

ARTICLE III. ABANDONED REAL AND PERSONAL PROPERTY*

***Editor's note:** Ord. No. 08-01-1205, § 2, adopted Jan. 8, 2008, amended Art. III in its entirety to read as set out herein. The former Art. III pertained to abandoned property. See also the Code Comparative Table.

Sec. 26-50. 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.

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-51. 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 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 auction to satisfy the debt if the borrower defaults.

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

Nominal salvage value means the value an article of abandoned or derelict property which a

reasonably prudent person would believe 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 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.

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. 08-01-1205, § 2, 1-08-08)

Sec. 26-52. 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.

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-53. Penalties.

Any person who shall violate the provisions of this article shall, upon conviction, be punished as provided in section 1-7.

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-54. 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. 08-01-1205, § 2, 1-08-08)

Sec. 26-55. 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. 08-01-1205, § 2, 1-08-08)

Sec. 26-56. 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 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 NORTH LAUDERDALE, 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, on or before the date of posting such notice.

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-57. Removal of abandoned personal property.

- (a) If at the end of five 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 local government to be applied against the cost of removal and destruction thereof.

- (b) Before sale or destruction, 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.

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-58. 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 days of the inspection, register the property with the director of community development, 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 days of that inspection, register the property with the director of community development, 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 \$50.00 shall accompany the registration form.

(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 days of the change.

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-59. 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 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) Visible front and side yards shall be landscaped and maintained to the neighborhood 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 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 this Code and the 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 code enforcement department. Pursuant to a finding and determination by the city's code enforcement board or special magistrate, the city may take the necessary action to ensure compliance with this section.

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-60. 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 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 24-hour contact phone number of the local property management company. The posting shall be no less than 18 inches x 24 inches, and shall be of a font that is legible from a distance of 45 feet. 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 from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is visual from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.

(e) The local property management company shall inspect the property on a weekly basis to ensure that the property is in compliance with this chapter.

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

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-61. 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 1-7.

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-62. 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.

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-63. Additional authority.

The director of community development 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.

(Ord. No. 08-01-1205, § 2, 1-08-08)

Sec. 26-64. 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.

(Ord. No. 08-01-1205, § 2, 1-08-08)