

**ORDINANCE 2018-06**  
**(Amending Chapter 12 Health, Sanitation, Nuisances, and**  
**Minimum Property Maintenance Standards)**

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING CHAPTER 12 HEALTH, SANITATION, NUISANCES, AND MINIMUM PROPERTY MAINTENANCE STANDARDS; AMENDING, SECTION 12-36 PROPERTY CLEARING AND CLEANING, SECTION 12-37 JUNK AND TRASH, SECTION 12-39 TREE DECLARED NUISANCE/DANGEROUS, SECTION 12-227.7 REQUIREMENTS NOT COVERED BY CODE, SECTION 12-230.6 CLOSING OF VACANT STRUCTURES, SECTION 12-230.9 PROHIBITED OCCUPANCY, SECTION 12-230.12 BOARDED UP STRUCTURES, SECTION 12-230.13 PENALTIES, SECTION 12-233.1 SANITATION AND STORAGE OF MATERIALS, SECTION 12-233.4 WEEDS, GRASS AND OVERGROWTH, AND SECTION 12-233.6 TREE DECLARED NUISANCE/DANGEROUS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE:**

**NOW THEREFORE BE IT ENACTED**, by the City Commission of Lake Wales, Polk County, Florida:

**SECTION 1: § 12-36. *Property clearing and cleaning*** is amended as follows:

All premises and exterior property, other than agricultural, ~~including the streets, alleys, and sidewalks bordering thereon~~, shall be maintained free from weeds or plant growth in excess of twelve (12) inches in height, dead and or downed trees, stumps must be ground to or below grade, low hanging branches must be trimmed to a height of at least six (6) feet above grade. The removal of any tree, four (4) inches or greater in diameter at breast height (DBH), cannot be removed without a permit.

*EXCEPTION:* Parcels over 10 acres need only mow and clean the first twenty five (25) feet of the perimeter of the property.

**SECTION 2: §12-37. *Junk & Trash.*** is amended as follows:

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. It shall be the duty of each property owner or household in this city to remove all debris, ~~weeds, or other noxious growth~~ from his or her property, including the streets, alleys, and sidewalks bordering thereon, and keep same in good, clean, and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

No owner or occupant shall permit old or broken lumber, rusted or unused equipment, discarded refrigerators, discarded stoves, old pipe, scrap metal, or other used, discarded and worn, unsightly articles or materials to remain in any yard or open area owned, occupied or in the possession of such person for a period of more than ten (10) days.

Further, unless authorized by the zoning category of the property, no owner or occupant of a building, structure or premises may utilize such property for the open storage of abandoned, untagged, or inoperative motor vehicles, iceboxes, refrigerators, stoves, glass, building material, rubbish or similar items.

**SECTION 3: §12-39. Tree Declared Nuisance/ Dangerous.** Is amended as follows:

- a) Any tree extending over a ~~public~~ street, alley ~~or~~ highway, or parking lot shall be trimmed by the property owner, or his authorized agent, on which the tree trunk is located, so as to provide a clear height above the street, alley, ~~or~~ highway, or parking lot of not less than fourteen (14) feet.
- b) Any tree extending over a ~~public~~ sidewalk, or multi-modal trail shall be trimmed by the property owner, or his authorized agent, so as to provide a clear height above the sidewalk, or multi-modal trail, of not less than eight (8) feet.
- c) The property owner of any tree which extends over a ~~public~~ street, alley, highway, parking lot, or sidewalk, or multi-modal trail shall remove any and all dead branches from the tree which, if dislodged, are likely to fall upon the public street, alley, highway or sidewalk.
- d) In the event that the property owner fails to meet the requirements of this section, then the City may issue a written notice of violation to the property owner giving fifteen (15) days to correct the violation. If the violation is not corrected within the given period of time then the City has the option of correcting the violation at the property owner's expense.

**SECTION 4: § 12-227.7 Requirements Not Covered By Code** is amended as follows:

Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health, and general welfare, not specifically covered by this code shall be determined by the Code Official using the following:

- a) Reference to the International Property Maintenance Code, 2015 edition;
- b) Reference to the manufacturer's suggested guidelines or instructions for installation and use;
- c) Reference to the Florida Building Code or any other applicable building code;
- d) Reference to the 1997 Uniform Code for the Abatement of Dangerous Buildings;
- e) Reference to primary law (including federal, state, and local sources)
- f) Reference to any generally accepted practice in the industry, occupation, or general use for which the existing fixture, structure or equipment is primarily designated for, or which the public health, safety, and welfare requires; or
- g) Reference to any other suitably acceptable source of custom or practice reasonably accepted by society and sufficiently reliable in nature such that the requirement would be generally known and accepted in the community.

- h) Any amendment to each of the aforementioned codes or other provisions of law shall include any amendments made from time to time.

The Code Official, upon observing a deficiency in a requirement necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health, and general welfare, shall, in addition to regular enforcement protocol, issue along with the first notice a written determination including the basis for requirement and the necessary steps to correct the deficiency observed to meet the requirement.

**SECTION 5: §12-230.6 Closing of vacant structures** is amended as follows:

If a structure is ~~vacant and~~ unfit for human habitation and occupancy, and is not in danger for structural collapse, but is open such that the interior of the structure is easily accessible through open or broken windows, open or broken doors, or missing structural elements, the Code Official is authorized to issue a demand for correction in accordance with Sec. 12-211 of this code.

Alternatively, should the ~~vacant~~ structure

- (1) pose an imminent danger to the health, safety, and welfare of the general public;
- (2) be occupied periodically by transients or itinerants; or
- (3) be utilized for illegal conduct in violation of any federal, state or local law,

The Code Official is authorized to have the structure immediately closed up so as not to be an attractive nuisance by posting a notice at each entrance to the building ~~entitled "Notice of Section 12-230.6 Closing"~~ and by sealing each accessible entrance. ~~A "Notice of Section 12-230.6 Closing" shall be in substantially the following form:~~

~~"NOTICE OF SECTION 12-230.6 CLOSING~~

~~This vacant structure is uninhabitable and has been closed by Order of the City of Lake Wales Code Enforcement Unit pursuant to Section 12-230.6 (1), (2), and/or (3) of the Minimum Property Maintenance Standards of the City.~~

~~For information, please call (863) 678-4182 X714".~~

When the Code Official elects to post a "notice of closing" on a ~~vacant~~ structure at each accessible entrance, in accordance with subsection (1), (2) or (3) above, the Code Official shall send a bill for the City's expense in closing the structure to the owner of the property underlying the structure or the agent of such owner of the property underlying the structure by United States certified mail, return receipt requested. Should the City's bill be returned unclaimed, the City may then post the bill on the closed structure and at a conspicuous location at City Hall for ten (10) days, which, on the tenth day after posting, shall constitute the equivalent of delivery. After billing by the City, if the full amount due the City is not paid by the owner of the structure or the agent of the owner of the structure within thirty (30) days after receipt of the bill or after the expiration of ten (10) days after posting the bill, the Code Official shall cause to be recorded in the public records of the county, a sworn statement showing the cost and expense incurred for the work and the date, place and property on which such work was done, and an affidavit of constructive service by posting, if any, and the recordation of such sworn statement shall

constitute a special assessment lien on the property equivalent to the lien of municipal taxes and taking precedence over all other recorded liens, and shall remain in full force and effect for the amount due on principal and interest, plus costs of court, if any, for collection, until final payment has been made. Such special assessment lien may be foreclosed in the manner provided for by general law.

Any owner aggrieved by the findings and order of the Code Official shall have the right to appeal said decision prior to the expiration of the time within which to pay the bill for closing the structure due the City. Any appeal taken must be requested, in writing, and timely received by the City Clerk at 201 West Central Avenue, Lake Wales, Florida. In the event the time for owner to pay expires on a weekend, evening or a holiday, the owner shall have until 5:00 p.m. the next business day to file the request for appeal. Such written notice or request may be in any form which clearly notifies the City of the owner's request. The Code Official shall place the appeal on the agenda of the next scheduled Code Enforcement Board Hearing or may request a special meeting to hear the appeal. Any appeal shall stay all proceedings in furtherance with the action appealed from until after the hearing is held. It shall be the responsibility of the owner of the property in question to show that the City's actions are without reason. The Code Enforcement Board shall determine whether the appeal is justified. The appeal hearing shall be conducted in accordance with the provisions of Chapter 162, Florida Statutes. If it is determined by the Code Enforcement Board, based on competent substantial evidence in the record, that the City's actions are without reason, the cost for closing the structure shall be borne by the City.

No structure closed by the City pursuant to this section may be reopened unless said structure is wholly compliant with this code or unless it is shown during a timely appeal after hearing that the City's actions in closing the structure were without reason.

**SECTION 6: §12-230.9 *Prohibited occupancy*** is amended as follows:

Any occupied structure placarded by a Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner, agent of such owner, or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be subject to the *penalties of this section*.

**SECTION 7: §12-230.12 *Boarded up structures*** is amended as follows:

No ~~vacant~~ structure may be boarded up by its owner for a period of time exceeding one hundred twenty (120) days unless:

- (1) The owner is granted a written waiver signed by the Building Official and the Code Official;
- or
- (2) The structure has been closed in accordance with Sec. 12-230.6 of this code.

All ~~vacant~~ structures shall be maintained in accordance with Sec. 12.235.6 of this code ("Exterior walls"), and all materials used to enclose the building must be neatly fitted within window and door openings and must be painted to blend in with the rest of the building. Closing

a structure in accordance with Sec.12-230.6 of this code does not relieve the owner from complying with this provision.

**SECTION 8: §12-230.13 Penalties** is amended as follows:

Any person who violates any of the provisions of this section is guilty of a misdemeanor of the second degree, and punishable as provided in F.S. 775.082, and/or 775.083 except that a violation of F.S. 823.10 (Place where controlled substances are illegally kept, sold, or used declared a public nuisance) is a felony of the third degree.

**SECTION 9: §12-233.1 Sanitation and storage of materials** is amended as follows:

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. It shall be the duty of each property owner or household in this city to remove all debris, ~~weeds, or other noxious growth~~ from his or her property, including the streets, alleys, and sidewalks bordering thereon, and keep same in good, clean, and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

No owner or occupant shall permit old or broken lumber, rusted or unused equipment, discarded refrigerators, discarded stoves, old pipe, scrap metal, or other used, discarded and worn, unsightly articles or materials to remain in any yard or open area owned, occupied or in the possession of such person for a period of more than ten (10) days.

Further, unless authorized by the zoning category of the property, no owner or occupant of a building, structure or premises may utilize such property for the open storage of abandoned, untagged, or inoperative motor vehicles, iceboxes, refrigerators, stoves, glass, building material, rubbish or similar items.

**SECTION 10: §12-233.4 Weeds, grass and overgrowth** is amended as follows:

All premises and exterior property, other than agricultural, shall be maintained free from weeds or plant growth in excess of twelve (12) inches in height, dead and or downed trees, stumps must be ground to or below grade, low hanging branches must be trimmed to a height of at least six (6) feet above grade. The removal of any tree, four (4) inches or greater in diameter at breast height (DBH), cannot be removed without a permit.

EXCEPTION: Parcels over 10 acres need only mow and clean the first twenty five (25) feet of the perimeter of the property.

**SECTION 11: §12-233.6 Tree Declared Nuisance/ Dangerous** is amended as follows:

a) Any tree extending over a public street, alley, or highway, or parking lot shall be trimmed by the property owner, or his authorized agent, on which the tree trunk is located, so as to provide

a clear height above the street, alley, or highway, or parking lot of not less than fourteen (14) feet.

b) Any tree extending over a ~~public~~ sidewalk, or multi-modal trail shall be trimmed by the property owner, or his authorized agent, so as to provide a clear height above the sidewalk, or multi-modal trail of not less than eight (8) feet.


c) The property owner of any tree which extends over a ~~public~~ street, alley, highway, or parking lot, or sidewalk, or multi-modal trail shall remove any and all dead branches from the tree which, if dislodged, are likely to fall upon the ~~public~~ street, alley, highway, parking lot, or sidewalk, or multi-modal trail.

d) In the event that the property owner fails to meet the requirements of this section, then the City may issue a written notice of violation to the property owner giving fifteen (15) days to correct the violation. If the violation is not corrected within the given period of time then the City has the option of correcting the violation at the property owner's expense.

**SECTION 12: Severability:** If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated.

**SECTION 13: Effective date:** This ordinance shall become effective immediately upon its passage by the city commission.

~~CERTIFIED AS TO PASSAGE~~ this 19<sup>th</sup> day of September 2018.

By:   
\_\_\_\_\_  
Mayor/Commissioner  
City of Lake Wales, Polk County, FL

ATTEST:   
\_\_\_\_\_  
City Clerk