

ORDINANCE 2010-XX

1 AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-
2 THE-SEA, FLORIDA, AMENDING CHAPTER 11 OF THE
3 CODE OF ORDINANCES BY ESTABLISHING ARTICLE 1
4 FOR EXISTING CODE PROVISIONS RELATED TO JUNKED,
5 WRECKED, STOLEN OR ABANDONED PERSONAL
6 PROPERTY; FURTHER ESTABLISHING ARTICLE II
7 "ABANDONED REAL PROPERTY", TO PROVIDE FOR
8 REGISTRATION, MONITORING AND UPKEEP OF
9 MAINTENANCE OF ABANDONED REAL PROPERTY;
10 PROVIDING FOR SEVERABILITY; PROVIDING FOR
11 CODIFICATION; AND PROVIDING FOR AN EFFECTIVE
12 DATE.

13
14 WHEREAS, Chapter 11 of the Code of Ordinances regulates junked, wrecked, stolen or
15 abandoned property; and

16 WHEREAS, the Town Commission has determined that it is in the best interest of the
17 Town to establish separate Articles within Chapter 11 to address both personal and real property;
18 and

19 WHEREAS, the Town Commission desires to provide for registration of abandoned and
20 foreclosed homes, and for monitoring and maintenance of abandoned real property; and

21 WHEREAS, the Town Commission hereby finds and declares that adoption of this
22 Ordinance is necessary, appropriate, and advances the public interest.

23 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE
24 TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

25 SECTION 1. The preceding "Whereas" clauses are ratified and incorporated as the
26 legislative intent of this Ordinance.

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28 **SECTION 2.** Section 11-1 through 11-8 shall hereinafter be included in and identified
29 under **ARTICLE I. "JUNKED, WRECKED, STOLEN OR ABANDONED PERSONAL**
30 **PROPERTY."**¹

31 **SECTION 3. ARTICLE II. "ABANDONED REAL PROPERTY,"** of Chapter 11 of
32 the Code of Ordinances is established to read as follows²:

33 **ARTICLE II. ABANDONED REAL PROPERTY**

34 **Sec. 11-21. Definitions.**

35 The following words, terms and phrases, when used in this Article, shall have the
36 meanings ascribed to them in this Section, except where the context clearly
37 indicates a different meaning:

38 Abandoned real property means any property that is vacant and is under a current
39 notice of default and/or notice of mortgagee's sale by the lender or a pending tax
40 assessors lien sale and/or properties that have been the subject of a foreclosure
41 sale where the title was retained by the beneficiary of a mortgage involved in the
42 foreclosure and any properties transferred under a deed in lieu of foreclosure or
43 sale.

44 Accessible means that a property or structure, or any portion thereof, can be
45 illegally entered or accessed by the public at large including through a
46 compromised/breached gate, fence, wall, door, window, roof, etc.

47 Enforcement officer means any fulltime law enforcement officer, building official,
48 zoning inspector, code enforcement officer, fire inspector or building inspector
49 employed within the Town.

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

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

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¹ Note to codifier: Sections 11-9 through 11-20 are reserved for Article I.

² Additions to existing text are shown in underline. Deletions are shown in ~~strikethrough~~.

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66 Out-of-area mortgagee means any person, company, or other organization who
67 holds a mortgage on real property located within the Town, whose place of
68 business is located outside of Palm Beach, Broward or Miami-Dade Counties.

69
70 Property management company means a local property manager, property
71 maintenance company or similar entity located within Palm Beach, Broward or
72 Miami-Dade Counties, responsible for the maintenance of abandoned real
73 property.

74
75 Secure manner means maintenance of a structure such that it is not accessible and
76 shall include, but is not limited to, the closure and locking of windows, doors,
77 gates and other openings of such size that may allow a child to access the interior
78 of the property and/or structure. Broken windows shall be secured by reglazing or
79 boarding of the window.

80
81 Vacant means any building/structure that is not legally occupied.

82
83 **Sec. 11-22. Registration.**

84
85 (a) Any mortgagee who holds a mortgage on real property located within the
86 Town shall perform an inspection of the property that is the security for the
87 mortgage, upon default by the mortgagor, prior to the issuance of a notice of
88 default. If the property is found to be vacant or shows evidence of vacancy, it
89 shall be deemed abandoned and the mortgagee shall, within ten (10) days of the
90 inspection, register the property with the Director of Development Services, or his
91 or her designee, on forms provided by the Town. A registration is required for
92 each vacant property.

93
94 (b) If the property is occupied but remains in default, it shall be inspected by the
95 mortgagee or his or her designee on a monthly basis until (1) the mortgagor or
96 other party remedies the default, or (2) the property is found to be vacant or shows
97 evidence of vacancy at which time it is deemed abandoned, and the mortgagee
98 shall, within ten (10) days of that inspection, register the property with the
99 Director of Development Services, or his or her designee, on forms provided by
100 the Town.

101
102 (c) Registration pursuant to this Article shall contain the name of the mortgagee,
103 the direct mailing address of the mortgagee, a direct contact name and telephone
104 number of mortgagee, facsimile number and e-mail address and, in the case of an
105 out-of-area mortgagee, the local property management company responsible for
106 the security and maintenance of the property.

107
108 (d) An annual registration fee in the amount of one hundred fifty dollars
109 (\$150.00), per property, shall accompany the registration form(s). Registrations
110 shall be renewed annually so long as the property remains vacant.

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112 (e) This Article shall also apply to properties that have been the subject of a
113 foreclosure proceeding where the title was transferred to the beneficiary of a
114 mortgage involved in the foreclosure and any properties transferred under a deed
115 in lieu of foreclosure/sale.

116
117 (f) Properties subject to this Article shall remain under the annual registration
118 requirement, and all security and maintenance standards established within this
119 Article, as long as they remain vacant.

120
121 (g) Any mortgagee and/or property owner of record that has registered a
122 property under this Article must report any change of information contained in the
123 registration within ten (10) days of the change.

124
125 **Sec. 11-23. Maintenance requirements.**

126
127 (a) Properties subject to this Article shall be kept free of weeds, overgrown
128 brush, dead vegetation, trash, junk, debris, building materials, any accumulation
129 of newspapers, circulars, flyers, notices, except those required by federal, state, or
130 local law, discarded personal items including, but not limited to, furniture,
131 clothing, large and small appliances, printed material or any other items that give
132 the appearance that the property is abandoned.

133
134 (b) The property shall be maintained free of graffiti or similar markings by
135 removal or by painting with an exterior grade paint that matches the color of the
136 exterior structure.

137
138 (c) Front, side, and rear yard landscaping shall be maintained in accordance with
139 the Town Code applicable at the time registration was required.

140
141 (d) Maintenance may include, but is not limited to, watering, irrigation, cutting,
142 and mowing of required landscape and removal of all trimmings.

143
144 (e) Pools and spas shall be maintained so the water remains free and clear of
145 pollutants and debris. All pools and spas shall comply with the enclosure
146 requirements of the Town Code.

147
148 (f) All properties, including pools, spas, ponds and buildings shall be maintained
149 free of stagnant water, rubbish, debris, and all other objectionable, unsightly or
150 unsanitary matter so as to prevent any condition wherein a property is or may
151 reasonably become infested with or inhabited by rodents, vermin or wild animals,
152 or may furnish a breeding place for mosquitoes, or threaten or endanger the public
153 health, safety, or welfare, or may reasonably cause disease or adversely affect and
154 impair the economic welfare of adjacent property.

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Sec. 11-24. Security requirements.

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

(b) If the property is owned by an out-of-area mortgagee, a local property management company shall be contracted to perform bi-weekly inspections to verify compliance with the requirements of this Article, and any other applicable laws.

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

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

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

(d) The mortgagee, property owner of record, and/or the local property management company shall inspect the property on a bi-weekly basis to ensure that the property is in compliance with this Article. Upon the request of the Town, the inspection reports shall be made available to the Director of Development Services, or his or her designee.

Sec. 11-25. Enforcement; opposing, obstructing enforcement officer.

(a) Failure of the mortgagee, property owner of record, and/or the local property management company, to register, inspect, properly maintain and/or secure the property or otherwise comply with this Article may result in a violation of the Town Code and the issuance of a citation or notice of violation/notice of hearing by an enforcement officer. Pursuant to a finding and determination by the Town's special magistrate, the Town may take the necessary action to ensure compliance with this Section including, if directed by the special magistrate, remedial action to correct the violations at the expense of the property owner.

(b) Any person who opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement officer in the discharge of duties as provided in this Article, shall be punished as provided for within Section 1-12.

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(c) The penalties for violations of this Article shall be pursuant to Florida Local Government Code Enforcement Boards Act, as set forth in Florida Statutes Section 162.09, as amended from time to time, and the minimum penalties shall be as follows:

(1) First violation . . . \$250.00.

(2) Second violation within 12 months of adjudication of first violation . . . \$500.00.

Sec. 11-26. Immunity of enforcement officer.

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

Sec. 11-27. Additional authority.

The Director of Development Services, or his or her designee, shall have authority to require the mortgagee and/or owner of record of any property affected by this Article, to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably required to help prevent further decline of the property.

Sec. 11-28. Adoption of rules; Expenditure of funds; Declaration of Town purpose.

The Town Manager, consistent with his/her duties and authorities under the Town Charter, including those duties and authorities relating to emergency situations, is authorized and empowered to adopt rules and regulations and expend Town funds as may be reasonably necessary and available to carry out the terms of this Article, the expenditure of such funds being declared a proper Town purpose.

SECTION 4. Severability. If any section, sentence, clause or phrase of this Ordinance is

held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Codification. This Ordinance shall be codified.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

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245 **SECTION 7. Adoption.**

246 Passed on the first reading, this ___ day of _____, 2010.

247 Passed and adopted on the second reading, this ___ day of _____, 2010.

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249

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251

Mayor Roseann Minnet

252

253

254 Attest:

255

256 _____
Town Clerk, June White

257 (CORPORATE SEAL)

258

259 Approved as to form:

260

261 _____
Susan L. Trevarthen, Town Attorney

Abandoned Properties:

Coral Springs

&

Margate

Coral Springs

Chapter 16 1/2 ABANDONED REAL AND PERSONAL PROPERTY

Sec. 16 1/2-1. Purpose and intent.

It is the purpose and intent of the city to establish a process to address the amount of abandoned personal and real property located within the city. It is the city's further intent to specifically establish an abandoned residential property program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-2. Definitions.

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

Abandoned personal property means wrecked or derelict property which has been left abandoned and unprotected from the elements and shall include wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture and any other similar article which has been left abandoned and unprotected from the elements.

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

Accessible property means a property that is accessible through a comprised/breached gate, fence, wall, etc.

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

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

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

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

Inoperative vehicle means any wrecked or partially dismantled vehicle that is parked or stored without having all the wheels mounted, or is in a condition of substantial disrepair, or which is parked or stored without having tires inflated, or other similar condition.

Nominal salvage value means the value of an article of abandoned or derelict property which a reasonably prudent person would believe is the fair market value of the property, taking into consideration its useful life, earning capacity or replacement cost, less depreciation and items of general or special depreciation, would be nominally greater than the costs of salvage including the removal, transportation, storage and sale of same.

Private property means all lands and improvements other than public lands and improvements.

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

Public property means canals, all waterways, lands and improvements owned by a governmental body or any governmental agency including but not limited to easements and rights-of-way, but excluding the campus of any institution of the state university system.

Residential building means any improved real property, or portion thereof, situated in the city, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property.

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

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-3. Applicability.

This chapter shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the city above and beyond any other state, county and/or local provisions for same.

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-4. Penalties.

Any person who shall violate the provisions of this chapter shall, upon conviction, be punished as provided in section 1-8.1 of the Code of Ordinances and section 190.1 of the Land Development Code, as applicable.

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-5. Placement of abandoned personal property prohibited.

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

(1) Without such receiving property owner's consent; or

(2) In violation of this or any other applicable law, ordinance or regulation.

(b) Nothing in this section shall be deemed to apply to abandoned personal property authorized to be left on private business property properly operated, licensed and zoned in the city for the purpose of accepting abandoned property.

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-6. Public nuisance.

All abandoned personal property and abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the city.

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-7. Notification procedure.

When an enforcement officer ascertains that an article of personal property having nominal salvage value lies abandoned or derelict upon private property, that officer shall:

(1) Cause a notice to be placed upon such abandoned property in the substantially following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY

THIS PROPERTY, TO WIT:

(setting forth brief description)

LOCATED AT:

(setting forth brief description of location) is:

IMPROPERLY STORED AND IS IN VIOLATION OF

(setting forth ordinance or violation violated)

AND MUST BE REMOVED WITHIN FIVE (5) DAYS FROM THE DATE OF THIS NOTICE; OTHERWISE IT SHALL BE PRESUMED TO BE ABANDONED PROPERTY AND WILL BE REMOVED AND SOLD OR DESTROYED BY ORDER OF THE CITY OF CORAL SPRINGS, FLORIDA, DATED THIS:

(setting forth the date of posting of notice);

SIGNED (setting forth name, title, address and telephone number of enforcement officer.)

Such notice shall be not less than eight (8) inches by ten (10) inches and be sufficiently weatherproof to withstand normal exposure to the elements.

(2) The enforcement officer shall also make reasonable effort to ascertain the name and address of the owner of the abandoned property and, if such address is reasonably available, the officer shall mail by certified mail a copy of the notice to the owner on or before the date of posting the above-described notice on the abandoned personal property.

(3) The enforcement officer shall mail by certified mail a copy of the above-described notice to the owner of the real property upon which the abandoned personal property is located, as shown by the real estate tax records used by the county or any other address provided to the local government by such owner, on or before the date of posting such notice.

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-8. Removal of abandoned personal property.

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

(b) Before destruction, for abandoned property on public lands or private lands, at the end of the five (5) day period of posting of such notice, if the owner or person having interest in the property has not removed the abandoned property from public or private property, or shown reasonable cause for failure to do so, the city may cause the property so described to be removed by a towing company who shall cause the article or articles of abandoned property to be removed and placed in storage in applicable with the local, state and federal regulations. At the conclusion of the required storage, if the article is not claimed, and if the salvage value is above one hundred dollars one hundred dollars (\$100.00), the towing company shall pay the City of Coral Springs the sum of twenty-five dollars (\$25.00) or ten (10) percent of such value, whichever is greater, for the administrative costs in handling with said article. If the article is claimed, the city shall receive twenty-five dollars (\$25.00) as an administrative fee.

(c) It is unlawful to remove abandoned personal property, including inoperative vehicles, from private property to public property after the posting of said property by an enforcement officer.

(d) An inoperative vehicle shall not be on private property unless it is within a completely enclosed building structure or a designated storage area, which includes a wall or hedge to screen the stored inoperative vehicle from view.

(e) In the event that the abandoned property is deemed to be an imminent public health and safety hazard, an enforcement officer is authorized to remove the property immediately. Subsequent to the removal of the abandoned property, the city shall make reasonable and diligent efforts to ascertain the owner and take the applicable action. If the abandoned property is on private property, the private property owner shall be provided notice and assessed the cost of removal of the abandoned property and any required clean-up of the private property.

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-9. Registration of abandoned real property.

(a) Any mortgagee who holds a mortgage on real property located within the city shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, 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 abandoned and the mortgagee shall, within ten (10) days of the inspection, register the property with the director of development services, or his or her designee, on forms provided by the city. A registration is required for each vacant property.

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

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

(d) An annual registration fee in the amount of one hundred fifty dollars (\$150.00), per property, shall accompany the registration form(s).

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

(f) Properties subject to this section shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.

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

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-10. Maintenance requirements.

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

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

(c) Front, side, and rear yard landscaping shall be maintained in accordance with the city's standard at the time registration was required.

(d) Landscape shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.

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

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

(g) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of the City Code and issuance of a citation or notice of violation/notice of hearing by a city's code enforcement officer. Pursuant to a finding and determination by the city's special magistrate, the city may take the necessary action to ensure compliance with this section.

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-11. Security requirements.

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

(b) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or boarding of the window.

(c) If the property is owned by a corporation and/or out of area mortgagee, a local property management company shall be contracted to perform bi-weekly inspections to verify compliance with the requirements of this section, and any other applicable laws.

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

THIS PROPERTY IS MANAGED BY:

TO REPORT PROBLEMS OR CONCERNS CALL:

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

(e) The local property management company shall inspect the property on a bi-weekly basis to ensure that the property is in compliance with this chapter. Upon the request of city, the local property management company shall provide a copy of the inspection reports to the code enforcement division.

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

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-12. Opposing, obstructing enforcement officer; penalty.

Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this chapter, upon conviction shall be punished as provided in section 1-8.1.

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-13. Immunity of enforcement officer.

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

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-14. Additional authority.

The director of development services, or his or her designee, 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, securing any and all door, window or other openings, employment of an on-site

security guard, or other measures as may be reasonably required to help prevent further decline of the property.

(Ord. No. 2008-109, § 3, 6-3-08)

Sec. 16 1/2-15. Adoption of rules; expenditure of funds; declaration of city purpose.

The city manager, consistent with his/her duties and authorities under the City Charter, including those duties and authorities relating to emergency situations, is authorized and empowered to adopt rules and regulations and expend city funds as may be reasonably necessary and available to carry out the terms of this chapter, the expenditure of such funds being declared a proper city purpose.

(Ord. No. 2008-109, § 3, 6-3-08)

Section 23.16. Abandoned real and personal property.

(1) *Purpose and intent.* It is the purpose and intent of the City Commission to establish a process to limit and reduce the amount of abandoned personal and real property located within the City. It is the City Commission's further intent to specifically establish an abandoned residential property program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

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

Abandoned personal property means wrecked or derelict property which has been left abandoned and unprotected from the elements and shall include wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture and any other similar article which has been left abandoned and unprotected from the elements.

Abandoned real property means any property that is vacant and is under a current notice of default and/or notice of mortgagee's sale, pending tax assessors lien sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure, any properties transferred under a deed in lieu of foreclosure or sale or any properties transferred or pending transfer as part of bankruptcy proceedings.

Accessible property means a property that is accessible through a comprised/breached gate, fence, wall, etc.

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

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

Foreclosure means the legal proceedings initiated by a creditor to repossess the collateral for a residential or commercial loan that is in default.

Enforcement officer means any fulltime law enforcement officer, fire department official, building official, zoning inspector or code compliance officer employed within the city.

Nominal salvage value means the value of an article of abandoned or derelict property which a reasonably prudent person would believe the fair market value of the property would be nominally greater than the costs of salvage including the removal, transportation, storage and sale of same. (This shall take into consideration its useful life, earning capacity or replacement cost, less depreciation and items of general or special depreciation.)

Private property means all lands and improvements other than public lands and improvements.

Public property means canals, all waterways, lands and improvements owned by a governmental body or any governmental agency including but not limited to easements and rights-of-way, but excluding the campus of any institution of the state university system.

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

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

(3) *Applicability.* This article shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the city above and beyond any other state, county and/or local provisions for same.

(4) *Penalties.* Any person who shall violate the provisions of this article shall, upon conviction, be punished as provided in section 1-8.

(5) *Placement of abandoned personal property prohibited.*

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

(1) Without receiving the property owner's consent; or

(2) In violation of this or any other applicable law, ordinance or regulation.

(b) Nothing in this section shall be deemed to apply to abandoned personal property authorized to be left on private business property properly operated, licensed and zoned in the city for the purpose of accepting abandoned property.

(6) *Public nuisance.* All abandoned personal property and abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the city.

(7) *Notification procedure.* When an enforcement officer ascertains that an article of personal property having nominal salvage value lies abandoned or derelict upon private property, that officer shall:

(a) Cause a notice to be placed upon such abandoned property in the substantially following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE
ATTACHED PROPERTY THIS PROPERTY, TO WIT:

(setting forth brief description)

LOCATED AT:

(setting forth brief description of location) is:

IMPROPERLY STORED AND IS IN VIOLATION OF

(setting forth ordinance or violation violated)

AND MUST BE REMOVED WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE; OTHERWISE IT SHALL BE PRESUMED TO BE ABANDONED PROPERTY AND WILL BE REMOVED AND SOLD OR DESTROYED BY ORDER OF THE GOVERNING BODY OF THE CITY OF MARGATE, FLORIDA, DATED THIS:

(setting forth the date of posting of notice);

SIGNED (setting forth name, title, address and telephone number of enforcement officer.)

Such notice shall be not less than eight (8) inches by ten (10) inches and be sufficiently weatherproof to withstand normal exposure to the elements.

(b) The enforcement officer shall also make reasonable effort to ascertain the name and address of the owner of the abandoned property and, if such address is reasonably available, the officer shall mail by certified mail a copy of the notice to the owner on or before the date of posting the above-described notice on the abandoned personal property.

(c) The enforcement officer shall mail by certified mail a copy of the above-described notice to the owner of the real property upon which the abandoned personal property is located, as shown by the real estate tax records used by the county, on or before the date of posting such notice.

(8) *Removal of abandoned personal property.*

(a) If at the end of ten (10) days after posting notice under this article, the owner or any person interested in such abandoned personal property described in the notice has not removed same, the enforcement officer may cause the article of abandoned personal property to be removed and destroyed or sold, and the salvage value, if any, of such article shall be retained by the local government to be applied against the cost of removal and destruction thereof.

(b) Before sale or destruction, as determined by the City of Margate, any owner or lienholder of the abandoned personal property shall be permitted to regain possession thereof upon proof of ownership or lien rights entitling the lienholder to possession, upon payment of storage charges and all expenses incurred by the enforcement officer and/or the city.

(9) *Registration of abandoned real property.*

(a) Any mortgagee who holds a mortgage on real property located within the city shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, 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 abandoned and the mortgagee shall, within ten (10) days of the inspection, register the property with the code compliance unit of the police department of the City of Margate, or his or her designee, on forms provided by the City.

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

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

(d) An annual registration fee in the amount of fifty dollars (\$50.00) shall accompany the registration form. Fees shall be tendered in U.S. dollars.

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

(f) Properties subject to this section shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.

(g) Any person or corporation that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change. Changes shall be reported in writing to the code compliance unit of the police department of the City of Margate.

(10) *Maintenance requirements.*

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

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

(c) Visible front, side and rear yards shall be landscaped and maintained to the neighborhood standard at the time registration was required. All rear yards shall be maintained such that they do not attract wildlife such as rats, raccoons, stray cats, etc.

(d) Landscape shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation.

Landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.

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

(f) Pools and spas shall be kept in working order so the water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the City Code of Ordinances and Florida Building Code, as amended from time to time.

(g) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of the City Code and citation by the City's police department and/or code compliance unit. Pursuant to a finding and determination by the special magistrate, the City may take the necessary action to ensure compliance with this section.

(11) *Security requirements.*

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

(b) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by reglazing.

(c) If the property is owned by a corporation and/or out-of-area mortgagee, a local property manager or management company shall be contracted to perform monthly inspections to verify compliance with the requirements of this section, and any other applicable laws.

(d) The local property management company shall inspect the property on a monthly basis to ensure that the property is in compliance with this chapter and keep a log of same. Said log shall be produced to the City of Margate upon request.

(e) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of the City Code and citation by the City's police department and/or code compliance unit pursuant to a finding and determination by the special magistrate, the City may take the necessary action to ensure compliance with this section.

(12) *Opposing, obstructing enforcement officer; penalty.* Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this article, upon conviction shall be punished as provided in section 1-8.

(13) *Immunity of enforcement officer.* Any enforcement officer or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon real property while in the discharge of duties imposed by this article.

(14) *Additional authority.* The City's police department and/or the City of Margate Code Compliance Unit 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, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably required to prevent a decline of the property.

(15) *Adoption of rules; expenditure of funds; declaration of city purpose.* The governing body is authorized and empowered to adopt rules and regulations and expend City funds as may be reasonably necessary and available to carry out the terms of this article, the expenditure of such funds being declared a proper city purpose.