

AN ORDINANCE TO DECLARE THE PROPERTY LOCATED AT 226 KELLEY STREET, HARRISONBURG, VIRGINIA, A BLIGHTED PROPERTY AND A NUISANCE TO THE COMMUNITY, AND TO AUTHORIZE THE ABATEMENT OF SUCH NUISANCE

WHEREAS, Code of Virginia § 36-49.1:1(G) authorizes localities to declare blighted property as defined in Code of Virginia § 36-3 to be a nuisance; and

WHEREAS, Harrisonburg City Code § 11-1-6 provides that all structures within the City shall be governed by the provisions of the Property Maintenance Chapter of Title 11 of the City Code; and

WHEREAS, Harrisonburg City Code § 11-6-1 adopts the Virginia Maintenance Code of the Virginia Uniform Statewide Building Code; and

WHEREAS, since at least 2007, the City of Harrisonburg has received numerous complaints from the public regarding the lack of maintenance of the property located at 226 Kelley Street, including reports of peeling paint, rotting siding, failing foundation, and unauthorized use of the property by vagrants; and

WHEREAS, Harrisonburg Department of Planning and Community Development staff, including the Building Official, believes that little to no maintenance has been performed on the structure for many years; and

WHEREAS, the Harrisonburg Department of Planning and Community Development staff, including the Building Official, the City Attorney's Office, and the City Manager's Office have repeatedly attempted to contact the property owner to discuss the lack of maintenance to the structure, with letters being sent to the owner's last-known address on August, 30, 2016, December 5, 2016, March 7, 2017, and April 27, 2017, as well as personally served on the owner on April 3, 2017; and

WHEREAS, the property has become increasingly dilapidated, resulting in the following non-exhaustive description of conditions:

1. Exterior paint is peeling and fading, leaving the bare wood of the siding exposed to the elements and resulting in rotting and weathering of the structure;
2. Foundation has developed cracks, breaks, and openings;
3. Exterior columns have deteriorated such that they do not support the porch roof safely;
4. Exterior doors are not operational or secured;
5. A significant portion of the floor surface of the first floor is missing;
6. There are structural deficiencies in beams, floor joists, wall plates, columns, and studs;
7. Structure has no heating system;

8. Structure has no operable plumbing facilities or fixtures, with open sewer pipes allowing in sewer gas;
9. Electrical panel has been removed, and other electrical equipment has been damaged or torn out; and

WHEREAS, such conditions endanger the public's health, safety, or welfare because the structure and improvements are dilapidated and deteriorated; and

WHEREAS, the owner was notified by certified mail on April 27, 2017, that the property meets the definition of a blighted property under Code of Virginia § 36-3 and that if the owner failed to submit an acceptable spot blight abatement plan within 30 days, a request permitted by Code of Virginia § 36-49.1:1(D) would be presented to City Council to declare the property blighted and authorize the abatement of the nuisance by demolition, with the placing of a lien for the costs of said demolition against the property; and

WHEREAS, 30 days have passed and the owner has failed or refused to repair said property or submit a spot blight abatement plan as required; and

WHEREAS, a copy of this Ordinance was sent via certified mail to the property owner to the current address listed in the real estate tax assessment records of the City of Harrisonburg; and

WHEREAS, the Building Official has estimated that the cost of repairs to correct the current condition of the structure on the property exceeds the value of the structure, and, therefore, the Building Official believes that razing the structure on the property is the only economically viable way to ensure that the property is no longer a nuisance; and

WHEREAS the Code of Virginia § 36-49.1:1(G) allows for the recovery of costs associated with the abatement of a nuisance from the property owner in the form of a lien against the property;

THE CITY COUNCIL OF THE CITY OF HARRISONBURG HEREBY ORDAINS:

Section 1. That, for the reasons stated above and for any reasons discussed at the City Council meeting and public hearing held on this Ordinance, the subject property, located at 226 Kelley Street, Harrisonburg, Virginia, is declared to be blighted and thereby constitutes a nuisance, as provided for by Code of Virginia § 36-49.1:1(G).

Section 2. That abatement of the nuisance, including the razing of the structure on the property, may be carried out pursuant to the Code of Virginia §§ 15.2-900 and/or 15.2-1115, in addition to all other remedies available to the City. Any costs incurred by the City associated with such abatement shall be recovered from the property owner and, if not immediately recovered, recorded as a lien on the property until paid, as permitted by Code of Virginia §§ 36-49.1:1(G) and 15.2-1115.

Section 3. That this Ordinance shall become effective upon the date and at the time of its final passage.

ADOPTED and APPROVED this _____ day of June, 2017.

MAYOR

ATTESTEE:

CITY CLERK