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ORDINANCE NO. O-2013-006

AN ORDINANCE OF THE CITY OF OAKLAND PARK, FLORIDA AMENDING ORDINANCE NO. O-2010-009 THAT BECAME EFFECTIVE ON FEBRUARY 2, 2010 BY SPECIFICALLY RESCINDING AND DELETING THE SUNSET CLAUSE PROVISION OF SECTION 3. OF ORDINANCE NO. O-2010-009 AS IT RELATES TO THE REGULATIONS OF ARTICLE VII, ENTITLED "ABANDONED REAL AND PERSONAL PROPERTY REGULATIONS" OF CHAPTER 8, ENTITLED "MISCELLANEOUS OFFENSES AND PROVISIONS"; OF THE CITY OF OAKLAND PARK'S CODE OF THE ORDINANCES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, enforcement of the current regulations provides a valuable tool to the Code Enforcement Division by addressing abandoned, foreclosed properties and provides the City an additional source of revenue

WHEREAS, rescinding and deleting the sunset clause will keep the regulations of Article VII Chapter 8-125 valid for the future and without the need to be presented to the Commission for re- adoption

WHEREAS, by rescinding and deleting the Abandoned Real and Personal Property Regulations sunset clause helps to preserve and protect the quality of life for residents and other property owners within the City of Oakland Park.

WHEREAS, the City Commission finds it to be in the best interests of the residents of Oakland Park to adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA THAT:

Section 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2: That Ordinance No. O-2010-009 is hereby amended by rescinding and deleting the sunset clause provision as noted in **Section 3.** of the original Ordinance causing this Ordinance to sunset on March 1, 2013

Section 3: If any clause, section or other part of this Ordinance shall be held by any Court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid

1 part shall be considered as eliminated and in no way affecting the validity of the other provisions
2 of this Ordinance.

3
4 **Section 4.** All Ordinances or parts of Ordinances in conflict herewith are hereby
5 repealed to the extent of such conflicts.

6
7 **Section 5.** This Ordinance shall be effective upon its passage and adoption by the City
8 Commission of the City of Oakland Park.


9
10 **PASSED BY THE CITY COMMISSION OF THE CITY OF OAKLAND PARK,**
11 **FLORIDA, ON FIRST READING, THIS 6th DAY OF FEBRUARY, 2013.**

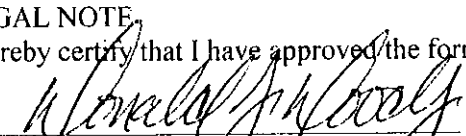
12
13 J. ADORNATO YES
14 S. MCCARTNEY YES
15 J. SHANK YES
16 S. BOISVENUE YES
17 A. SALLEE YES

18
19 **PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF OAKLAND**
20 **PARK, FLORIDA, ON SECOND READING, THIS 20TH DAY OF FEBRUARY, 2013.**

21
22 CITY OF OAKLAND PARK, FLORIDA
23 
24 _____
25 MAYOR ANNE E. SALLEE

26
27 J. ADORNATO YES
28 S. MCCARTNEY YES
29 J. SHANK YES
30 S. BOISVENUE YES
31 A. SALLEE YES

32 ATTEST: 
33 _____
34 RENE M. SHROUT, CMC
35 CITY CLERK

36
37 LEGAL NOTE
38 I hereby certify that I have approved the form of this Ordinance.O-2013-006.
39 
40 _____
41 DONALD J. DOODY, CITY ATTORNEY

ORDINANCE NO. O-2010-009

1
2
3 AN ORDINANCE OF THE CITY OF OAKLAND PARK, FLORIDA,
4 AMENDING CHAPTER 8 CODE OF ORDINANCES, ENTITLED
5 "MISCELLANEOUS OFFENSES AND PROVISIONS" BY CREATING
6 ARTICLE VII, ENTITLED "ABANDONED REAL AND PERSONAL
7 PROPERTY REGULATIONS;" PROVIDING FOR PURPOSE AND
8 INTENT; PROVIDING DEFINITIONS; PROVIDING FOR
9 NOTIFICATION PROCEDURES; PROVIDING FOR REMOVAL OF
10 ABANDONED PERSONAL PROPERTY; PROVIDING FOR THE
11 REGISTRATION OF ABANDONED REAL PROPERTY; PROVIDING
12 FOR MAINTENANCE AND INSPECTION REQUIREMENTS;
13 PROVIDING FOR SECURITY REQUIREMENTS; PROVIDING FOR
14 A SUNSET PROVISION; PROVIDING FOR CODIFICATION;
15 PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE
16 DATE
17

18 WHEREAS, it is important for the City of Oakland Park to establish a process to address
19 the amount of abandoned real and personal property within the City; and

20 WHEREAS, the City recognizes an increase in the number of vacant and abandoned
21 properties located throughout the City; and

22 WHEREAS, the presence of vacant and abandoned properties can lead to a decline in
23 property value, create aesthetic nuisances, and lead to general decrease in neighborhood and
24 community aesthetics; and

25 WHEREAS, the current conditions of vacant and abandoned properties present a serious
26 threat to the public health and safety of the community; and

27 WHEREAS, the presence of vacant and abandoned properties may discourage buyers
28 from purchasing property within the City; and

29 WHEREAS, many vacant and abandoned properties are the responsibility of lenders and
30 trustees who fail to adequately secure and maintain such properties; and

31 WHEREAS, the City has a vested interest in protecting the City against the decay caused
32 by vacant and abandoned properties and concludes that it is in the best interest of the residents to
33 amend the Code of Ordinances and impose registration and maintenance requirements on such
34 properties located within the City;

1
2 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
3 CITY OF OAKLAND PARK, FLORIDA:
4

5 Section 1: That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as
6 being true and correct and are hereby made a specific part of this Ordinance upon adoption
7 hereof.

8 Section 2: That Chapter 8, Code of Ordinances entitled “Miscellaneous Offenses and
9 Provisions” is hereby amended by Creating Article VII thereof, entitled “Abandoned Real and
10 Personal Property Regulations” to read and provide as follows:
11

12 **ARTICLE VII. ABANDONED REAL AND PERSONAL PROPERTY REGULATIONS**
13

14 **Sec. 8-125. Abandoned Real and Personal Property.**

15 (a) Purpose and Intent. It is the purpose and intent of the City to establish a process to
16 address the amount of abandoned personal and real property located within the City.
17 It is the City’s further intent to specifically establish an abandoned residential
18 property program as a mechanism to protect residential neighborhoods from
19 becoming blighted through the lack of adequate maintenance and security of
20 abandoned properties.
21

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

25 (1) Abandoned Personal Property means wrecked or derelict property, which has
26 been left abandoned and unprotected from the elements and shall include
27 wrecked, inoperative, or partially dismantled motor vehicles, trailers, boats,
28 machinery, refrigerators, washing machines, plumbing fixtures, furniture, and
29 any other similar article which has been left abandoned and unprotected from
30 the elements.

31 (2) Abandoned Real Property means any property that is vacant and is under a
32 current Notice of Default and/or Notice of Mortgagees Sale by the lender or a
33 pending Tax Assessors Lien Sale and/or properties that have been the subject
34 of a foreclosure sale where the title was retained by the beneficiary of a
35 mortgage involved in the foreclosure and any properties transferred under a
36 deed in lieu of foreclosure or sale.

- 1 (3) Accessible property means a property that is accessible through a
2 comprised/breached gate, fence, wall, etc.
- 3 (4) Accessible structure means a structure/building that is unsecured and/or
4 breached in such a way as to allow access to the interior space by
5 unauthorized persons.
- 6 (5) Evidence of vacancy means any condition that on its own, or combined with
7 other conditions present, would lead a reasonable person to believe that the
8 property is vacant. Such conditions may include, but not be limited to,
9 overgrown and/or dead vegetation, accumulation of refuse on abandoned real
10 property, as defined herein, statements by neighbors, passer-bys, delivery
11 agents or government agents, among other evidence that the property is
12 vacant.
- 13 (6) Foreclosure means the process by which a property, placed as security for a
14 real estate loan, is sold at public sale to satisfy the debt if the borrower
15 defaults.
- 16 (7) Enforcement officer means any fulltime law enforcement officer, building
17 official, zoning inspector, code enforcement officer, fire inspector or building
18 inspector employed within the City.
- 19 (8) Inoperative vehicle means any wrecked or partially dismantled vehicle that is
20 parked or stored without having all the wheels mounted, or is in a condition
21 of substantial disrepair, or which is parked or stored without having tires
22 inflated, or parked or stored without current vehicle license and registration,
23 or other similar condition.
- 24 (9) Nominal salvage value means the value of an article of abandoned or derelict
25 property which a reasonably prudent person would believe is the fair market
26 value of the property, taking into consideration its useful life, earning
27 capacity or replacement cost, less depreciation and items of general or special
28 depreciation, would be nominally greater than the costs of salvage including
29 the removal, transportation, storage, and sale of same.
- 30 (10) Private property means all lands and improvements other than public lands
31 and improvements.
- 32 (11) Property Management Company means a local property manager, property
33 maintenance company, or similar entity responsible for the maintenance of
34 abandoned real property.
- 35 (12) Public property means any place to or upon which the public resorts or
36 travels, whether such place is owned or controlled by the city, county or any
37 agency of the state or is a place to or upon which the public resorts or travels
38 by custom or by invitation, express or implied. The term _____ "public
39 property" shall include any street, alley, park, public building, any place of
40 business or assembly open to or frequented by the public, and any other place
41 which is open to the public view, or to which the public has access.
42

1 (13) Residential building means any improved real property, or portion thereof,
2 situated in the City, designed or permitted to be used for dwelling purposes,
3 and shall include the buildings and structures located on such improved real
4 property.

5 (14) Vacant means any building/structure that is not legally occupied.

6
7 (c) **Applicability.** This section shall be considered cumulative and not superseding or
8 subject to any other law or provision for same, but shall rather be an additional
9 remedy available to the City above and beyond any other state, county, and/or local
10 provisions for same.

11 (d) **Penalties.** Any person who shall violate the provisions of this section shall be subject
12 to a \$250 fine on the first offense and a \$500 fine for each repeat offense. If the
13 citation is not paid within 10 days, it may be referred to the Special Magistrate.

14 (e) **Placement of abandoned personal property prohibited.**

15 (1) It shall be unlawful for any person to abandon personal property upon private
16 property:

17 (2) Nothing in this section shall be deemed to apply to abandoned personal
18 property authorized to be left on private business property properly operated,
19 licensed, and zoned in the City for the purpose of accepting abandoned
20 property.

21
22 (f) **Public nuisance.** All abandoned personal property and abandoned real property is
23 hereby declared to be a public nuisance, the abatement of which pursuant to the
24 police power is hereby declared to be necessary for the health, welfare, and safety of
25 the residents of the City.

26
27 (g) **Notification procedure.** When an enforcement officer ascertains that an article of
28 personal property, having nominal salvage value or less, lies abandoned or derelict
29 upon private property, that officer shall comply with the notification provisions of
30 Chapter 162.12, Florida Statute, as amended from time to time.

31
32 (h) **Removal of abandoned personal property.**

33 (1) If at the end of five (5) days after posting notice under this article, the owner
34 or any person interested in such abandoned personal property described in the
35 notice has not removed same, the enforcement officer may cause the article of
36 abandoned personal property to be removed and destroyed, and the salvage
37 value, if any, of such article shall be retained by the City to be applied against
38 the cost of removal and destruction thereof.

39 (2) Before destruction, for abandoned property on public lands or private lands,
40 at the end of the five (5) day period of posting such notice, if the owner or
41 person having interest in the property has not removed the abandoned
42 property from public or private property, or shown reasonable cause for
43 failure to do so, the City may cause the property so described to be removed

1 by a towing company who shall cause the article or articles of abandoned
2 property to be removed and placed in storage in applicable with the local,
3 state, and federal regulations. At the conclusion of the required storage , if
4 the article is not claimed, and if the salvage value is above \$100.00, the
5 towing company shall pay the City of Oakland Park the sum of \$25.00 or
6 10% of such value, whichever is greater, for the administrative costs in
7 handling with said article. If the article is claimed, the City shall receive
8 \$25.00 as an administrative fee.

- 9 (3) It is unlawful to remove abandoned personal property, including inoperative
10 vehicles, from private property to public property after the posting of said
11 property by an enforcement officer.
- 12 (4) An inoperative vehicle shall not be on private property unless it is within a
13 completely enclosed building structure or a designated storage area, which
14 includes a wall or hedge to screen the stored inoperative vehicle from view.
- 15 (5) In the event that the abandoned property is deemed to be an imminent public
16 health and safety hazard, an enforcement officer is authorized to remove the
17 property immediately. Subsequent to the removal of the abandoned property,
18 the City shall make reasonable and diligent efforts to ascertain the owner and
19 take the applicable action. If the abandoned property is on private property,
20 the private property owner shall be provided notice and assessed the cost of
21 removal of the abandoned property and any required clean-up of the private
22 property.

23
24 (i) **Registration of abandoned real property.**

- 25 (1) Any mortgagee who holds a mortgage on real property located within the
26 City shall perform an inspection of the property that is the security for the
27 mortgage, upon default by the mortgagor, prior to the issuance of a Notice of
28 Default. If the property is found to be vacant or shows evidence of vacancy,
29 it shall be deemed abandoned and the mortgagee shall, within ten (10) days of
30 the inspection, register the property with the Engineering and Community
31 Development Director, or his or her designee, on forms provided by the City.
32 A registration is required for each vacant property.
- 33 (2) If the property is occupied but remains in default, it shall be inspected by the
34 mortgagee or his designee monthly until:
- 35 a. The mortgagor or other party remedies the default; or
36 b. It is found to be vacant or shows evidence of vacancy at which
37 time it is deemed abandoned, and the mortgagee shall, within ten (10)
38 days of the inspection, register the property with the Engineering and
39 Community Development Director, or his or her designee, on forms
40 provided by the City.
- 41 (3) Registration pursuant to this section shall contain the name of the mortgagee,
42 the direct mailing address of the mortgagee, a direct contact name and
43 telephone number of the mortgagee, facsimile number and e-mail address

1 and, in the case of a corporation or out-of-area mortgagee, the local property
2 management company responsible for the security and maintenance of the
3 property.

- 4 (4) An annual registration fee in the amount of \$150.00, per property, shall
5 accompany the registration form(s).
6 (5) This section shall also apply to properties that have been the subject of a
7 foreclosure sale where the title was transferred to the beneficiary of a
8 mortgage involved in the foreclosure and any properties transferred under a
9 deed in lieu of foreclosure/sale.
10 (6) Properties subject to this section shall remain under the annual registration
11 requirement, security, and maintenance standards of this section as long as
12 they remain vacant.
13 (7) Any person or corporation that has registered a property under this section
14 must report any change of information contained in the registration within ten
15 (10) days of the change.
16

17 **(i) Maintenance requirements.**

- 18 (1) Properties subject to this section shall be kept free of weeds, overgrown
19 brush, dead vegetation, trash, junk, debris, building materials, any
20 accumulation of newspapers, circulars, fliers, notices, except those required
21 by federal, state, or local law, discarded personal items including, but not
22 limited to, furniture, clothing, large and small appliances, printed material or
23 any other items that give the appearance that the property is abandoned.
24 (2) The property shall be maintained free of graffiti or similar markings by
25 removal or painting over with an exterior grade paint that matches the color
26 of the exterior paint.
27 (3) Front, side, and rear yard landscaping shall be maintained in accordance with
28 the City's standard at the time registration was required.
29 (4) Landscape shall include, but not be limited to, grass, ground covers, bushes,
30 shrubs, hedges or similar plantings, decorative rock or bark or artificial
31 turf/sod designed specifically for residential installation. Landscape shall not
32 include weeds, gravel, broken concrete, asphalt or similar material.
33 (5) Maintenance shall include, but not be limited to, watering, irrigation, cutting,
34 and mowing or required landscape and removal of all trimmings.
35 (6) Pools and spas shall be maintained so the water remains free and clear of
36 pollutants and debris. Pools and spas shall comply with enclosure
37 requirements of the City Code of Ordinances and Florida Building Code, as
38 amended from time to time.
39 (7) Failure of the mortgagee and/or property owner of record to properly
40 maintain the property may result in a violation of the City Code and issuance
41 of a citation or Notice of Violation/Notice of Hearing by the City's Code
42 Enforcement Officer. Pursuant to a finding and determination by the City's

1 Code Enforcement Board/Special Magistrate, the City may take the necessary
2 action to ensure compliance with this section.

3
4 **(k) Security requirements.**

- 5 (1) Properties subject to this section shall be maintained in a secure manner so as
6 not to be accessible to unauthorized persons.
7 (2) A "secure manner" shall include, but not be limited to, the closure and
8 locking of windows, doors, gates, and other openings of such size that may
9 allow a child to access the interior of the property and/or structure. Broken
10 windows shall be secured by reglazing or boarding of the window.
11 (3) If the property is owned by a corporation and/or out-of-area mortgagee, a
12 local property management company shall be contracted to perform bi-
13 weekly inspections to verify compliance with the requirements of this section,
14 and any other applicable laws.
15 (4) The property shall be posted with the name and twenty-four (24) hour contact
16 phone number of the local property management company. The posting shall
17 be no less than an eight-inch by ten-inch sign. The posting shall contain the
18 following language:

19
20 THIS PROPERTY IS MANAGED BY:

21
22 TO REPORT PROBLEMS OR CONCERNS CALL:

23
24 The posting shall be placed on the interior of a window facing the street to the
25 front of the property so it is visible, or secured to the exterior of the
26 building/structure facing the street to the front of the property so it is visible
27 or, if no such area exists, on a stake of sufficient size to support the posting
28 in a location as close as possible to the main door entrance of the property.
29 Exterior posting shall be constructed of and printed with weather-resistant
30 materials.

- 31 (5) The local property management company shall inspect the property on a bi-
32 weekly basis to ensure that the property is in compliance with this section.
33 Upon the request of the City, the local property management company shall
34 provide a copy of the inspection reports to the code enforcement division.
35 (6) Failure of the mortgagee and/or property owner of record to properly
36 maintain the property may result in a violation of the City Code and issuance
37 of a citation or Notice of Violation/Notice of Hearing by the City's Code
38 Enforcement Officer. Pursuant to a finding and determination by the City's
39 Code Enforcement Board/Special Magistrate, the City may take the necessary
40 action to ensure compliance with this section.

1
2 **(l) Opposing, obstructing enforcement officer, penalty.** Whoever opposes, obstructs,
3 or resists any enforcement officer or any person authorized by the enforcement office
4 in the discharge of duties as provided in this section, shall be subject to the General
5 Penalty provisions of Section 24-234 of this Code of Ordinances.

6
7 **(m) Immunity of enforcement officer.** Any enforcement officer or any person
8 authorized by the enforcement officer shall be immune from prosecution, civil or
9 criminal, for reasonable, good faith trespass upon real property while in the discharge
10 of duties imposed by this section.

11
12
13 **(n) Additional authority.** The Director of Engineering and Community Development, or
14 his or her designee, shall have the authority to require the mortgagee and/or owner of
15 record of any property affected by this section, to implement additional maintenance
16 and/or security measures including, but not limited to, securing any and all door,
17 window, or other openings, employment of an on-site security guard, or other
18 measures as may be reasonably required to help prevent further decline of the
19 property.

20
21 **(o) Adoption of rules; expenditure of funds; declaration of City purpose.** The City
22 Manager, consistent with his or her duties and authorities under the City Charter,
23 including those duties and authorities relating to emergency situations, is authorized
24 and empowered to adopt rules and regulations and expend City funds as may be
25 reasonably necessary and available to carry out the terms of this section, the
26 expenditure of such funds being declared a proper City purpose.

27
28
29 **Section 3:** This ordinance shall sunset effective as of March 1, 2013 unless otherwise
30 amended by the City Commission.

31
32 **Section 4:** That in the event any provision or application of this Ordinance shall be held to
33 be invalid, it is the legislative intent that the other provisions and applications hereof shall not be
34 thereby affected.

35 **Section 5:** That the provisions of this Ordinance shall be codified within the Code of
36 Ordinances of the City of Oakland Park, Florida, and any paragraph or section may be
37 renumbered to conform with the Code of Ordinances.

38 **Section 6:** That all Ordinances or parts of Ordinances in conflict herewith are to the extent
39 of said conflict, hereby repealed.

1 Section 7: That this Ordinance shall take effect immediately upon its passage and adoption.

2
3
4 PASSED BY THE CITY COMMISSION OF THE CITY OF OAKLAND PARK,
5 FLORIDA, ON FIRST READING, THIS 20TH DAY OF JANUARY, 2010.

6
7 A. MURPHY YES
8 A. NIEDWIECKI YES
9 S. BOISVENUE YES
10 A. SALLEE YES
11 S. ARNST YES

12
13
14
15 PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF OAKLAND
16 PARK, FLORIDA, ON SECOND READING, THIS 3RD DAY OF FEBRUARY, 2010.

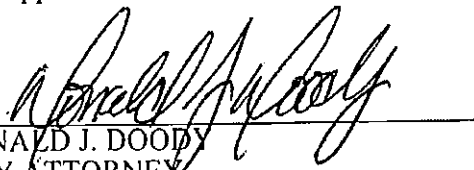
17
18 CITY OF OAKLAND PARK,
19 FLORIDA

20
21
22
23 
24 MAYOR STEVEN R. ARNST

25 A. MURPHY YES
26 A. NIEDWIECKI YES
27 S. BOISVENUE YES
28 A. SALLEE YES
29 S. ARNST YES

30
31
32
33 ATTEST: 
34 JANETTE M. SMITH, CMC
35 CITY CLERK

36
37 LEGAL NOTE
38 I hereby certify that I
39 have approved the form of this Ordinance. (O-2010-009)

40
41
42
43 
44 DONALD J. DOODY
45 CITY ATTORNEY