

**AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS OF PASCO COUNTY FLORIDA PROVIDING FOR THE AMENDMENT OF CHAPTER 42, PASCO COUNTY CODE OF ORDINANCES; PROVIDING FOR MODIFICATION; REPEALER; SEVERABILITY; INCLUSION INTO THE PASCO COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the Board of County Commissioners of Pasco County, Florida, finds that the public health, safety and welfare will be served through the amendment of regulations governing public nuisances; and

**WHEREAS**, weeds or brush exceeding eight inches in height tend to be a breeding ground for rodents, insects or vermin and have been found to exist in areas which have previously been developed and the use has been abandoned or gone dormant; and

**WHEREAS**, the Board of County Commissioners in good faith granted approvals necessary for the natural landscape to be altered and that alteration is no longer being maintained and is impacting surrounding properties; and

**WHEREAS**, the Board of County Commissioners have deemed that the general public health, safety and welfare of the citizens of Pasco County would be benefited by the removal of overgrown grass, weeds, brush, undergrowth, or other noxious materials growing in lakes, ponds, drainage or other common areas in certain areas of the County where such overgrowth is in proximity to other occupied property; and

**WHEREAS**, the removal of overgrown grass, weeds, brush, undergrowth, or noxious material will benefit the property from which it is removed.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Pasco County, Florida, as follows:

**SECTION 1. Recitals.**

The foregoing whereas clauses are true and correct and are incorporated herein.

**SECTION 2. Purpose.**

Establish and define minimum standards for the proper care and maintenance of lands within unincorporated areas of Pasco County to preserve the public health, safety and welfare. Further, to protect and enhance property values and enhance the quality of life in Pasco County.

**SECTION 2 Definitions.**

As used in this Part, the following terms shall mean as indicated:

Abandoned. Items that are no longer maintained, used and/or claimed.

Abandoned vehicle. Any vehicle as defined in this Section, including, but not limited to, any parts thereof, which are unusable as a form of transportation due to mechanical or

structural insufficiencies, unless said vehicle is located within a legally permitted, permanent, enclosed structure or legally permitted, permanent carport.

Code Enforcement Officer. Board designated employees or agents of Pasco County whose duty it is to enforce codes and ordinances in the County, or any law enforcement officer as defined in Section 943.10(1), Florida Statutes, or its successor provision.

Code Inspector. The person designated by the Board of County Commissioners to enforce the provisions of this Part. The term also includes, but is not limited to, Code Enforcement Officer and all County personnel designated by the appropriate Department Director or County Administrator with responsibility to enforce codes and ordinances.

Discarded. Material which has been let go of, thrown away, or no longer maintained.

Improved property. Any lot, parcel, or area of land that has been deliberately altered from its natural condition through human action for an identifiable purpose in support of a lawful use or activity including, but not limited to, residential or commercial development, stormwater management, recreation, and agriculture. Abandonment, disuse, or foreclosure shall not remove such property from classification as "improved". Excluded from this definition are public rights-of-way, publicly owned stormwater facilities, publicly owned landfills, and all publicly owned parks and/or natural land areas designated for passive recreational purposes. Property that does not fall within the scope of the preceding description shall be considered "unimproved".

Lands or premises. Any real property, whether improved or unimproved; provided, however, that as used in relation to, or in connection with Section \_\_\_\_\_, shall mean any unimproved real property lying within a radius of 75 feet from any structure and any improved property regardless of distance from a structure. As it relates to this paragraph, the term structure shall mean any building, either permanent or temporary, that can be used for housing, business, commercial, office or industrial purposes and does not refer to signs, fences, swimming pools, utility, accessory or agricultural buildings.

Remains or rubble of a structure. The remains or rubble of a structure, which has been burned, stricken by other casualty, demolished, or exists in a state of excessive disrepair or decay similar to and including, but not limited to, extreme exterior dilapidation, broken, missing, rotting or collapsed windows, doors, walls and/or roof.

Rubbish. Useless waste material or any items no longer fit to be used, including, but not limited to, discarded household chemicals, yard trash, paper, cardboard, metal, lumber, concrete rubble, glass, bedding, crockery, household furnishings, household appliances, dismantled pieces or motor vehicles or other machinery, broken, abandoned, or discarded trailers, wrecked or dismantled watercraft, abandoned and/or discarded tires, unusable furniture, discarded or unusable appliances.

Stagnant or foul water. Water not flowing or moving and/or dirty, grossly offensive or obstructed with foreign matter that may provide a breeding area for mosquitoes, rodents, snakes, or other species of insect or animal, or which constitutes a habitat for disease bearing organisms; and which is a host for algae or other growth indicative of water that is not disinfected.

Structure. Any building, either permanent or temporary, that can be used for housing, business, commercial, office, or industrial purposes, and does not refer to signs, fences, or swimming pools. Also includes utility, accessory and agricultural buildings as it relates to Section 42-1 (1)(g) Remains or Rubble of a Structure but not to Section 42-1(1)(a) Uncultivated Vegetation.

Swimming pool. Any structure that is intended for swimming or recreational bathing, including, but not limited to, in-ground, aboveground, and on-ground swimming pools, hot tubs, and non-portable spas.

Uncultivated vegetation. All unmaintained vegetation that has grown in an uncontrolled manner to more than eight (8) inches in height or which is liable to produce an unhealthy or unsanitary condition or becomes a harboring place for mosquitoes, vermin or vectors. This term

shall not include controlled plants and gardens, trees, palms, active crops or pasture lands associated with bona fide agricultural uses.

Unsecured swimming pool. Private swimming pools, hot tubs and spas capable of holding water more than 24 inches (610 mm) in depth that are not completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool and where the gates and doors in such barriers are not self-closing and self-latching and where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, and where the release mechanism is not located on the pool side of the gate. Exception: Spas or hot tubs with a safety cover that complies with American Society for Testing Materials (ASTMF) 1346, as may be amended or replaced.

Unusable: Items that are no longer fit to be used and/or do not operate as originally intended.

Vehicle. For the purposes of this Ordinance, a machine used to transport, pull, push and/or propel people, animals or other matter along the ground, in the air, or on a body of water including machines propelled by other than human power designed to travel along the ground for the purposes of transporting persons or property or pulling machinery, including, but not limited to, automobiles, trucks, boats, watercraft, trailers, aircraft, motorcycles and tractors.

Violator. Any person or property owner who has control or appears to have control of a property or circumstance of an alleged code violation, such as a property owner, tenant or business owner.

**SECTION 3.** Chapter 42 of the Pasco County Code of Ordinances is hereby amended as follows:

**SECTION 42-1. Overgrown conditions and related public safety violations.**

It shall be the duty of the owner of any lot, tract, or parcel of land within the unincorporated areas of the county to reasonably and effectively control and prevent nuisances or threats to the public health, safety and welfare as described in subsection (1) below.

(1) *Complaints and determination of violation.* Upon a complaint by an affected person, the county code enforcement department is empowered to determine whether lands within the unincorporated area of the county contain a nuisance or threat to the public health, safety and welfare including but not limited to:

- a. ~~Grass, weeds, brush or undergrowth exceeding 12 inches in height, debris or any noxious material of any kind that tends to be a breeding place or haven for snakes, rodents, insects or vermin of any kind or character or that tends to be a breeding place for mosquitoes or that tends to create a fire hazard endangering the lives and property of the citizens of the county. The code enforcement department may determine that all or part of the growth on a parcel is not a violation based on the natural state of the growth.~~ **Uncultivated vegetation.**
- b. **Dead, decaying, or irreversibly damaged trees that pose an actual threat of collapse into rights-of-way, utilities or adjacent property.**
- c. **Stinging insect hives, swarms or nests that pose an actual threat to neighboring residents or persons lawfully on the property or lawfully making use of a public easement or right-of-way.**
- d. **Unsecured swimming pools.**
- e. **Abandoned or discarded iceboxes, refrigerators, deep freeze lockers, clothes washers, clothes dryers, or similar airtight units, from which doors have not been removed.**
- f. **Rubbish.**
- g. **The remains or rubble of a structure.**
- h. **Abandoned vehicles: provided, however, that an abandoned vehicle kept within an enclosed garage or attached carport, or on the premises of a legally operation business enterprise when necessary to the functioning of such business operated in a lawful place and manner, or in a permitted or lawful storage area maintained in a lawful storage area maintained in a lawful place and manner shall not be deemed a violation.**
- i. **Stagnant or foul water.**
- j. **Any other material or condition tending by its existence and/or accumulation to endanger or adversely affect the health, safety, lives, and/or welfare of the citizens of Pasco County.**

An "affected person" shall be any person owning or occupying lands abutting or surrounding the parcel which is the subject of the complaint; any code enforcement officer or county commissioner; or any officer of a homeowners group or civic association provided the complainant shows proof by affidavit at the time of the complaint that the group or association has made a written demand for cleanup to the owner or occupant of the parcel which is the subject of the complaint. Persons reporting conditions described in (1)b., (1)c., (1)d., or (1)e., above, are not required to be "affected persons" to report such conditions.

An "unsecured swimming pool" for the purposes of this section includes a pool, whether finished or unfinished, that contains water in an amount that poses a risk of drowning to children.

(2) *Correction of the violation.* Upon determination by the code enforcement department, in accordance with subsection (1) of this section, that such lands contain a nuisance or a threat to the public health, safety and welfare, the code enforcement department shall be further empowered to:

- a. Clear the lands of ~~grass, weeds, brush or undergrowth~~ uncultivated vegetation exceeding ~~423~~ inches in height, debris or any noxious material of any kind that tends to be a breeding place or haven for snakes, rodents, insects or vermin of any kind or character, or that tends to be a breeding place for mosquitoes, or that tends to create a fire hazard endangering lives and property. ~~For lands that are one acre or more, only a 30-foot wide strip along the common boundaries with a developed parcel shall be cleared.~~
- b. Abate the threat of tree collapse by removing all or part of an offending tree.
- c. Exterminate or relocate an offending hive, swarm or nest of stinging insects.
- d. Secure a swimming pool consistent with requirements outlined in section 530.4 of the county land development code, as now or subsequently amended.
- e. Secure, remove, or otherwise make safe abandoned or discarded iceboxes, refrigerators, deep freeze lockers, clothes washers, clothes dryers, or similar airtight units.

The county may correct offending conditions or employ an independent contract to perform these services.

- (3) *Notice and demand to owner.* Upon determination by the code enforcement department that lands contain a nuisance or a threat to the public health, safety and welfare, the code enforcement department shall make a demand, in writing, on the owner of such lands, notifying the landowner of the code enforcement department's determination and demanding that the offending condition(s) be corrected. Such demand shall be posted on the property and served upon the property owner in accordance with section 1-12 of the County Code. The notice shall identify the offending condition(s) and demand that the condition(s) be corrected within 14 calendar days from the date of posting. The notice shall inform the owner that if the condition is not corrected within 14 calendar days of the date of posting, the offending condition will be corrected by the county or an independent contractor, and the costs thereof, plus a penalty, administrative costs, interest, and attorney fees, shall be assessed as a lien against the lands. The notice shall explain the process to appeal the code enforcement department's determination.
- (4) *Appeal of determination.* Any owner upon whom any demand is made shall have seven calendar days from service or posting of the demand to request, in writing, a public hearing before the board of county commissioners for purposes of appealing the correctness of the code enforcement department's determination. The public hearing shall be held within 30 days of filing of such appeal. If the code enforcement department's determination is upheld by the board of county commissioners, the owner shall have ten days from the date of such denial to correct the condition or to appeal the board's ruling to the circuit court.
- (5) *Imposition of lien.* If any landowner to whom a demand or order has been directed fails to correct an offending condition within the applicable time periods provided for in subsection (3), the board of county commissioners through its designee is authorized to correct the offending condition and, by resolution, to assess a lien on behalf of the

county. A notice of the lien in such form as the board of county commissioners shall determine may be filed in the office of the clerk of the circuit court of the county and recorded as a special assessment. The actual costs of correcting the offending condition(s), plus a penalty in the amount equal to the costs or \$75.00, whichever is greater, plus administrative costs (including the necessary expenses for investigation of the complaint, preparation, filing and recording of the assessment lien, and legal expenses incident thereto), plus interest, plus reasonable attorney's fees, shall be assessed against such lands. The lien shall be a special assessment lien against the property and shall be given the same priority with the lien of county ad valorem taxes and will be superior in priority to all other liens, encumbrances, titles and claims in, to or against the lands involved and shall remain a lien until paid.

- (6) *Correction without notice to owner.* Conditions that present a serious threat to the public health, safety or welfare may be corrected immediately without prior notice to the owner(s) or occupant(s) of the parcel, and the costs and penalties shall be assessed pursuant to subsection (5).
- (7) *Citation for failure to remedy violation.* In the event the owner or owners of any lot, tract, parcel of land, should fail to remedy a prohibited condition on such property after proper notice pursuant to subsection (3), the code enforcement department may elect to issue a citation. Any such citation shall be prosecuted in accordance with the provisions of section 1-11. Any violation of this article may be considered a civil infraction for purposes of the issuance of a citation.
- (8) *Citation for existence of violation.* At any time, the code enforcement department may elect to cite the owner, owners or occupants of particular property, or any or all of them, for any conditions on such property that are prohibited by this section. Any such citation shall be prosecuted in accordance with the provisions of section 1-11. Such election may be made in lieu of, or in addition to, other enforcement measures taken pursuant to this article or any other authority against any party with an interest in the property.
- (9) The authority to correct dangerous conditions provided by this section does not impose any affirmative duty on the county to warn of or to correct such conditions. Making such repairs does not create a continuing obligation on the part of the county to make further repairs or to maintain the property and does not create any liability against the local governing body for any damages to the property if such repairs were completed in good faith.

#### **Section 42.2 Creation or maintenance of nuisances prohibited.**

It shall be unlawful for any person to accumulate, dump or cause or allow to be accumulated or dumped, or place or cause or allow to be placed, or to otherwise cause or allow to exist on any lands or premises any nuisance as defined in Section 42-1.

#### **SECTION 5. Modification.**

It is the intent of the Board of County Commissioners that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings.

Such modifications shall be incorporated into the final version of the ordinance adopted by the Board and filed by the Clerk of the Board pursuant to Section.

**SECTION 6. Repealer.**

Any ordinance, or part of any ordinance, in conflict herewith is hereby repealed to the extent of any conflict.

**SECTION 7. Severability.**

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any Section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said Section, subsection, sentence, clause or provision, and shall not be affected by such holding.

**SECTION 8. Inclusion into the Pasco County Code.**

It is the intent of the Board of County Commissioners that the provisions of this ordinance shall become and be made part of the Pasco County Code of Ordinances and that the sections of this ordinance may be re-numbered and/or re-lettered.

**SECTION 9. Effective Date**

This Ordinance shall be transmitted to the Department of State by the Clerk to the Board by electronic mail within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon confirmation by the Department of State of its receipt.

DONE AND ADOPTED by the Board of County Commissioners of Pasco County with a quorum present and voting this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

(S E A L)

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF PASCO COUNTY, FLORIDA

BY: \_\_\_\_\_  
NIKKI ALVAREZ-SOWLES, ESQ.  
CLERK & COMPTROLLER

BY: \_\_\_\_\_  
MIKE MOORE  
CHAIRMAN