

ORDINANCE NO. O-14-19

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING CHAPTER 14. BUILDINGS AND BUILDING REGULATIONS. OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH SHORES TO ADD AN ENTIRELY NEW ARTICLE XIII. TO BE ENTITLED "ABANDONED AND VACANT STRUCTURES"; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 14. BUILDINGS AND BUILDING REGULATIONS. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ENACTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, it has come to the attention of the Town Commission of the Town of Palm Beach Shores that there is an increase in the number of abandoned and vacant properties located throughout the Town; and

WHEREAS, in many instances the owners, lenders and trustees responsible for these abandoned and vacant properties fail to provide for adequate maintenance and security; and

WHEREAS, the presence of abandoned and vacant properties can lead to neighborhood decline, can contribute to lower property values, and can create public nuisances; and

WHEREAS, the Town Commission believes that these unmaintained and unsecured abandoned and vacant properties threaten and endanger the public health, safety or welfare; and

WHEREAS, the Town Commission has an interest in protecting its residential neighborhoods and business communities from these public nuisances, and the decline and devaluation caused by such abandoned and vacant properties; and

WHEREAS, the Town Commission believes this amendment to its Code of Ordinances is in the best interests of the citizens of the Town of Palm Beach Shores.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, THAT:

Section 1: Chapter 14. Buildings and Building Regulations. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended to add an entirely new Article XIII. to be entitled “Abandoned and Vacant Structures”; providing that Article XIII shall hereafter read as follows:

ARTICLE XIII. ABANDONED AND VACANT STRUCTURES.

Sec. 14-339. - Purpose and intent.

It is the purpose and intent of the town to establish a process to address the abandoned and vacant structures located within the town in order to prevent blight associated with the lack of adequate maintenance and security of these structures, and to protect the health, safety and welfare of the general public.

Article XIII in no way abrogates the authority of the building official relating to unsafe structures under the Florida Building Code.

Sec. 14-340. - Definitions.

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

Abandoned structure means a vacant structure or building or any portion thereof that is in such a condition so as to constitute a danger, nuisance, blighted condition, or hazard to the health, safety and welfare of the public. Abandonment also may be evidenced by any one or more of the following conditions:

(1) Failure of the legal owner, tenant, lessee or agent in charge to answer notices from the town, to pay taxes, or to make appearances at town code enforcement hearings; or

(2) Failure of the legal owner, tenant, lessee or agent in charge to properly board up or secure broken windows, open doors, gates, or other openings so as to prevent the structure, building or any portion thereof from being accessible to trespassers, criminals or other unauthorized persons; or

(3) Failure of the legal owner, tenant, lessee or agent in charge to reinforce and secure walls which may have caved-in or buckled in the structure, building or any portion thereof; or

(4) Failure of the legal owner, tenant, lessee or agent in charge to properly secure walls which are subject to buckling or caving onto adjacent or adjoining properties, as declared by the town code inspector, building official, building inspector, fire inspector or health department; or

(5) Failure of the legal owner, tenant, lessee or agent in charge to remove accumulated debris that is declared to be a health or fire hazard by the town code inspector, building official, building inspector, fire inspector or health department; or

(6) Failure of the legal owner, tenant, lessee or agent in charge to comply with orders of the town code enforcement special magistrate; or

(7) The structure, building or any portion thereof is regularly or repeatedly occupied or used by vagrants, transients, criminals or unauthorized persons; or

(8) The structure, building or any portion thereof is destroyed, or is deteriorated more than fifty (50) percent, and not rebuilt or repaired within six (6) months of the occurrence, damage or destruction; or

(9) The structure, building or any portion thereof is partially constructed or contains incomplete construction and the building permit authorizing such construction has expired, or there has been no inspection conducted under a valid building permit within the prior six (6) months; or

(10) Any other state or condition that may be identified as evidence of abandonment.

Accessible or unsecured property means a property that is accessible through a compromised/breached gate, fence, wall, etc., to trespassers, criminals or other unauthorized persons.

Accessible or unsecured structure means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by trespassers, criminals or other unauthorized persons.

Blighted conditions mean conditions existing on a property that include, but are not limited to, an unsecured property, a property left open to the elements, a property without supervision by the owner or authorized agent, the exterior of the premises are in disrepair, the property contains an accumulation of litter or debris about the premises, or the value of the subject real property would be greater if the structure or building were removed.

Enforcement officer means any code inspector, code enforcement officer, law enforcement officer, building official or building inspector, fire inspector, or zoning inspector employed by the town.

Evidence of vacancy or abandonment means any condition that on its own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant or abandoned. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, stagnant and unsanitary pool water, nonfunctioning electric, water and/or gas utilities, accumulation of abandoned real and/or personal property, statements by neighbors, passers-by, delivery agents or government agents.

Nuisance structure means a deteriorated or deteriorating structure, building or portion thereof which contains conditions that endanger life or property by fire or other cause, are unsanitary or unsafe, constitute a menace, a blighted condition or may be injurious to life, property, public health, or the public welfare, or may constitute an attractive nuisance or otherwise endanger the public's safety while in the vicinity thereof.

Owner means those persons or legal entities owning or controlling an interest in real property or the structures or buildings located thereon, including but not limited to, real or contingent interests.

Property management company means a local property manager, property maintenance company or similar entity responsible for the maintenance of vacant real property.

Vacant means any structure, building or portion thereof that is not legally occupied, unattended, and is not actively used as a place of legal residence or business. Vacant properties include those occupied by vagrants, transients, squatters, trespassers or other persons having no legal right to occupy the premises.

Sec. 14-341. - Public nuisance; enforcement and abatement procedures.

(1) All abandoned structures are hereby declared to be public nuisances in violation of this chapter and shall be abated through repair, vacation and/or demolition in order to protect the health, welfare and safety of the residents of the town.

(2) All violations of this chapter shall be enforced or abated pursuant to chapter 2, article III, division 2 of the town code and chapter 162, F.S. The town also may pursue any other legal remedy available to it under the law for enforcement or abatement of the violation.

(3) If the town determines a structure, building or portion thereof is an abandoned structure within the standards set forth in this chapter, and constitutes a danger or hazard to the health, safety and welfare of the general public, the town shall serve the owner with notice of the violation. The notice shall identify the structure, building or portion thereof deemed abandoned; contain a statement of the particulars which made the structure, building or portion thereof abandoned and a danger or hazard to the health, safety and welfare of the general public; contain a statement requiring the owner to remedy the violation through repair, vacation or demolition within a certain time period; contain a statement advising that if the owner does not repair, vacate or demolish the structure, building or portion thereof within a certain time period, the town may cause it to be repaired, vacated or demolished; contain a statement that the repair, vacation or demolition may include the removal and disposal of all tangible personal property on the site; contain a statement that the owner has the right to appear before the town code enforcement special magistrate to contest the violation; and contain a hearing date before the town code enforcement special magistrate. If the notice prescribes the repair of any structure, building or portion thereof, the notice shall contain a statement that the owner shall have the option to demolish and remove the structure in lieu of making the repairs thereto within the time period provided.

(4) If the owner fails, neglects or refuses to comply with any notice to repair, vacate or demolish the structure, building or portion thereof, the town shall cause the matter to be set for hearing before the town code enforcement special magistrate. If, after a hearing, the town code enforcement special magistrate makes a finding that the structure, building or portion thereof constitutes an abandoned structure, and that such structure, building or portion thereof constitutes a danger or hazard to the health, safety and welfare of the general public, the town code

enforcement special magistrate may order the owner to repair the structure, building or portion thereof to make it safe, to secure the property, or to demolish the structure and clean the lot. All costs incurred in the repair, securing or demolition shall be the responsibility of the owner. If the owner fails, neglects or refuses to comply with the order of the town code enforcement special magistrate within the time specified in such order, the town may proceed with the repair, securing or demolition. If the town repairs, secures or demolishes the structure, building or portion thereof, the town may charge the cost of such repair, securing or demolition, including all administrative costs, to the owner and the town may have a lien placed against the property for these costs. Nothing herein shall prevent the town code enforcement special magistrate from ordering the town to immediately proceed with the repair, securing of the property or demolition after a hearing.

Sec. 14-342. - Security requirements for vacant structures.

(1) A vacant structure, building or a portion thereof in which windows, doors, gates and other openings are broken, missing, or open so as to allow access to the interior or are otherwise unsecured is hereby declared to be a public nuisance in violation of this chapter and shall be abated in order to protect the health, welfare and safety of the general public.

(2) All vacant structures shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

(3) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child or other unauthorized persons to access the interior of the property and/or structure. Broken windows, doors, gates and other openings shall be secured by replacement, re-glazing or boarding so as to meet all applicable town codes and not create a nuisance or blighting condition to the community.

(4) If the property is owned by a corporation, limited liability company or other business entity and/or out of area mortgagee, a local property management company shall be contracted to perform bi-weekly inspections to verify compliance with the requirements of this section and any other applicable laws.

(5) The property shall be posted with the name, address and twenty-four (24) hour contact phone number of the local property management company. The posted sign shall be no less than eight-inches by ten-inches or any larger than four (4) square feet. All written information thereupon shall be clear, legible and updated as required.

The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY: NAME & ADDRESS

TO REPORT PROBLEMS OR CONCERNS CALL: DIRECT PHONE NUMBER

The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible or, if no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. Exterior posting shall be constructed of and printed with weather-resistant materials.

(6) The local property management company shall inspect the property on a bi-weekly basis to ensure that the property is in compliance with this section and any other applicable laws. Upon the request of the town, the local property management company shall provide a copy of the inspection reports to the code compliance division.

(7) Failure to comply with the requirements of this section shall result in a violation of the town code. Such violation shall be enforced or abated pursuant to chapter 2, article III, division 2 of the town code and chapter 162, F.S. The town also may pursue any other legal remedy available to it under the law for enforcement or abatement of the violation.

Section 2: Each and every other article, section and subsection of Chapter 14. Buildings and Building Regulations. of the Code of Ordinances of the Town of Palm Beach Shores, shall remain in full force and effect as previously enacted.

Section 3: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 4: 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 of this ordinance.

Section 5: Specific authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Palm Beach Shores.

FIRST READING this 28th day of January, 2019.

SECOND AND FINAL READING this 22nd day of February 2019.

TOWN OF PALM BEACH SHORES

Myra Koutzen, Mayor
Myra Koutzen, Mayor

ATTEST:

Evyonne Browning
Evyonne Browning, Town Clerk

Approved as to form and legal sufficiency.

Keith Davis
Keith Davis, Town Attorney

(Seal)

