

ORDINANCE NO. 13-18

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 100, "NUISANCES", AT TITLE 9. "GENERAL REGULATIONS" BY REPEALING SECTION 100.10 AND READOPTING IT WITH NEW TITLE, "BOARDING CERTIFICATE; REQUIREMENTS", TO PROVIDE FOR REGULATIONS REGARDING THE BOARDING AND SECURING OF VACANT BUILDINGS, STRUCTURES, OR DWELLINGS IN THE CITY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, buildings which remain vacant and unoccupied for any unreasonable period of time are a serious hazard to public health, welfare, safety and quality of life; and,

WHEREAS, such buildings become an attractive nuisance or dangerous condition to children, become a harborage for insects rodents, vermin or other pests, become an invitation to criminals as a temporary abode and as a place to conduct illegal activity, and create a potential fire hazard; and,

WHEREAS, the unkempt and unsecured grounds surrounding such buildings invite the dumping of garbage and trash thereon and contribute to the growth of blight within the City necessitating additional government services and potentially decreasing property values; and,

WHEREAS, the City Commission of the City of Delray Beach desires to prevent such interference with the use and enjoyment of neighboring property; and,

WHEREAS, the City Commission of the City of Delray Beach desires to amend the current Nuisance Section of the Code of Ordinance to require the boarding of vacant structures and buildings in order to protect the health, safety and welfare of the citizens and prevent and abate such nuisance conditions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance as if fully restated herein.

Section 2. That Chapter 100, "Nuisances", at Title 9. "GENERAL REGULATIONS" be amended by repealing Section 100.10. and readopting it with new title, "Boarding Certificates; Requirements", along with new requirements concerning the boarding of any vacant and unoccupied building, structure or dwelling which reads as follows:

Sec. 100.10. ~~INDIVIDUALLY DESIGNATED HISTORIC STRUCTURES AND STRUCTURES IN HISTORIC DISTRICTS.~~

- ~~(A) Structures that are individually designated as historic or are located in historic districts shall be maintained in a secure and attractive manner. All defective structural and decorative elements of such building facades shall be repaired or replaced in a workmanlike manner, to match as closely as possible the original materials and construction of the building. All exterior walls shall have all loose material removed and patching or resurfacing shall be accomplished to match the existing or adjacent surfaces as to materials, color, bond, and joining. All cornices, trim and window frames that are damaged, sagging or otherwise deteriorated shall be repaired or replaced to be made structurally sound and all exposed materials painted, stained or otherwise treated in a consistent manner.~~

Sec. 100.10. BOARDING CERTIFICATE; REQUIREMENTS.

- (A) Responsibility for Property Maintenance. Every owner of a building or structure is required to maintain such property in a manner so as not to violate the provisions of this section, and such owner remains liable for violations thereof regardless of any contract or agreement with any third party regarding such property.
- (B) Nuisance Declared. It is declared unlawful and a public nuisance for an owner of a building or structure to maintain such property or to permit such property to be maintained in such a manner that any one or more of the conditions described in the following subsections are found to exist:
- (1) Any vacant and unoccupied building, structure or dwelling of which doors, windows, or other openings are broken or missing so as to allow access to the interior, or if boarded to any extent, the building, structure or dwelling is not secured in compliance with this section.
 - (2) Any vacant and unoccupied building, structure or dwelling of which doors, windows or other openings are secured by boarding, but for which there is not current and valid Certificate of Boarding as required by this section.
- (C) Certificate Required for Boarding Building or Dwellings
- (1) All buildings, structures or dwellings which are boarded shall require a Certificate of Boarding to be issued by the City. The fee for boarding certificates shall be set by resolution of the City Commission.
 - (2) No person shall erect, install, place, or maintain boards over the doors, windows, or other openings of any building or structure or otherwise secure such openings by a means others than the conventional method used in the original construction and design of the building or structure without first applying for and, within 30 days of application, completing all of the steps necessary for the issuance of a Certificate of Boarding, and thereafter having a valid and current Certificate of Boarding issued by the Chief Building Official.
 - (3) The Chief Building Official shall issue a Certificate of Boarding required by subsection (C)(1) of this section upon the submission of a written application by the owner of the property or his authorized representative or contractor; upon the payment of the required fee; and upon the confirmation, through inspection by the Chief Building Official, or designee, that the boarding

or other method of securing the building or structure has been done in compliance with this section.

- (4) The Certificate of Boarding issued pursuant to this section shall authorize the boarding or other securing of a building, dwelling or structure for a period of no greater than six (6) months from the date of the issuance. Renewal of the Certificate of Boarding may be granted, one time, after the initial six-month period for an additional six months. A property owner, his representative or contractor seeking renewal of the Certificate of Boarding must file a written request with the Planning, Zoning and Building Department for hearing no later than ten (10) business days prior to the expiration of the original certificate. The issuance of a renewal Certificate of Boarding shall be subject to all of the following conditions:

(a) The boarding or other method of securing the building or structure has been done in compliance with this subsection, as confirmed by a Code Enforcement officer or building inspector after inspection of the building or structure.

(b) The owner, his authorized representative or contractor has submitted to the Chief Building Official a detailed plan for correction, repair, or rehabilitation of violations of state or local building and housing standards and for the securing of the doors, windows, and other openings by the conventional method used in the original construction and design of the building or structure or, alternatively, a detailed plan for sale of the property to another person or entity with provision in the sale of correction, repair, or rehabilitation.

(c) The owner or his authorized representative or contractor has submitted to the Chief Building Official, prior to the hearing, a time line addressing the application for all appropriate permits for such work and for completing such work prior to the expiration of the renewal certificate or, alternatively, a time line for the sale of the property.

(d) The renewal certificate may be revoked if the owner fails to comply with the plan for such work or fails to adhere to the submitted time line. Written notice of the City's revocation of the renewal certificate shall be provided to the owner.

- (5) A Certificate of Boarding may not be extended beyond the renewal period except upon demonstration that good cause for the renewal exists. Good cause shall require a showing by the owner that the certificate renewal is made necessary by conditions or events beyond the owner's control, such as inability to obtain financing for repair or rehabilitation, inability to locate a suitable buyer, unanticipated delays in construction or rehabilitation, or unanticipated damage to the property. In addition, where appropriate, good cause shall also require a showing by the owner that the owner has exercised reasonable and due diligence in attempting to complete the needed correction, repair, or rehabilitation, or is attempting to sell the property. If good cause exists to renew the certificate, the certificate may be renewed for a period of up to, but not more than, an additional six months, subject to all of the same conditions imposed on the original renewal certificate.

- (1) Standards for Securing Building. The boarding of the doors, windows, or other openings of any building, dwelling or structure, or any means of securing such openings, other than by the

conventional method used in the original construction and design of the building or structure, must comply with the specifications as promulgated by the City which will accompany the Certificate of Boarding when approved. Such specifications may be varied by the City for the types of building construction or the general building classification, e.g. historic structures.

(D) Violations; Enforcement. Violations of this section shall be enforced through the code enforcement process.

(E) Penalty. Penalties may be imposed pursuant to Sec. 37.36 as authorized by Chapter 162, F.S.

(F) Exceptions. A Certificate of Boarding shall not be required in the following circumstances:

- (1) Temporary emergency situations, including but not limited to, damage caused by vandalism, fire, theft, accident, or act of God. Any boarding or securing of openings under a temporary emergency situation shall not exceed sixty (60) days.
- (2) Weather and hurricane preparation when a hurricane or tropical storm watch or warning has been issued by the National Weather Service.
- (3) Unoccupied residences secured with storm shutters.
- (4) Properties deemed to be “unsafe structures” by the Chief Building Official or his designee.
- (5) Properties which have a valid permit for a building permit which requires the contractor or owner to secure the property.
- (6) Properties which are in the process of securing a building permit by way of submitting a complete application.

(G) Costs Incurred by City; Assessment of Lien. All costs incurred by the City based upon actions taken by the City to cure violations of this division shall be charged and billed to the person in violation of this section as provided for in Section 37.36 of this Code and pursuant to Chapter 162, F.S.

Section 3. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 4. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 5. Specific authority is hereby given to codify this Ordinance.

Section 6. This Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2018.

ATTEST:

Shelly Petrolia, M A Y O R

Katerri Johnson, City Clerk

First Reading_____

Second Reading_____

Approved as to form and legal sufficiency:

R. Max Lohman, City Attorney