ORDINANCE NO. 2021-395

AN ORDINANCE OF THE CITY OF PARKER, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PARKER (ORDINANCE NO. 2010-349, AS AMENDED); AMENDING CERTAIN PROVISIONS OF CHAPTER 26 OF THE CODE OF ORDINANCES RELATED TO CODE ENFORCEMENT INCLUDING BUT NOT LIMITED TO PROCEDURES, FOR UNSAFE OR UNFIT STRUCTURES; PROVIDING FOR SEVERABILITY; PROVIDING A MECHANISM FOR THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR THE LIBERAL CONSTRUCTION OF THIS ORDINANCE; PROVIDING FOR CODIFICATION AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKER AS FOLLOWS:

Section 1. Section 26-17 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-17. Code enforcement procedure.

(a) Code inspectors shall have the authority to initiate enforcement proceedings as provided below. No special magistrate shall have the power to initiate such proceedings.

(b) The city finds and determines that the owner of land has an obligation to know whether conditions created or maintained on that land violates any city code and therefore is deemed to have actual or constructive knowledge of any such violation. The owner of land has a legal duty to determine whether conditions created or maintained on their land violate any city code, and to correct such violations.

(c) A code inspector who finds a violation of the codes listed in section 26-37 shall determine a reasonable time period within which the violator must correct the violation, provided that such time period shall be no more than 30 days and shall provide notice of such to the violator except as set forth below. This determination shall be based on considerations of fairness; practicality; ease of correction; ability to correct; severity of violation; nature, extent and probability of danger or damage to

the public; and other relevant factors relating to the reasonableness of the time period prescribed. Notwithstanding the foregoing and except for cases involving repeat violations or violations presenting a threat to the public health, safety or welfare, a code inspector may, but is not required to, give a civil violation notice giving a time for correction prior to the issuance of a citation. In the event that the code inspector does give a civil violation notice, the time to correct the violation shall be no more than 30 days.

(d) Except in the case where the code inspector gives a civil violation notice or issues a notice pursuant to sec. 26-19, a code inspector who finds such a violation shall issue a citation to the violator, pursuant to section 26-18. The citation shall include the following and the civil violation notice (if given) may include relevant portions of the following:

(1) Date of issuance;

(2) Name of code inspector issuing the notice;

(3) Name and address of the violator;

(4) Section number of the code section that has been violated;

(5) Brief description of the nature of the violation, including location, date, and time of violation;

(6) Amount of the civil penalty for which the violator may be liable;

(7) Instructions and due date for paying the civil fine or filing for an administrative hearing before a special magistrate to appeal the civil fine;

(8) Time within which the violation must be corrected, if applicable;

(9) Notice that each day of continuing violation after the time period for correction has run shall be deemed a continuing violation subject to additional penalty in the same amount without the need for additional notices of violation;

(10) Notice that the filing of a written request for an administrative hearing will toll the accrual of continuing violation penalties;

(11) Notice that failure to request an administrative hearing in writing within 20 days after service of the citation, or within the specified time period listed for a violation of a specific section of the code, shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate, and that such waiver shall constitute an admission of violation;

(12) Notice that the violator may be liable for the reasonable costs of the administrative hearing should they be found guilty of the violation; and

(13) Notice that if the violator fails to pay the civil penalty in the time allowed, or fails to appear in court to contest the violation, the violator shall be deemed to have waived the right to contest the violation and that in such case, judgment may be entered against the violator by the special magistrate for the amount of the maximum civil penalty.

(e) After issuing a citation to an alleged violator, the code inspector shall promptly deposit the original and one copy of the citation with the city clerk.

Section 2. Section 26-19 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-19. Abatement of unsafe or unfit dwellings or structures.

(1) Code inspectors shall have the authority to initiate enforcement proceedings including but not limited to abatement for all violations involving an unsafe or unfit dwelling or structure as provided below. Except as specifically provided in this section relating to the abatement of unsafe or unfit dwellings or structures, the remaining provisions of articles II and III of this chapter shall apply.

(2) A code inspector is hereby authorized to order the vacation, demolition and removal of any unsafe or unfit dwelling or structure, or to order the repair and/or

replacement of any part or parts of any structure in the city upon the recommendation of the authorized building official of the city or any other designated person and following a determination by the special magistrate that any such part or parts of any structure, are unsafe or unfit.

(3) Once the determination is made by the special magistrate that a structure is unsafe or unfit, the code inspector shall issue a notice of such to the violator and all other interested parties in accordance with section 26-18 of this article. The notice may require the vacation, demolition or removal of the structure or may order the repair, restoration or replacement of any part of the structure; provided however, that no dwelling or structure shall be subject to repair, restoration or replacement where the cost of repairing, restoring or replacing any part or parts thereof would exceed fifty (50) percent of the value of such structure after repair, restoration or replacement.

(4) The unsafe or unfit notice shall be sent in accordance with section 26-18 and shall include the following:

a. Date and time of issuance.

b. Name of code inspector issuing the notice.

c. Name and address of the violator.

d. Section number of the code section that has been violated.

e. A description of the property and the structure(s) that have been found in violation.

f. A statement providing an accurate description of the violation for which the notice is issued.

g. A statement of the nature of and extent of such repairs or alterations necessary to comply with this section.

h. A date by which the owner(s) must make such repairs or alterations necessary to bring the structure into compliance with this section.

i. A statement that a building or demolition permit must be secured prior to the commencement of any corrective work including repair and/or replacement rehabilitation, or demolition and removal.

j. If the structure is of such a character that repairs or alterations cannot bring the building into compliance, a statement to this effect and an order of demolition of the building fully indicating the reason therefore.

k. If demolition is necessary for compliance, a specification of time for performing such demolition shall be stated in the notice which shall not be less than 31 days nor more than 90 days.

l. A statement advising that upon the owner's failure to comply with the notice, the city may demolish or otherwise abate the unsafe or unfit dwelling or structure in accordance with the order stated in the notice, and the expense of such performance by the city shall be charged against the real property and the assessment when made shall constitute a lien upon such property by the city.

m. A statement advising the procedure for a hearing before the special magistrate that shall be conducted pursuant to section 26-33(a) through (l) of this article.

n. A statement advising the any final decision of the special magistrate may be appealed in accordance with sec. 26-35 of this article.

(5) The notice and order shall require the owner and other interested parties within 31 days after service to obtain a permit and begin specified repairs or improvements, or begin to demolish and remove the structure or portion thereof. This work shall be

completed within 90 days from the date of the permit for repair or demolition. Any demolition permit necessary as a result of any condemnation in this section shall not require a fee to be paid to the City.

(6) Except as otherwise provided in this section, the code inspector may order such work to be completed within such time as determined to be reasonable considering the nature of the structure, the danger to the public and the amount of work involved to abate the unsafe or unfit condition.

(7) In addition to sending the notice to the owner of record and to interested parties, the code inspector shall post a notice stating "This Structure is Unsafe and/or Unfit for Human Habitation" at the entrance to the structure or the most obvious access to the property. The placard shall remain posted until the required repairs and/or rehabilitations are made or until the structure is demolished.

(8) Once the structure is posted, it shall be unlawful for any person to enter such structure except for the purposes of making the required repairs or demolishing it. If the structure is occupied at the time of posting, it shall be vacated immediately. Thereafter, no person shall occupy or allow another to occupy such a placarded structure. The owner shall immediately begin action to bring it into compliance within the time prescribed. It shall be unlawful for any person to remove or deface the placard that has been posted on an unsafe or unfit dwelling or structure. The placard shall remain until such time as the code inspector orders the placard to be removed.

(9) If an interested party obtains a building or demolition permit within the 31-day period and, in good faith and in due time, begins work to comply with the order, but it appears that they will not be able to complete the work by the date ordered, they may file a written request with the code inspector stating the reasons they have been unable to complete compliance. If reasonable grounds are shown therefore, the special magistrate or its designee may, with or without a hearing, issue an

amended order authorizing an extension of time, not to exceed 90 days, in which to complete compliance with the original order. The special magistrate, in exceptional cases, upon written request, may extend the completion date as merited by special hardship, unusual difficulty, or uniqueness of the situation; however, in no event shall the completion date extend beyond a maximum period of 180 days.

(10) If the unsafe or unfit condition is not corrected within the specified time indicated on the notice of unsafe or unfit dwelling or structure, the code inspector shall condemn the unsafe or unfit structure and send a condemnation order to the owner of record and other interested parties.

(11) In addition to sending a condemnation order to the owner of record and to interested parties, a copy of the order shall be posted in a conspicuous place upon the unsafe or unfit dwelling or structure and a notice of intent to demolish shall be recorded in the public records of Bay County, Florida.

(12) Ten days prior to authorizing the demolition of any unsafe or unfit dwelling or structure, a notice of intent to demolish shall be served on the owner and other interested parties and published in a newspaper of general circulation within the City. Such notice shall be substantially in the following form:

Notice of Intent to Demolish

The owner or other interested parties, having failed to either repair or demolish the structure at (address) as ordered by the City of Parker, are hereby notified that the City of Parker will proceed to have the structure demolished on (date), and shall place a lien and impose a non-ad valorem assessment against the property to recover all costs.

(13) When a rodent infestation exists in a structure that is to be demolished or removed, the code inspector may require that a licensed pest control operator

exterminate the rodents to preclude the migration of rodents.

(14) A lot from which a structure is demolished and removed shall be sodded, seeded with grass, or otherwise covered with vegetative landscaping within five days of the completion of demolition.

(15) The special magistrate, upon recommendation of the authorized building official of the city or other designated person, may order the vacation of adjacent structures and may require the protection of the public by appropriate fencing or such other means as may be necessary, and for this purpose may close a public or private way. Any such action concerning adjacent structures or other protective means involving adjoining property(ies) may only be ordered by the special magistrate following notice having been given to the adjoining property(ies) owner(s) and a hearing.

(16) Upon determination by the special magistrate to proceed with demolition, exterior and interior photographs of the structure will be taken when feasible. Written notification of intent to demolish the structure will be sent by certified mail to the owner of record and interested parties. This written notification shall document the cause for demolition. However, failure to effect personal notice upon the owner of record or interested parties shall not prevent the city from demolishing the structure.

(17) In the event the unsafe or unfit condition is not abated by the owner or other interested party, the city shall complete the abatement including but not limited to the demolition required under this section using city employees or an independent contractor submitting the best and lowest bid.

(18) The special magistrate is granted and assumes jurisdiction over all unsafe and unfit proceedings previously ruled upon in a quasi-judicial proceeding by the city council. The special magistrate shall retain jurisdiction over any cases involving unsafe or unfit structures until such time as the special magistrate

either (i) enters an order following the repair or demolition required by a prior order of the city council or the special magistrate and quantifying any amounts set forth in subsection 26-19(17) above, or (ii) closes the case following compliance by the property owner(s) of the prior order of the city council or the special magistrate determining a property to be unsafe or unfit and quantifies any amounts set forth in subsection 26-19(17) above incurred by the City in going through the unsafe and unfit structure process including but not limited to postal expenses, publication costs, interest, attorneys' fees and other costs of the city.

(19) Any and all fines imposed and costs incurred by the City pursuant to this section including but not limited to costs of abatement, postal expenses, publication costs, interest, attorneys' fees and other costs shall be assessed against the owner(s) and the property, said amount constituting a lien on and resulting in a lien being recorded against the property and also the city imposing a non-ad valorem assessment for such amounts in accordance with section 26-21 of this article.

(20) Any final order of the special magistrate may be appealed in accordance with section 26-35 of this article.

Section 3. Section 26-20 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-20. Imminent public-health threat.

(a) In addition to and not in lieu of the provisions of section 26-19, the following conditions on property within the city may be declared to be an imminent public-health threat by the city and may be remedied and abated by the city immediately and without notice to the owner:

(1) Accumulation of trash, junk, debris, living and nonliving plant material, or stagnant water;

(2) Excessive growth of grass, weeds, brush, or other overgrowth; or

(3) Keeping of fill on property that presents an imminent public-health threat.

(b) In the event the anticipated cost of remediation is less than or equal to $1,000.00, the city clerk shall make the determination and direct the correction of the imminent public-health threat. In the event that that the anticipated cost of remediation is more than $1,000.00, the city council shall make the determination and direct the correction of the imminent public-health threat.

(c) The city will attempt to contact the owner prior to remediation; however, prior notice of an imminent public-health threat shall not be required for remediation.

(d) After remediation, notice will be provided by the city to the owner within a reasonable time after the remediation. An after-the-fact notice shall be sent in accordance with sections 26-19 and 26-21(b), and the owner shall have twenty (20) days from the date the notice is received or, if the notice is not delivered to the owner, within twenty-five (25) days of the date the notice is properly mailed to reimburse the city for the actual costs of the abatement of the imminent public health threat. At the end of the reimbursement period, any costs incurred by the city and not paid by the owner, together with attorneys' fees, costs, interest and other costs of the city (1) shall become a lien on the affected real property, being perfected in accordance with Section 26-31(e); and (2) shall also constitute a non-ad valorem assessment in accordance with section 26-21.

Section 4. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision,

and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Scrivener's Error.

The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee, without public hearing.

Section 6. Ordinance to be Liberally Construed.

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

Section 7. Codification.

The provisions of this Ordinance shall become and be made part of the Code of the City. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 8. Repeal of Conflicting Codes, Ordinances, and Resolutions.

All codes, ordinances and resolutions or parts of codes, ordinances and resolutions or portions thereof of the City of Parker, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 9. Effective Date.

This Ordinance shall take effect immediately upon its passage.

PASSED, ADOPTED AND ADOPTED at a Meeting of the City Council of the City of Parker, Florida as of the 6th day of July, 2021.

CITY OF PARKER

Andrew Kelly, Mayor

ATTEST:

~~Karen Griffin~~, City Clerk
Belinda Adams Acting

Examined and approved by me, this 6th day of July, 2021.

Andrew Kelly, Mayor