement of time should be granted. In the event the Town Building Official denies the owner's request for an enlargement of time, said decision shall be rendered in writing by the Town Building Official and delivered to the owner by certified mail, return receipt requested.

Sec. 67-186. Notification.

(a) A notice of repair, demolition or removal shall be provided to the record owner of the real estate upon which the structure is located and any holder of a mortgage lien, by certified mail, return receipt requested.

(b) In addition, a copy of the notice, as outlined in this subsection, shall be posted (i) in a conspicuous place in the Town Hall and (ii) upon such dwelling or structure and shall be recorded in the public records of Palm Beach County.

(c) In addition, a copy of the notice, as outlined in this subsection, shall be published simultaneously for two (2) consecutive weeks in a newspaper of local circulation. Such notice shall be substantially in the following form:

NOTICE OF INTENT TO DEMOLISH OR SUBSTANTIALLY

REPAIR AND INSPECT

(Insert Date of Notice)

The owner or other interested parties for the structure located at (address), are hereby notified that the Town of Ocean Ridge, Florida, will proceed to have the structure

repaired, demolished or removed thirty days after the date of this Notice if said structure is not substantially repaired by this date. All costs incurred by the Town in connection with the repair, demolition or removal will be assessed against the property.

If, as a result of this Notice, the structure is substantially repaired by the owner, notice is hereby given that the structure may be inspected by the Town. A \$50.00 fee will be charged for each inspection and the fees will be assessed against the property.

To request an extension of time, the owner should contact (Contact person and phone number) within ten (10) days of the date of this Notice. Said request must be in writing pursuant to sub-section 67-185(c), Code of Ordinances, Town of Ocean Ridge.

An affected owner has the right to seek judicial relief from this action. The appropriate petition should be filed in the court of jurisdiction by the affected owner within thirty (30) days of the date of this Notice, pursuant to Section 67-189, Code of Ordinances, Town of Ocean Ridge.

(d) Evidence that an attempt has been made to hand deliver or mail the notice, as provided herein, together with proof of publication, shall be sufficient to show that the notice requirements of this Article have been met, without regard to whether or not the owner actually received said notice.

Sec. 67-187. Determination.

Decisions of the Town Building Official required by this Article shall be in writing. The date of the determination shall be the date it is reduced to writing and signed by the-Town Building Official.

Sec. 67-188. Appeal of Town Building Official's decision not to grant request to enlarge the thirty day time periods contained in subsections 67-185(a) and (b).

Appeal of the Town Building Official's decision not to grant an extension of time, pursuant to subsection 67-185(c), must be sought, in writing sent to the Town Building Official, within ten (10) days of the date that decision is reduced to writing.

Sec. 67-189. Judicial relief.

An affected owner has the right to seek judicial relief from the notice of demolition. The appropriate petition should be filed in the court of jurisdiction by the affected owner within thirty (30) days of the date of delivery of the notice, as required in this Article. If notice is not successfully delivered to the record owner or holder of any liens, the appropriate petition should be filed in the court of jurisdiction by the affected owner within thirty (30) days following the second consecutive week of publication of notice in a paper of local circulation. No action shall be taken by the Town in connection with a structure which is the subject of any judicial procedure relating to the demolition. Nothing herein shall preclude an owner from seeking temporary stay of demolition

proceedings prior to the actual date upon a good faith showing by the owner of absence of receipt of notice.

Sec. 67-190. Notice of Assessment.

Upon completion of the actions undertaken by the Town pursuant to section 67-185, the Town Manager shall notify in writing the owner and, if applicable, the agent, custodian, lessee, or occupant that a special assessment has been imposed on the property. The notice shall be delivered by certified mail, return receipt requested.

The notice of assessment shall set forth the following:

- 1) A description of the unsafe structure, a description of the actions taken by the Town to substantially repair or demolish the unsafe structure, and the fact that the property has been assessed for the costs incurred by the Town to substantial repair or demolish the unsafe structure.
- 2) The aggregate amount of such costs and an itemized list of such costs.
- 3) The intent of the Town to record the assessment as a lien against the property if not paid timely, within the period of twenty business days as set forth in subsection 67-185(b).
- 4) The intent of the Town to charge interest at the rate of 12% per annum or at the maximum rate allowed by law, whichever is less, if the assessment is not paid timely, within the period of twenty business days as set forth in subsection 67-185(b).
- 5) The intent of the Town to declare the assessment delinquent and to place the assessment on the tax roll as a non-ad valorem assessment if not paid by the following September 1.
- 6) The potential for the property to be subject to the sale of a tax certificate, bearing interest by law at a rate as high as 18% per annum, if the non-ad valorem assessment is not paid as part of the tax bill on the property.
- 7) The potential for the property to be sold and conveyed by tax deed if the tax certificate is not redeemed by payment of the non-ad valorem assessment in full, plus interest, as required by Florida law.

Sec. 67-191. Assessments for demolition.

(a) Establishment of special assessment district. The Town of Ocean Ridge, in its entirety, as its Town boundaries exist on the date of enactment of this section and as they may be expanded or contracted from time to time, is hereby declared a special-assessment district for the purposes of the demolition of unsafe structures pursuant to this Article. Individual properties within the Town's boundaries, as they may exist from time

to time, may be assessed for the costs incurred by the Town for demolition of unsafe structures pursuant to this Article.

(b) Levy of non-ad valorem assessments. There is hereby levied, and the Town Commission is authorized to levy from time to time, a non-ad valorem assessment against each and every property in the Town (i) on which there occurs or has occurred the repair or demolition of an unsafe structure pursuant to this Article, (ii) the Town undertakes or has undertaken action pursuant to this Article to demolish an unsafe structure and, thereby, incurs or has incurred costs, and (iii) the property owner and, if applicable, the agent, custodian, lessee, or occupant of the property fails or refuses or has failed or refused, for whatever reason, to pay timely the amount owed to the Town under this Article for the costs incurred by the Town in carrying out the demolition of the unsafe structure.

(c) Collection of non-ad valorem assessments. The Town Commission elects to use the uniform method to impose and collect non-ad valorem assessments against properties on which demolitions of unsafe structures occurs. The non-ad valorem assessments collected pursuant to this section will be included in the combined notice for ad-valorem taxes and non-ad valorem assessments as provided in section 197.3635 of Florida Statutes. Non-ad valorem assessments collected pursuant to this section are subject to all collection provisions in section 197.3632 of Florida Statutes, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment.

(d) Agreement to reimburse the Palm Beach County Property Appraiser and the Palm Beach County Tax Collector. In order to use the uniform method for the levy, collection, and enforcement of the non-ad valorem assessments, the Town is authorized to enter into a written agreement with the Palm Beach County Property Appraiser and the Palm Beach County Tax Collector providing for the reimbursement of their costs incurred in the administration and collection of the non-ad valorem assessments levied under this section.

(e) Resolution adopted. The Town Commission has adopted a resolution at a public hearing prior to March 1, 2011, in accordance with subsection 197.3632(3) of the Florida Statutes (2010), which resolution states the following:

- 1) The Town's intent to use the uniform method of collecting non-ad valorem assessments.
- 2) The Town's need for the imposition of the non-ad valorem assessments.
- 3) The entire Town is declared a special-assessment district, with individual properties being subject to the non-ad valorem assessment from time to time if and when demolitions of unsafe structures pursuant to section 67-185 occur.

The Town will comply with all statutory notice prerequisites set forth in Section 197.3632 of Florida Statutes.

(f) Annual non-ad valorem assessment roll. Each year, the Town Commission will approve a non-ad valorem assessment roll at a public hearing between January 1 and September 15. The non-ad valorem assessment roll will be comprised of properties that have had levied against them non-ad valorem assessments under this section, and such assessments have not otherwise been paid in full prior to approval of the roll.

The Town manager and the Town attorney are authorized and directed each year (i) to prepare the notice that must be sent by first-class United States mail, as required by subsection 197.3632(4)(b) of Florida Statutes, and (ii) to prepare and publish the newspaper notice required by subsection 197.3632(4)(b) of Florida Statutes.

The notice to be sent by first-class mail will be sent to each person owning property that will be on the non-ad valorem assessment roll and will include the following:

- 1) The purpose of the assessment;
- 2) The total amount to be levied against the parcel, which includes the actual cost incurred by the Town;
- 3) A statement that failure to pay the assessment will cause a tax certificate to be issued against the property, which may result in a loss of title;
- 4) A statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and
- 5) The date, time, and place of the hearing.

Upon its approval by the Town Commission, the non-ad valorem assessment roll will be certified to the tax collector as required by law.

Section 3. Remedies Cumulative. The procedures and remedies contained herein are in addition to, and not in lieu of, other procedures and remedies otherwise available to the Town elsewhere within the Town's Code of Ordinances or by law.

Section 4. Severability. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full effect.

Section 5. Inclusion in Code. This Ordinance shall be re-numbered and codified and made part of the official Code of Ordinances of the Town of Ocean Ridge.

Section 6. Effective Date. This ordinance takes effect immediately upon its enactment.

FIRST READING this 3 day of Jan, 2010.

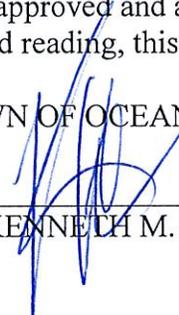
SECOND AND FINAL READING this 7 day of February, 2010.

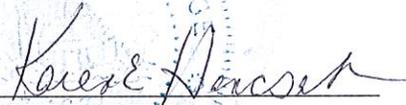
Commissioner Bingham offered the foregoing Ordinance and its adoption. The motion was seconded by Commissioner Brown and upon being put to a vote, the vote was as follows:

KENNETH M. KALEEL, Mayor	<u>Yea</u>
DR. LYNN L. ALLISON, Vice Mayor	<u>Yea</u>
ELIZABETH P.B. BINGHAM, Commissioner	<u>Yea</u>
TERRY BROWN, Commissioner	<u>Yea</u>
GEOFFREY A. PUGH, Commissioner	<u>Yea</u>

The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission of the Town of Ocean Ridge, Florida, on second reading, this 7 day of February, 2011.

TOWN OF OCEAN RIDGE, FLORIDA

BY: 
KENNETH M. KALEEL, MAYOR

ATTEST: 
TOWN CLERK

