

ORDINANCE NO. 18-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 42, ENVIRONMENT; ARTICLE V, NOISE; SECTION 42-199, HOURS FOR CONSTRUCTION WORK, SO AS TO MODIFY THE DEFINITION OF CONSTRUCTION WORK BY DELETING THE WORD "MAJOR" AND THE REFERENCE TO THE \$10,000 PERMIT VALUATION; AMENDING SECTION 42-230, LAWN MAINTENANCE EQUIPMENT NOISE, BY DELETING THE REFERENCE TO "MAJOR" CONSTRUCTION; AND FURTHER AMENDING CHAPTER 42 TO INCLUDE A NEW ARTICLE VIII RELATING TO ABANDONED REAL PROPERTY; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR REGISTRATION OF ABANDONED REAL PROPERTY; PROVIDING FOR MAINTENANCE REQUIREMENTS; PROVIDING FOR SECURITY REQUIREMENTS; PROVIDING FOR IMMUNITY OF ENFORCEMENT OFFICER; PROVIDING ADDITIONAL AUTHORITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 42, Environment; Article V, Noise; Sections 42-199, Hours for Construction Work, to read as follows:

"Sec. 42-199. Hours for construction work.

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

Construction work means work of a physical nature requiring a permit in accordance with the provisions of this code and/or violates the conditions of section 42-198 and/or violates the conditions of this section, and/or causes excessive noise as defined by section 42-228.

(b) *Limited.* During the months of December, January, February, March and April of each year, construction work or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of 8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday and legal holidays, when all construction work is prohibited. In no event shall heavy equipment or other construction-related noise be permitted before 9:00 a.m. At all other times (May through November) such work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Sunday and legal holidays, including the Friday immediately after Thanksgiving, when all construction work is prohibited. However, the permitted hours for construction work in the C-WA zoning district shall be only 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending on October 31, except Sunday and legal holidays, when all construction work is prohibited.

(c) *Exceptions*

- (1) It shall be within the discretion of the town council when in its opinion the operation of any of the prohibited machinery or appliances mentioned in subsection 42-198(a) shall not be overly offensive to the residents or inhabitants of the town in the vicinity of the equipment's operation to grant an exception to this section.
- (2) The operation of equipment relating to essential services of the town and equipment operating during emergency conditions shall be exempted from subsection (a) of this section.
- (3) At the discretion of the director of planning, zoning and building, or his representative, emergency work for nontown related essential services may be authorized at any time during the year.
- (4) Interior work not resulting in noise tending to disturb people in the vicinity thereof, shall be allowed during the hours of 9:00 a.m. and 5:00 p.m. on Saturdays during the period commencing on December 1 and ending on April 30."

Section 2. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 42, Environment; Article V, Noise; at Section 42-230, Lawn Maintenance Equipment Noise, to read as follows:

"Sec. 42-230. Lawn maintenance equipment noise.

(a) Operation of lawn maintenance equipment shall be limited to the hours outlined for construction work at section 42-199, including the prohibitions stated therein on Sundays and all legal holidays. Nothing in this section shall preclude the operation of lawn maintenance equipment on Saturdays or the Friday immediately after Thanksgiving. Additionally, nothing in this section shall preclude the operation of lawn maintenance equipment, including leaf blowers, by residents on Saturdays, Sundays or legal holidays, including the Friday immediately after Thanksgiving. Further, lawn maintenance equipment used for golf course maintenance within the town is not restricted during the hours outlined for construction work at section 42-199; however, such equipment shall not be used before 8:00 a.m. or after 5:30 p.m. on any day at locations within 300 feet of residential properties, except in the event of valid emergencies and once per month for purposes of chemical spraying or fertilizing. The sound level meter measurement shall be no greater than 75 dBA measured 50 feet from the point of operation of the equipment. The sound level meter measurement shall not be applicable to lawn maintenance equipment used on golf courses.

(b) Lawn maintenance equipment includes but is not limited to lawn mowers, edgers, hedge trimmers, yard tractors, leaf blowers, lawn vacuum machines, and monofilament line grass trimmers.

(c) Leaf blowers shall be prohibited from use between the hours of 5:00 p.m. and 9:00 a.m. Additionally, during the period of the year commencing December 1 and ending April 30, leaf blowers may be used on Saturdays only from 9:00 a.m. to 12:00 p.m. Leaf blowers shall not exceed a decibel level of 65 dBA as measured at 50 feet from the point of operation. It shall be unlawful to blow yard trash or clippings into the public street."

Section 3. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 42, Environment, to include a new Article VIII, titled Abandoned Real Property, to read as follows:

"ARTICLE VIII. ABANDONED REAL PROPERTY

Sec. 42-355. Purpose and Intent.

It is the purpose and intent of the Town to establish a process to address abandoned residential real property located within the Town. It is

the Town's further intent to specifically establish an abandoned residential property program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

Sec. 42-356. Definitions.

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

Abandoned real property means any property that is vacant and is subject to an uncured notice of default and/or notice of mortgagee's sale by the lender or a pending tax deed sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

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

Enforcement officer means any law enforcement officer, building official, code enforcement officer, fire inspector or building inspector employed within the Town.

Evidence of vacancy means any condition that on its own, or combined with other conditions, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, accumulation of abandoned personal items and property, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.

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

Residential building means any real property, or portion thereof, situated in the Town, improved by a single-family dwelling or multi-family

dwelling of not more than four (4) dwelling units, and shall include the buildings and structures located on such improved real property.

Vacant means any building/structure that is not legally occupied.

Sec. 42-357. Applicability.

This article shall be considered cumulative and not superseding or subject to any other law or provision, but shall rather be an additional remedy available to the Town above and beyond any other state, county and/or code provisions relating to same.

Sec. 42-358. Registration of abandoned real property.

(a) Any mortgagee who holds a mortgage on real property located within the Town that is improved with a residential building shall perform an inspection of the property that is the security for the mortgage upon the issuance of a notice of default and the expiration of any cure period set forth in the mortgage documents. If such property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the mortgagee shall, within ten (10) days of the inspection, register the property with the Director of the Planning, Zoning and Building Department, or his or her designee, on forms provided by the Town. A registration is required for each vacant property or dwelling unit within a multi-family dwelling.

(b) If such property is occupied but remains in default, it shall be inspected by the mortgagee or his designee monthly until (1) the mortgagor or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of that inspection, register the property with the Town's Planning and Zoning Administrator, or his or her designee, on forms provided by the Town.

(c) Registration pursuant to this article shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of mortgagee, facsimile number and e-mail address and, in the case of a corporation or out-of-area mortgagee, the local property management company responsible for the security and maintenance of the property.

(d) An annual registration fee in an amount established by the Town Council shall accompany the registration form(s).

(e) This article shall also apply to properties improved with a residential building that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

(f) Properties subject to this article shall remain under the annual registration requirement, security and maintenance standards of this article as long as they remain vacant and for properties not yet subject to a foreclosure sale or a transfer under a deed in lieu of foreclosure, the property owner remains in default.

(g) Any person or corporation that has registered a property under this article must report any change of information contained in the registration within ten (10) days of the change.

Sec. 42-359. Maintenance requirements.

(a) Improved properties subject to this article shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded personal items included, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

(b) Residential buildings shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.

(c) Front, side, and rear yard landscaping shall be maintained in accordance with the Town's standard at the time registration was required. Landscape shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, or decorative rock or bark.

(d) Maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing of required landscape and removal of all trimmings.

(e) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of this Code and Florida Building Code, as amended from time to time.

(f) Compliance with Section 46-71 of the Fire Prevention and Protection Code shall be met.

(g) Failure of the mortgagee and/or property owner of record to properly maintain the property and residential building may result in a violation of this Code and issuance of a notice of violation/notice of hearing by a Town code enforcement officer. Pursuant to a finding and determination by the Town's code enforcement board, the Town may take the necessary action to ensure compliance with this article.

Sec. 42-360. Security requirements.

(a) Residential buildings subject to this article shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

(b) 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 to access the interior of the property and/or structure. Broken windows shall be secured by re-glazing or boarding of the window.

(c) If the property is owned by a corporation 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 article, and any other applicable laws.

(d) The property shall be posted with the name and twenty-four (24) hour contact phone number of the local property management company. The posting shall be no less than an eight-inch by ten-inch sign. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY:
TO REPORT PROBLEMS OR CONCERNS CALL:

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 postings shall be constructed of, and printed with, weather-resistant materials.

(e) The local property management company shall inspect the property on a bi-weekly basis to ensure that the property is in compliance

with this chapter. Upon the request of Town, the local property management company shall provide a copy of the inspection reports to the code enforcement division.

(f) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of this Code and issuance of a notice of violation/notice of hearing by a Town code enforcement officer. Pursuant to a finding and determination by the Town's code enforcement board, the Town may take the necessary action to ensure compliance with this article.

Sec. 42-361. Immunity of enforcement officer.

Any enforcement officer or any person authorized by an enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this chapter.

Sec. 42-362. Additional authority.

The Town Manager, or his or her designee, shall have authority to require the mortgagee and/or owner of record of any property affected by this article, to implement additional maintenance and/or security measures as may be reasonably required to help prevent further decline of the property."

Section 4. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 5. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 6. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 7. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

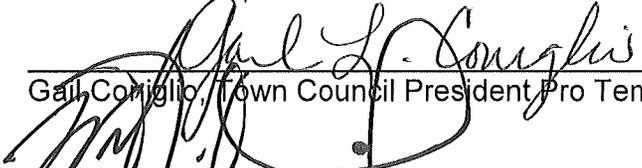
PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 22nd day of June, 2010, and for second and final reading on this 13th day of July 2010.



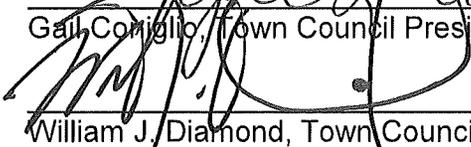
Jack McDonald, Mayor



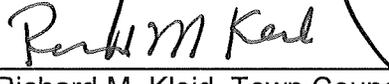
David A. Rosow, Town Council President



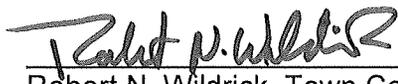
Gail Coniglio, Town Council President Pro Tem



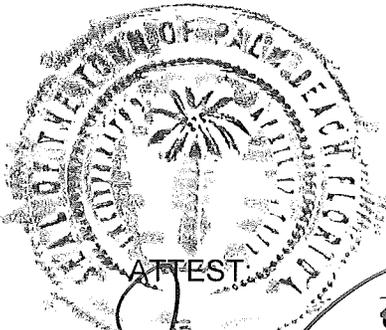
William J. Diamond, Town Council Member



Richard M. Kleid, Town Council Member



Robert N. Wildrick, Town Council Member





Joanna Cunningham, Town Clerk

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