

ORDINANCE NO. O-2010-02

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, REPEALING CHAPTER 90 ENTITLED "ABANDONED PROPERTY" IN ITS ENTIRETY AND CREATING CHAPTER 90 ENTITLED "ABANDONED REAL AND PERSONAL PROPERTY" TO INCLUDE BUT NOT BE LIMITED TO PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR NOTIFICATION PROCEDURES; PROVIDING FOR REMOVAL OF ABANDONED PERSONAL PROPERTY; PROVIDING FOR THE REGISTRATION OF ABANDONED REAL PROPERTY; PROVIDING FOR MAINTENANCE AND INSPECTION REQUIREMENTS; PROVIDING FOR SECURITY REQUIREMENTS; AND PROVIDING FOR PENALTIES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is important for the City of Hollywood (hereinafter referred to as "City") to establish a process to address the amount of abandoned real and personal property within the City; and

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

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

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

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

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

(Coding: Words in ~~struck-through~~ type are deletions from existing law; words underscored are additions.)

WHEREAS, the City's Code of Ordinances currently regulates the manner in which abandoned property must be maintained in the City, and the City Commission deems it to be in the City's best interests to delete the existing code provisions related to abandoned property on public and private lands and to create a new chapter related to abandoned real and personal property and to include the maintenance of abandoned real property as well; and

WHEREAS, the City has a vested interest in protecting the City against the decay caused by vacant and abandoned properties and concludes that it is in the best interest of the citizens and residents to impose registration requirements on such properties located within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby incorporated herein and made a part hereof.

Section 2: That Chapter 90 of the Hollywood Code of Ordinances entitled "Abandoned Property" is hereby deleted in its entirety.

Section 3: That Chapter 90 of the Hollywood Code of Ordinances entitled "Abandoned Real and Personal Property" is hereby created to read as follows:

## **CHAPTER 90. ABANDONED REAL AND PERSONAL PROPERTY**

### **§ 90.01 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.

### **§ 90.02 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 but not be limited to

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.

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.

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

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.

**§ 90.03**      **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.

**§ 90.04**      **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, property operated, licensed and zoned in the City for the purpose of accepting abandoned property.

**§ 90.05**      **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.

**§ 90.06**      **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 HOLLYWOOD, 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 inches by ten 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.

(4) The City Manager or his/her designee shall hold an informal hearing at the request of any person or entity claiming an interest in the posted personal property located on private property within five days following the request, or at such later date as the City Manager or his/her designee shall determine. Where such request for a hearing has been received by the city within five working days following the posting of the notice, the personal property shall not be removed by the city prior to the expiration of two working days immediately following the hearing if the personal property is determined to be abandoned. The purpose of such hearing is to provide an opportunity for the owner, or person or entity responsible for the personal property, to demonstrate that, in fact, the subject personal property is not abandoned.

(5) Failure to request a hearing or failure to attend a scheduled hearing shall constitute a waiver of the right to a hearing and consent to the removal and disposition of the personal property as abandoned. If a hearing is waived or if it is determined at or following a hearing that the subject personal property is abandoned property, following a two day period as provided in (4) above, the personal property shall be removed in accordance with Section 90.07 herein.

**§ 90.07 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 \$100.00, the towing company shall pay the City of Hollywood the sum of \$25.00 or 10% of such value, whichever is greater, for the administrative costs in handling with said article. If the article is claimed, the City shall receive \$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.

#### **§ 90.08 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 Code Enforcement, or his or her designee, on forms provided by the City. A separate 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 Code Enforcement, 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 \$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.

#### **§ 90.09 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 and shall comply with the regulations set forth in Chapter 158 of the Hollywood Code of Ordinances. Pools and spas shall comply with the enclosure requirements of Hollywood's Code of Ordinances and the Florida Building Code.

(g) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation and issuance of a citation or Notice of Violation/Notice of Hearing in accordance with Chapter 36 of the Hollywood Code of



Ordinances. Pursuant to a finding and determination by the City's Special Magistrate or a court of competent jurisdiction, the city may take the necessary action to ensure compliance with this section.

**§ 90.10 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 Compliance Division.

(f) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of Hollywood's Code of Ordinances and issuance of a citation or Notice of Violation/Notice of Hearing in accordance with Chapter 36 of

Hollywood's Code of Ordinances. Pursuant to a finding and determination by the City's Special Magistrate or a court of competent jurisdiction, the City may take the necessary action to ensure compliance with this section.

**§ 90.11**      **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 shall be punishable as provided in Section 133.99 of the Code of Ordinances.

**§ 90.12**      **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.

**§ 90.13**      **Additional Authority.**

The Director of Code Enforcement, 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.

**§ 90.14**      **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.

**§ 90.15**      **Penalties.**

Any person who shall violate the provisions of this chapter shall, upon conviction by a court of competent jurisdiction or a finding of violation by a special magistrate, be punished as provided in Chapter 36 of the Hollywood Code of Ordinances, as applicable.

ORDINANCE ON CHAPTER 90, ABANDONED PROPERTY.

Section 4: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 5: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 6: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 7: That this ordinance shall be in full force and effect immediately upon its passage and adoption.

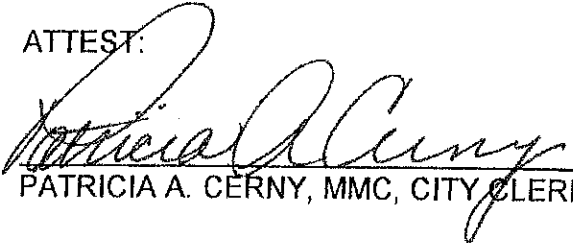
ADVERTISED on Jan 8, 2010.

PASSED on first reading this 16 day of Dec, 2009.

PASSED AND ADOPTED on second reading this 20 day of Jan, 2010.

  
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PETER BOBER, MAYOR

ATTEST:

  
\_\_\_\_\_  
PATRICIA A. CERNY, MMC, CITY CLERK

APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND RELIANCE OF THE  
CITY OF HOLLYWOOD, FLORIDA, ONLY.

  
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JEFFREY P. SHEFFEL, CITY ATTORNEY