

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: May 5, 2009 [] Consent [X] Regular [] Workshop [] Public Hearing
Department: Planning, Zoning and Building
Submitted By: Code Enforcement Division
Submitted For: Code Enforcement Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for public hearing on May 19, 2009 at 9:30 a.m.: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3, SECTIONS 14-31 AND 14-32 OF THE PALM BEACH COUNTY CODE; PROVIDING FOR GENERAL REQUIREMENTS; PROVIDING FOR SECURING OF VACANT STRUCTURES AND LIMITING THE HEIGHT OF OVERGROWTH ON DEVELOPED PROPERTY; PROVIDING FOR APPLICABILITY; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

Summary: The ordinance amends the Property Maintenance Code to provide for the option of a vacant structure being secured by boarding up in those instances where repeated vandalism occurs or there is evidence of unauthorized access. It also amends the section addressing maintenance of exterior property areas, i.e. overgrowth, to be consistent with the provisions set forth in the lot clearing section of the Code which prohibits overgrowth of more than 7 inches on developed lots. COUNTYWIDE; (GB)

Background and Policy Issues: Currently, the Property Maintenance Code requires all vacant structures be maintained as if they were occupied. Glass and glazing in windows need to be maintained; doors are to remain operable and in place; walls and roof areas are to be maintained in a clean, safe and intact condition, water- and weather tight. In several instances, this is not feasible. The latest increase in foreclosures has left a number of vacant structures to be used by whoever gains access. Further, many vacant structures suffer repeated vandalism causing a negative impact on the surrounding community. In such cases, staff has found that it is better to have the structures completely secured to prevent access and further damage.

The second change to the ordinance brings the regulations set forth under maintenance of exterior areas into conformance with the regulations set forth in a different part of the ordinance dealing with lot clearing. Chapter 6 of the Code was amended a couple years ago to differentiate between overgrowth on developed property and overgrowth on vacant property. The Chapter addressing maintenance of exterior areas, set forth in the beginning of the code, was not amended.

Attachments: Proposed ordinance.

Recommended by: [Signature] Executive Director Date 4/3/09

Approved By: [Signature] Deputy County Administrator Date 4/22/09

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>20_09</u>	<u>20_10</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>0</u> * See below	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
No. ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Is Item Included In Current Budget? Yes No

Budget Account No.: Fund _____ Department _____ Unit _____
Object _____ Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no fiscal impact related to this item.

C. Departmental Fiscal Review: Pat O'Leary

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

John Dech 4/10/09
OFMB
4/9/09

Jim J. Jacob 4/10/09
Contract Dev. and Control

B. Legal Sufficiency:

[Signature]
Assistant County Attorney
4/10/09

C. Other Department Review:

Department Director

ORDINANCE NO. 2009-___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3, SECTIONS 14-31 AND 14-32 OF THE PALM BEACH COUNTY CODE; PROVIDING FOR GENERAL REQUIREMENTS; PROVIDING FOR SECURING OF VACANT STRUCTURES AND LIMITING THE HEIGHT OF OVERGROWTH ON DEVELOPED PROPERTY; PROVIDING FOR APPLICABILITY; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.01(1), Florida Statutes, empowers Palm Beach County to adopt ordinances necessary for the exercise of its powers and prescribe fines and penalties for the violation of ordinances in accordance with law, and

WHEREAS, Section 125.01(1), Florida Statutes, enables Palm Beach County to perform acts not inconsistent with law which are in the common interest of the people of the County, and

WHEREAS, The proposed amendments to the Property Maintenance Code is in the best interest of and will promote, protect and improve the health, safety and welfare of the citizens of Palm Beach County.

NOW, THEREFORE, BE IT ORDAINED BE THE BOARD OF COINTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION 1. AMENDMENT TO GENERAL REQUIREMENTS AND SECURING OF VACANT STRUCTURES.

Chapter 14, Article 1, Division 3, Section 14-31 of the Palm Beach County Code(Ord. No. 03-51), as amended, is hereby amended as follows:

Sec. 14-31

(a) **Scope:** The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

(b) **Responsibility:** The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in Sections 305.3 and 306.1. A person shall not occupy as owner-occupant or permit another person to occupy premises which do not comply with the requirements of this chapter.

(c) **Vacant structures and land:** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a deteriorating problem or adversely affect the public health, safety or welfare.

(1): The exterior of all vacant structures shall be maintained in a manner required of occupied structures as provided in this code: window areas shall be maintained with appropriate glass and glazing treatment, exterior doors shall be water- and weather-tight, walls and roof areas shall be maintained in a clean, safe and intact condition, and water- and weather-tight.

(2): In cases where the property owner presents proof of two instances of vandalism or unauthorized entry resulting in violations of subparagraph (1) above, within any 3 month period, the property owner may secure the structure by boarding up all exterior openings in lieu of replacing broken, shattered and/or broken windows or glass doors with new glass or glazing treatments. Such proof may consist of pbc sheriff reports and/or affidavits from at least two neighbors

1 **Section 2. AMENDMENT TO GENERAL REQUIREMENTS AND LIMITING THE**
2 **HEIGHT OF OVERGROWTH ON DEVELOPED PROPERTY.**

3
4 Chapter 14, Article 1, Division 3, Section 14-32 of the Palm Beach County Code(Ord. No. 03-
5 51), as amended, is hereby amended as follows:
6

7 **Sec. 14-32**

8
9 (a) **Sanitation:** All exterior property and premises shall be maintained in a clean, safe and
10 sanitary condition. The occupant shall keep that part of the exterior property which such
11 occupant occupies or controls in a clean and sanitary condition.
12

13 (b) **Sidewalks and driveways:** All sidewalks, walkways, stairs, driveways, parking lots, parking
14 spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous
15 conditions. Stairs shall comply with the requirements of Section 304.7.
16

17 (c) **Weeds:** All premises and exterior property shall be maintained free from weeds or ~~plant growth~~
18 *uncultivated vegetation 1) greater than 18 inches in height when located on vacant lots, or 2)*
19 *greater than 7 inches in height when located on developed residential or developed non-residential*
20 *lots; ~~in excess of 18 inches,~~ as set forth in Chapter 6. All noxious weeds shall be prohibited. This*
21 *term shall not include cultivated flowers and gardens, or native vegetation.*
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23 **Section 3. APPLICABILITY**

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25 This Ordinance shall be applicable in the unincorporated areas of Pam Beach County, Fl.
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27 **Section 4. SAVINGS CLAUSE**

28
29 Notwithstanding anything to the contrary, all provisions of Article I through IV, Chapter 14of the
30 Palm Beach County Code, codifying Ordinance No. 78-1, as amended and replaced by Ordinance
31 No. 03-051 and Article II, Chapter 20 of the Palm Beach Code, codifying Ordinance No. 77-7, as
32 amended, are specifically preserved and remain in full force and effect for the limited purpose of
33 enforcing any alleged violations of said Code, which occurred prior to its repeal.
34

35 **Section 5. REPEAL OF LAWS IN CONFLICT**

36
37 All local laws and ordinances in conflict with any provisions of the Ordinance are hereby repealed to
38 the extent of such conflict.
39

40 **Section 6. SEVERABILITY**

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42 If any section, paragraph, sentence, clause phrase, or word of this Ordinance is for any reason
43 held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the
44 remainder of this Ordinance. Further, if any provision of this Ordinance is found to be in conflict
45 with the Florida Building Code, the Florida Building Code shall prevail as to that specific
46 provision.
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48 **Section 7. INCLUSION IN THE CODE OF LAWS AND ORDINANCES**

49
50 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
51 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered
52 or re-lettered to accomplish such, and the word "ordinance" may be changed to "section,"
53 article," or other appropriate word.
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55 **Section 8. EFFECTIVE DATE**

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57 The provisions of this Ordinance shall become effective upon filing with the Secretary of State.
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59 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County,

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Florida, on this the _____ day of _____, 2009.

SHARON BOCK, CLERK
Board of County Commissioners

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

By _____
Deputy Clerk

By: _____
John F. Koons, Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

Filed with the Department of State on the _____ day of _____, 2009.

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8/00_6/03 8/03'9/03 9/23/03,5/09