



Village of Palm Springs

Executive Brief

AGENDA DATE: June 8, 2023

DEPARTMENT: Administration

ITEM #12: Ordinance No. 2023-06 - Village Code Amendment - Chapter 10 - Buildings and Building Regulations (Second Reading)

SUMMARY: The Village staff is requesting an amendment to the Village Code - Chapter 10 - Buildings and Building Regulations, Article I, "In General", Sections 10-8 "Exterior Property Areas", 10-12 "Village Council Findings", and 10-30 "Foreclosed, Vacant and Unimproved Property Registration Program" to establish minimum requirements for vacant and unimproved commercial and industrial property.

In an effort to strategically focus code enforcement activities on those properties that are creating blight and nuisances along the major corridors, the staff is proposing minimum requirements for vacant or unimproved commercial and industrial parcels that have historically been neglected by property owners. The minimum requirements will secure the property, enhance the aesthetics with minimum landscaping, and provide a direct contact person who will be responsible for addressing issues, such as the dumping of trash, graffiti, overgrown grass, and illegal parking of commercial vehicles.

The proposed vacant and unimproved property requirements include:

Registration with contact information from the owner or authorized individual who has responsibility for the property and can make decisions to address conditions on the property, including expenditures required to remedy issues;

1. Installing/maintaining sod and perimeter landscape hedge, and irrigation;
2. Securing property with a 6' perimeter fence;
3. Providing signage on the fence with contact information.

Note: The annual registration fee has been included within the Village's Fee Schedule, which is the subject of separate Council consideration on this agenda.

The proposed minimum property requirements will require owners to make a minimum investment in the property and not simply hold it as an asset.

The proposed ordinance was prepared by the Assistant Village Manager and reviewed by the Village Attorney, Planning, Zoning, and Building Director, and Code Enforcement Officers.

The proposed ordinance was approved on 1st reading at the May 11, 2023, Village Council meeting and is being presented for 2nd and final reading.

Note: Code Enforcement staff assisted in the identification of 86 nonresidential vacant or unimproved properties that may be subject to the proposed ordinance. A courtesy letter was mailed to the address of record for each of these properties informing the owners of the proposed provisions.

FISCAL IMPACT:

The proposed ordinance does not have a direct fiscal impact to the Village.

ATTACHMENTS:

1. Proposed Ordinance No. 2023-06 - Amending Chapter 10 - Buildings and Building Regulations
2. Exhibits "A", "B" and "C" - Vacant Property Ordinance

ORDINANCE NO. 2023-06

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 10 “BUILDINGS AND BUILDING REGULATIONS”, ARTICLE I, “IN GENERAL”, BY AMENDING SECTION 10-8 “EXTERIOR PROPERTY AREAS”, SECTION 10-12 “VILLAGE COUNCIL FINDINGS” AND SECTION 10-30 “FORECLOSED, VACANT AND UNIMPROVED PROPERTY REGISTRATION PROGRAM”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Village Council desires to amend its existing property maintenance regulations to modify and update regulations regarding minimum requirements for vacant and unimproved properties, and general maintenance of exterior areas of properties within the Village; and

WHEREAS, the Village Council further desires to amend its regulations to provide for registration of unimproved commercial and industrial property or vacant properties; and

WHEREAS, the Village Council has reviewed the recommended ordinance and has determined that it is in the best interests and general welfare of the Village to adopt this Ordinance.

NOW, THEREFORE, THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA HEREBY ORDAINS, AS FOLLOWS:

Section 1. . Recitals. The foregoing recitals are hereby affirmed and ratified as if fully set forth herein.

Section 2. Chapter 10 “Buildings and Building Regulations,” Article I, “In General”, Section 10-8 “Exterior Property Areas”, shall be amended as set forth in Exhibit “A” attached hereto (words ~~stricken~~ are deletions; words underlined are additions).

Section 3. Chapter 10 “Buildings and Building Regulations,” Article I, “In General”, Section 10-12 “Village Council Findings”, shall be amended as set forth in Exhibit “B” attached hereto (words ~~stricken~~ are deletions; words underlined are additions).

Section 4. Chapter 10“Buildings and Building Regulations,” Article I, “In General”, Section 10-30 “Foreclosed, Vacant and Unimproved Property Registration Program” , shall be amended as set forth in Exhibit “C” attached hereto (words ~~stricken~~ are deletions; words underlined are additions).

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 7. Codification. The sections of the ordinance may be made a part of the Village Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “division,” or any other appropriate word.

Section 8. Effective Date. This Ordinance shall become effective immediately upon adoption by the Village Council of the Village of Palm Springs, Florida.

Council Member _____ offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Council Member _____, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
BEV SMITH, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JONI BRINKMAN, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PATTI WALLER, MAYOR PRO TEM	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DOUG GUNTHER, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GARY READY, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Mayor thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Palm Springs, Florida, on second reading, this _____ day of _____, 2023.

VILLAGE OF PALM SPRINGS, FLORIDA

BY: _____
BEVERLY SMITH, MAYOR

First Reading _____

Second Reading _____

ATTEST:

BY: _____
KIMBERLY M. WYNN, VILLAGE CLERK

REVIEWED FOR LEGAL FORM AND SUFFICIENCY

BY: _____
GLEN J. TORCIVIA, VILLAGE ATTORNEY

EXHIBIT "A"

Sec. 10-8. - Exterior property areas.

(a) Sanitation. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property which the occupant occupies or controls in a clean, neat, and sanitary condition.

(b) Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking lots, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. Stairs shall comply with the requirements of subsection 10-10(g).

(c) Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve inches, as set forth in chapter 30. All noxious weeds shall be prohibited. This term shall not include cultivated flowers and gardens, or native vegetation.

(d) Accessory structures. All accessory structures, including detached garages, fences, walls, and swimming pools shall be maintained structurally sound and in good repair.

(1) Water clarity in swimming pools. Water clarity shall be maintained. When standing at the pool's edge at the deep end, the deepest portion of the swimming pool floor shall be visible.

(e) Yards shall be landscaped pursuant to minimum landscape and buffering standards set forth in Chapter 34, Article III, Landscaping, and maintained in accordance with accepted horticultural practices outlined therein.

(f) In the event that the National Weather Service, National Hurricane Center, or other appropriate weather agency declares a tropical storm or hurricane warning for any portion of the Village, all materials, furnishings, and equipment at the property shall be secured, stored, or removed so as to not create a safety hazard due to tropical/hurricane force winds.

(g) Failure of the property owner or mortgagee to properly maintain the property is a violation of the Code of Ordinances of the Village of Palm Springs. Pursuant to a finding and determination by a special magistrate, the Village may take the necessary action to ensure compliance with its ordinances and place a lien or liens and a special assessment on the property.

EXHIBIT "B"

Sec. 10-12. Village Council findings.

The Village Council finds that conditions exist within the Village of Palm Springs which violate public rights, subvert public order or cause inconvenience or damage to the public generally. Specifically, but not limited to, the accumulation of underbrush, weeds, rubbish, yard waste, trash, and grass, building materials, any accumulation of newspapers, flyers, circulars, notices, except those required by federal, state or local law, and discarded personal items including, but not limited to, furniture, clothing, large and small appliances, or any other items that give the appearance that the property is abandoned or not being properly maintained on vacant or improved property; the creation of unsafe pools, ponds, or other bodies of water, both stagnant and flowing; or the creation of other conditions which endanger the public health, welfare, property value, or safety of the community, has become an ever increasing menace in the village and constitutes a nuisance. It shall be unlawful for any person or entity to create a nuisance, or suffer or permit a nuisance to exist, upon property, which is under his, her or its care, custody, or control.

EXHIBIT “C”

Sec. 10-30. Foreclosed, Vacant and Unimproved property registration program.

(a) *Purpose and intent.* It is the purpose and intent of this section to establish a process to monitor and address the conditions of vacant, abandoned, and distressed real property located within the Village. This section is further intended to monitor and reduce the amount of deteriorating property located in the Village, on which a public notice of default has been filed or which is in foreclosure or where ownership has been transferred to a lender or mortgagee by any legal method. It is further intended to establish a registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance of abandoned or vacated properties which may or may not be subject to a mortgage or properties subject to mortgages that are in default.

(b) *Definitions.* The following words, terms, and phrases, when used in this section, shall have meanings ascribed to them, except where the context clearly indicates a different meaning. Where the context will permit and no definitions are provided herein, the definitions provided in the Florida Building Code shall indicate the meaning.

Abandoned property means any real property that is vacant or distressed.

Default means that the mortgagee has filed a foreclosure action or public notice of default on the mortgage. A mortgage shall be considered in default at such time as the mortgagee declares said mortgage to be in default in writing, by recording a lis pendens, by its actions or by commencing foreclosure proceedings or by any other actions demonstrating a breach of a security covenant on a property.

Disposition means the foreclosure status and/or the mortgagee/servicer's intent if the mortgage remains in default. If the mortgagee enters into a permanent modification agreement with the owner/mortgagor, the mortgage is considered to be no longer in default unless there is further notification by the mortgagee/servicer.

Distressed means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that a property is neglected, abandoned, or otherwise not being regularly maintained. Such conditions include, but are not limited to:

- (1) A repeat violation of any provision of this Code, as defined in F.S. § 162.04(5) or violations which have not been complied;
- (2) Overgrown and/or dead vegetation;
- (3) The accumulation of trash, junk and/or debris;
- (4) Unsecured doors, windows, or other openings;
- (5) The presence of an unsanitary, stagnant swimming pool, the presence of boards over doors, windows, or other openings in violation of the Code; or
- (6) Deterioration of the structure or structures on the property.

Foreclosure means the judicial process by which a property, placed as security for a mortgage loan is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

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

Owner means any person, firm, corporation, or other legal entity who, individually or jointly or severally with others, holds the legal or beneficial title to any building, facilities, equipment, or property subject to the provisions of this chapter. The term shall include the owner's duly authorized agent, a purchaser, devisee, fiduciary, or any other person, firm, corporation, or legal entity having a vested or contingent interest or, in the case of a leased premises, the legal holder of the lease or his legal representative. It is intended that this term shall be construed as applicable to the person, firm, corporation, or legal entity responsible for the construction, maintenance and operation of the building, facilities or property involved whether vacant or occupied.

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

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. In the case of broken windows, such windows

shall be secured by re-glazing or if the structure is vacant it may be boarded up in accordance with code requirements.

Unimproved property means any parcel within the Village that does not contain a principal or accessory building or structure.

Vacant property means a parcel of land that contains any building or structure that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of "evidence of vacancy". Vacant property does not mean property that is unoccupied while the occupants are temporarily away or is not intended by the owner to be left vacant so long as the period does not exceed six (6) months.

(c) *Applicability.* This section relates to abandoned and vacant Commercial and Industrial properties, unimproved Commercial and Industrial property, and to all property subject to a mortgage that has been determined by the mortgagee to be in default, is in foreclosure, or to properties that have been the subject of a foreclosure sale where title is transferred to the mortgagee or lender as well as any properties transferred to the mortgagee or lender under a deed in lieu of foreclosure by any legal method. All such properties shall comply with the registration, security, and maintenance requirements of this section.

(d) *Penalties.* Violations of this section shall be subject to enforcement by a special magistrate of the village.

(e) Registration of unimproved Commercial/Industrial property or vacant property.

(1) Registration by owner. Every owner of a vacant and/or unimproved Commercial or Industrial property or Commercial or Industrial property containing a vacant building or structure that is located within the Village shall register with the Village by filing a registration application prescribed by the Village within ten (10) days of vacancy. Commercial or Industrial property that is vacant/unimproved or contains a vacant building at the time of adoption of these provisions shall register within 60 days of the effective date of this Ordinance.

(2) A registration application shall contain at least the following information:

a. The address and parcel control number of the vacant property;

b. For purposes of notice, the name, telephone number, mailing address, and e-mail address of the owner;

c. For purposes of notice, the name, telephone number, mailing address, and e-mail address of an individual or entity designated by the owner who has the authority to make decisions concerning the conditions at the vacant property, as well as any expenditure in connection therewith;

d. The Village reserves the right to request such other information as needed to conduct the public purpose and intent of this article.

(3) An annual registration fee, per property, for the vacant property registration, shall be established by resolution of the Village Council. Such a fee shall accompany the registration form and shall be for the costs of registration and enforcement of this section. The Village shall charge a fee as established in the village fee resolution for any registration or modification of registration, and it may assign and delegate the collection of such fee to an independent contractor.

(4) Registration pursuant to this section shall be required annually for as long as the property is unimproved, or vacant. A case initiated pursuant to this section may be presented to the special magistrate even if, prior to a hearing, the property is no longer unimproved, vacant, or no longer distressed.

(5) Properties subject to this section shall remain under the registration requirement, and the inspection, security, and maintenance standards set forth in this section as long as they remain vacant.

(6) Any person or other legal entity that has registered a property under this section must report any change in the information contained in the registration within ten (10) days of the change. There shall be no fee to update the current owner's information.

(7) Failure of the property owner of record to properly register or to modify the registration from time to time to reflect a change of circumstances as required by this

section is a violation and shall be subject to enforcement by any of the enforcement means available to the Village.

(8) Pursuant to a finding by the special magistrate that any property is in violation of this section, the Village may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and to bring it into compliance.

(e) (f) Registration of real property; mortgagee holding mortgage in default, foreclosure, or where ownership of property has been transferred to a lender or mortgagee.

(1) All property located within the village, which property is in or has been declared to be in default, mortgage foreclosure, or to properties that have been the subject of a foreclosure sale where title is transferred to the mortgagee as well as any properties transferred to the mortgagee or lender under a deed in lieu of foreclosure by any legal method shall be registered under this section.

(2) Any mortgagee who holds a mortgage on vacant or abandoned real property located within the village shall perform an inspection of the property upon default by the mortgagor or prior to the issuance of a notice of default.

If the property is found to be vacant or shows evidence of vacancy, it shall be deemed vacant or abandoned, and the mortgagee shall, within two days of the inspection, register the property with the village's land development department on forms provided by the department, even though the real property may not be vacant.

(3) If the property is occupied, the mortgagee or mortgagee's designee should monthly inspect it.

(4) Within ten days of the date the mortgagee declares its mortgage to be in default, the mortgagee shall register the real property with the village's designee and, at the time of registration, and, if vacant, shall also designate in writing a local property manager to inspect, maintain and secure the real property subject to the mortgage in default.

(5) Registration. Registration pursuant to this section shall contain at a minimum:

- a. The name;
- b. The mailing address;
- c. The e-mail address;
- d. The telephone number for the mortgagee, trustee and/or servicer; and
- e. The disposition and occupancy status of the real property.

If the property is vacant or deemed vacant by the code enforcement staff of the village, then the name of the local property manager and said person's address, e-mail address, and telephone number shall also be provided for all new registrations. If the occupancy status of a registered property changes to vacant then the registration must be modified.

The local property manager shall be responsible to inspect, secure and maintain the property. The local property manager shall be available to be contacted by the village 24 hours a day. The village shall charge a fee as established in the village fee resolution for any registration or modification of registration, and it may assign and delegate the collection of such fee to an independent contractor. The registration fee must be paid by the mortgagee, trustee or mortgage servicer and cannot be assigned for payment or remitted by a third party for payment.

(6) This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the mortgagee, as well as any properties transferred to the mortgagee under a deed in lieu of foreclosure.

(7) Properties subject to this section shall remain under the annual registration requirement, inspection, security, and maintenance standards of this section as long as they remain abandoned, vacant, or subject to having been declared by a mortgagee to be in default.

(8) Any person or other legal entity that has registered a property under this section must report any change in the information contained in the registration within ten days of the change.

(9) Failure of the mortgagee and/or property owner of record to properly register or to revise the registration to reflect a change of circumstances as required by this section is a violation of the ordinances of the village.

(f) (g) *Maintenance requirements, generally.*

(1) Properties subject to this section 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 including, but not limited to, furniture, clothing, large and small appliances, or any other items that give the appearance that the property is abandoned or not being properly maintained. Grass over twelve inches tall is prohibited.

(2) The property shall be maintained free of graffiti or similar markings by removal or painting over such graffiti or markings with an exterior grade paint that matches the color of the exterior structure.

(3) Yards shall be landscaped and maintained pursuant to the standards set forth in the ordinances of the village. Landscaping shall include, but shall not be limited to, grass, ground cover, bushes, shrubs, hedges or similar plantings, decorative rock or bark, artificial turf or sod designed specifically for residential, commercial, or industrial installation, as applicable. Landscaping shall not include weeds, gravel, broken concrete, asphalt, or similar material. Maintenance shall include, but shall not be limited to, watering, irrigation, cutting and mowing of required landscape and removal of all trimmings and weeds.

(4) Pools and spas shall be kept in a safe and sanitary order so that pool and spa water remain free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the village's ordinances and the Florida Building Code.

(5) In the event that the National Weather Service, National Hurricane Center, or other appropriate weather agency declares a hurricane warning for any portion of the village, all materials, furnishings, and equipment at the property shall be secured, stored, or removed so as to not create a safety hazard due to hurricane force winds.

(6) Failure of the mortgagee and/or property owner of record to properly maintain the property is a violation of the Code. Pursuant to a finding and determination by a special magistrate, the village may take the necessary action to ensure compliance with its ordinances and place a lien or liens and a special assessment on the property.

(h) Maintenance requirements, unimproved property, and vacant property.

In addition, the requirements in subsection (g) above, owners of unimproved or vacant property must, within ninety (90) days of registering under this section, agree to comply with the general maintenance standards, which shall include a requirement that the property:

i. be lighted in a manner to discourage crime;

ii. be sodded throughout the entire unimproved area of the property;

iii. be landscaped with a Category 1 buffer pursuant to Sec. 34-162;

iv. be irrigated, preferably with a timer mechanism;

v. surrounded with a temporary six (6) feet tall chain linked fence which shall be installed around the entire property area, unless the Village's PZB Director waives or alters the requirement (temporary fence shall be removed at the time the property is improved pursuant to Chapter 34, Land Development); and

vi. provided with signage attached to the fencing that lists the responsible party for the property, which party is generally available within 24 hours' notice, including address, phone number and email address.

(i) Maintenance requirements, demolished property.

For the purposes of this section demolished property shall be property where the building or structure has been removed. In such a case, the demolished property becomes unimproved property, and the owner must comply with the requirements of this Chapter. However, the additional requirements of subsection (h) shall not apply if construction on the property begins within one year of the demolition. The PZB Director has the discretion to alter the one year limitation upon good cause showing.

(g) (j) *Security requirements.*

(1) Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

(2) A "secure manner" shall include, but shall not be limited to, the closure and locking of windows, doors, gates, and other openings of such size that may allow a child or adult to access the interior of the property and/or structure. Broken windows shall be secured by re-glazing or boarding. All means of access shall be secured by replacing, reglazing, or boarding the openings so as to meet all applicable laws, codes, and regulations.

(h) (k) *Property management.*

(1) If a mortgage on the property is in default and the property has become vacant or abandoned, a local property manager shall be designated by the mortgagee to perform the work necessary to bring the property into compliance with the Code and the local property manager must perform weekly inspections to verify compliance with the requirements of this section and any other applicable laws or ordinances of the village.

(2) Upon request of the village or its authorized representative, the local property manager shall provide a copy of the inspection reports to the land development department.

(3) When a property becomes vacant, it shall be posted with the name and 24-hour contact telephone number of the local property manager. The posting shall be no less than 18 inches × 24 inches, and no larger than 36 inches × 48 inches in size, and shall be of a font that is legible from a distance of 45 feet. The posting shall contain the following language: THIS PROPERTY IS MANAGED BY [name of local property manager], who may be contacted at any time by calling () [the 24-hour contact telephone number].

(4) All written information thereupon shall be clear, legible, and updated as required. The posting shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the

street or if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visual from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.

(5) Failure of the mortgagee or property owner of record to properly inspect and secure the property and post and maintain the signage required by this section is a violation of this section. Pursuant to a finding and determination by a special magistrate of the village, the village may take the necessary action to ensure compliance with this section, and place a lien or liens on the property to recover costs and expenses in support thereof.

(i)(l) *Opposing, obstructing enforcement officer; penalty.* Whoever opposes, obstructs, or resists any enforcement officer or any person authorized by the village in the discharge of duties as provided in this section, upon conviction, may be sanctioned as provided in the Code or F.S. ch. 162.

(j)(m) *Immunity of enforcement officer.* Any enforcement officer or any person authorized by the village to enforce this section shall be immune from prosecution, civil or criminal, for reasonable, good faith entry or trespass upon real property while in the discharge of duties imposed by this section.

(k)(n) *Additional authority.* The land development director shall have authority to require the mortgagee and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures, including, but not limited to, having an on-site security guard. Failure to comply with the terms of this section shall constitute a continuing public nuisance. The village shall have the authority to promptly abate the public nuisance, in whole or in part, at the expense of the mortgagee or other responsible party.

(f)(g) *Supplemental provisions.* Nothing contained in this section shall prohibit the village from enforcing its codes by any other means, including, but not limited to, injunction, abatement or as otherwise provided by Code.