

ORDINANCE NO. 2014- 2

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA, AMENDING ARTICLE IV OF CHAPTER 2 OF THE CLAY COUNTY CODE, KNOWN AS THE CODE ENFORCEMENT ORDINANCE OF CLAY COUNTY, FLORIDA; TO REVISE SECTION 2-103 THEREOF BY REVISING AND ADDING DEFINITIONS; TO REVISE SECTIONS 2-104, 2-105 AND 2-106 THEREOF BY ADDING REFERENCES TO MULTIPLE SPECIAL MAGISTRATES; TO REVISE SECTION 2-105 THEREOF BY ADDING PROVISIONS ADDRESSING THE ASSIGNMENT AND REASSIGNMENT OF CASES TO SPECIAL MAGISTRATES; TO REVISE SECTIONS 2-105, 2-106, 2-107, 2-108, 2-111, 2-112, 2-115, 2-116 AND 2-118 THEREOF BY ADDING REFERENCES TO ASSIGNED SPECIAL MAGISTRATES; TO REVISE SECTION 2-106 THEREOF BY ADDING PROVISIONS ADDRESSING PROCEDURES AND SPECIAL MAGISTRATE POWERS PERTAINING TO CASES INVOLVING REPEAT VIOLATIONS, BY REDESIGNATING A SUBSECTION, BY REVISING A SUBSECTION REFERENCE, BY DELETING A PROVISION GOVERNING THE ASSIGNMENT OF SPECIAL MAGISTRATES, BY ADDING A PROVISION CLARIFYING THE IDENTITY OF THE SPECIAL MAGISTRATE'S CLERICAL STAFF, AND BY ADDING A PROVISION PERTAINING TO A CONDITION CAUSING A VIOLATION THAT PRESENTS A SERIOUS THREAT TO PUBLIC HEALTH, SAFETY AND WELFARE; TO REVISE SECTION 2-113 THEREOF BY ADDING PROVISIONS SPECIFYING THE CODES AND ORDINANCES WITHIN THE JURISDICTION OF THE SPECIAL MAGISTRATES, TO-WIT: THE LAND DEVELOPMENT CODE; SECTION 2-118 (ABANDONED PROPERTIES); CHAPTER 4, ARTICLE II (ANIMALS AND FOWL: ANIMAL CONTROL); SECTION 10.1 (LITTERING); SECTION 11.5-41 (STANDARD HOUSING CODE) AND THE CODE ADOPTED THEREUNDER; CHAPTER 14, ARTICLE II (NUISANCES: ABANDONED VEHICLES); CHAPTER 18, ARTICLE II (ROADS, BRIDGES, PUBLIC TRANSPORTATION FACILITIES, ETC.: CONSTRUCTION); CHAPTER 18, ARTICLE VIII (ROADS, BRIDGES, PUBLIC TRANSPORTATION FACILITIES, ETC.: ILLICIT DISCHARGE); CHAPTER 18.5, ARTICLE II (VEGETATION: TREE PRESERVATION); CHAPTER 18.5, ARTICLE III (VEGETATION: LANDSCAPING); APPENDIX A (SUBDIVISIONS); AND APPENDIX D, ARTICLE III (SOLID WASTE FRANCHISING AND COLLECTION); TO FURTHER REVISE SECTION 2-113 THEREOF BY DELETING EXISTING REFERENCES TO CERTAIN CODES AND ORDINANCES, AND BY REVISING PROVISIONS DESIGNATING THE COUNTY PERSONNEL RESPONSIBLE FOR INVESTIGATING AND PROSECUTING VIOLATIONS; TO REVISE SECTION 2-115 THEREOF BY REORGANIZING ITS PROVISIONS UNDER ONE SUBSECTION

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AND BY ADDING A SECOND SUBSECTION ESTABLISHING A PROCEDURE FOR A PURCHASER UNDER A BONA FIDE CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY SUBJECT TO A LIEN CREATED UNDER SECTION 2-108 TO SEEK A LIEN REDUCTION FROM THE BOARD OF COUNTY COMMISSIONERS, AUTHORIZING THE ENTRY INTO AN AGREEMENT THEREFOR AND REQUIRING ABATEMENT OF THE VIOLATION OR REPEAT VIOLATION BEFORE ANY LIEN REDUCTION MAY TAKE EFFECT; TO REVISE SECTION 2-117 THEREOF BY ADDING PROVISIONS THAT NOTHING IN SAID ARTICLE SHALL PROHIBIT THE COUNTY FROM ENFORCING THE CODES AND ORDINANCES SPECIFIED IN SECTION 2-113 BY ANY OTHER LAWFUL MEANS; TO REVISE SECTION 2-118 THEREOF PERTAINING TO ABANDONED PROPERTIES BY REVISING THE PROVISIONS THEREOF ESTABLISHING INTENT AND PURPOSE, BY REVISING CERTAIN DEFINITIONS AND DELETING OTHERS, BY REVISING PROVISIONS PERTAINING TO APPLICABILITY, BY REVISING PROVISIONS IN ORDER TO DECLARE THAT A NUISANCE IS A VIOLATION THEREOF, BY REVISING PROVISIONS PERTAINING TO REGISTRATION OF ABANDONED REAL PROPERTY UNDER SPECIFIED CIRCUMSTANCES INVOLVING MORTGAGES IN DEFAULT, BY REVISING PROVISIONS PERTAINING MAINTENANCE REQUIREMENTS FOR ABANDONED REAL PROPERTY, BY REVISING PROVISIONS AUTHORIZING THE REQUIREMENT OF ADDITIONAL MAINTENANCE UNDER SPECIFIED CIRCUMSTANCES INVOLVING PRESERVATION OF PROPERTY OR PUBLIC SAFETY, BY REVISING PROVISIONS PERTAINING TO EXEMPTIONS, BY REVISING PROVISIONS PERTAINING TO DESIGNATION OF INVESTIGATING AND ENFORCING AUTHORITY, AND BY REVISING PROVISIONS PERTAINING TO ENFORCEMENT AND PROCEDURES THEREFOR; AND TO REVISE SECTIONS 2-102, 2-103, 2-105, 2-106, 2-108, 2-109, 2-111 AND 2-112 THEREOF BY MAKING CERTAIN NON-MATERIAL ADDITIONS AND DELETIONS FOR THE SAKE OF CLARIFICATION AND IMPROVING READABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Be It Ordained by the Board of County Commissioners of Clay County:

Section 1. Sections 2-101 through 2-118 of Article IV of Chapter 2 of the Clay County Code are hereby amended to read in their entireties as follows:

Sec. 2-101. Short title.

This article may be cited as the "Code Enforcement Ordinance of Clay County, Florida."

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Sec. 2-102. Intent.

It is the intent of this article to promote, protect, and improve the health, safety, and welfare of the citizens of Clay County, Florida, by authorizing the appointment of one ~~(1)~~ or more code enforcement special magistrates with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective, and inexpensive method of enforcing certain codes and ordinances in force within the county where a pending or repeated violation continues to exist.

Sec. 2-103. Definitions.

- (a) Unless the context requires otherwise, the terms used in this article shall have the definitions provided under Chapter 162, Florida Statutes.
- (b) Also as used in this article, and unless the context clearly requires otherwise, the following terms shall have the meanings herein ascribed:
 - (1) Assigned special magistrate shall mean the special magistrate to which a code enforcement case for a violation or repeat violation has been assigned in accordance with the provisions of section 2-105, or such special magistrate's successor by replacement or reassignment.
 - (2) ~~Board~~ The term "board" shall mean the board of county commissioners of the county.
 - (3) ~~County~~ The term "county" shall mean Clay County, Florida.
 - (4) Repeat violation shall mean a violation of a provision of a code or ordinance set forth in section 2-113 by a person who has been previously found through any process described in this article or through any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provision within 5 years prior to the violation, notwithstanding the violations occur at different locations.

Sec. 2-104. Code enforcement board dissolved; references revised.

The code enforcement board heretofore established by the adoption of Ordinance No. 88-27 is hereby dissolved effective September 30, 2006; provided, all prior administrative actions, orders and liens imposed by such code enforcement board shall remain in full force and effect. No cases shall be referred to the code enforcement board on and after September 8, 2006. All cases remaining pending before the code enforcement board as of September 30, 2006, shall be transferred to the special magistrate or special magistrates. All references

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to the code enforcement board occurring elsewhere within this Code, within the county's land development regulations and within any other codes, ordinances and resolutions of the board shall hereafter be deemed to refer to the special magistrate or special magistrates appointed under the authority of this article.

Sec. 2-105. Special magistrate appointment and power.

- (a) The board shall appoint a special magistrate or special magistrates, as needed. Appointments shall be made on the basis of experience and interest in the subject matter, in the sole discretion of the board. A special magistrate must be a member in good standing of The Florida Bar. Appointments to fill any vacancy shall be for the remainder of the unexpired term of office.
- (b) The term of office for a special magistrate shall be for two ~~(2)~~ years, unless terminated earlier by the board for misfeasance, malfeasance or nonfeasance in office.
- (c) The amount of compensation paid to a special magistrate shall be determined by the board, and may not be reduced during the term of office.
- (d) The special magistrate or special magistrates shall have the power to:
 - (1) Adopt rules for the conduct of code enforcement hearings; provided, the rules shall be uniform for all special magistrates, and if more than one ~~(1)~~ special magistrate has been appointed, then all shall confer initially on the adoption and thereafter as needed on the amendment of the rules, with the concurrence of the majority necessary for adoption or amendment, and with the senior special magistrate having the sole authority to approve or disapprove upon a tie vote.
 - (2) Subpoena alleged violators and witnesses to code enforcement hearings. Subpoenas may be served by the sheriff of the county or his or her deputies.
 - (3) Subpoena evidence.
 - (4) Take testimony under oath.
 - (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.
- (e) If more than one special magistrate has been appointed, then the assignment of a case to a special magistrate for a violation or a repeat

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violation shall be at random. An assigned special magistrate may reassign a violation or repeat violation to another special magistrate for good cause.

Sec. 2-106. Enforcement procedures.

- (a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes and ordinances under the jurisdiction of the special magistrate or special magistrates and more particularly set out hereinafter, however, no special magistrate shall have the power to initiate such enforcement proceedings.
- (b) Except as provided in subsection ~~(d)-(e)~~, if a violation of any such code or ordinance is found, the code inspector shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the assigned special magistrate and request a hearing. ~~If more than one (1) special magistrate has been appointed, then the assignment of a case shall be at random.~~ The assigned special magistrate, through clerical staff of the county designated for such purpose, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided in Section 162.12, Florida Statutes, to said violator. At the option of the assigned special magistrate, notice may additionally be served by publication or posting as provided therein. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the assigned special magistrate even if the violation has been corrected prior to the code enforcement hearing, and the notice shall so state.
- ~~(c) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the assigned special magistrate and request a hearing. The assigned special magistrate, through clerical staff of the county designated for such purpose, shall schedule a hearing and shall provide notice pursuant to Section 162.12, Florida Statutes. The case may be presented to the assigned special magistrate even if the repeat violation has been corrected prior to the hearing, and the notice shall so state. If the repeat violation has been corrected, the assigned special magistrate retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the assigned special magistrate.~~
- (de) If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety and welfare or if the violation is irreparable or irreversible in nature, the

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code inspector shall make a reasonable effort to notify the violator and may immediately notify the assigned special magistrate and request a hearing.

Sec. 2-107. Conduct of hearings.

- (a) Upon request of the code inspector, or at such other times as may be necessary, the assigned special magistrate may call a code enforcement hearing. Minutes shall be kept of all hearings by the assigned special magistrate, and all hearings and proceedings shall be open to the public and electronically recorded.
- (b) The assigned special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The assigned special magistrate shall take testimony from the code inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
- (c) At the conclusion of the hearing, the assigned special magistrate shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted herein and in Chapter 162, Florida Statutes. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date.

Sec. 2-108. Administrative fines; costs of repair; liens.

- (a) The assigned special magistrate upon notification by the code inspector that an order of the assigned special magistrate has not been complied with by the set time may order the violator to pay a fine not to exceed ~~two hundred fifty dollars~~ (\$250.00) for each day the violation continues past the date set for compliance, or, upon finding that the same violation has been repeated by the same violator, may order the violator to pay a fine not to exceed ~~five hundred dollars~~ (\$500.00) for each day the violation continues past the date set for compliance or for each time the violation has been repeated, and a hearing shall not be necessary for issuance of the order. If the assigned special magistrate finds the violation to be irreparable or irreversible in nature, the assigned special magistrate may impose a fine not to exceed ~~five thousand dollars~~ (\$5,000.00) per violation.
- (b) In determining the amount of the fine under subsection (a), if any, the assigned special magistrate shall consider the following factors:
 - (1) The gravity of the violation;

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- (2) Any actions taken by the violator to correct the violation; and,
 - (3) Any previous violations committed by the violator.
- (c) A certified copy of an order imposing a fine, or a fine plus repair costs and/or other associated costs incurred by the county under subsection (d), may be recorded in the public records of the county, and thereafter shall constitute a lien against the real property on which the violation exists and upon any other real or personal property owned by the violator, and it may be enforced in the same manner as a court judgment by the sheriff of the county, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After three ~~(3)~~ months from the filing of any such lien which remains unpaid, the assigned special magistrate may authorize the county attorney to foreclose on the lien with the approval of the board. No lien created pursuant to the provisions of this article may be foreclosed on real property which is a homestead under Section 4, Article X of the Constitution of the State of Florida.
- (d) If the violation is a violation described in subsection 2-106(c), the assigned special magistrate shall notify the board, which may make all reasonable repairs and/or other associated costs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the board to make further repairs or to maintain the property and does not create any liability against the board or the county for any damages to the property if such repairs were completed in good faith.

Sec. 2-109. Duration of lien.

No lien provided hereunder shall continue for a period longer than twenty ~~(20)~~ years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Sec. 2-110. Deposit; disposition of proceeds.

All monies received hereunder, generated by fines or otherwise, shall be deposited into the county's Municipal Services Fund, to be budgeted first for payment of special magistrate fees. All remaining funds shall be appropriated and expended as provided by the board.

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Sec. 2-111. Appeals.

An aggrieved party, including the board, may appeal a final administrative order of the assigned special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the assigned special magistrate. An appeal shall be filed within thirty ~~(30)~~-days of the rendition of the order to be appealed.

Sec. 2-112. Notices.

- (a) All notices required by this article shall be provided to the alleged violator by certified mail, return receipt requested, by hand delivery by the sheriff of the county or his or her deputy, by the code inspector, or by other person designated by the board by resolution, or by leaving the notice at the violator's usual place of residence with some person of his or her family above fifteen ~~(15)~~-years of age and informing such person of the contents of the notice.
- (b) In addition to providing notice as set forth in subsection (a), at the option of the assigned special magistrate, notice may also be served by publication or posting, as follows:
 - (1) Such notice shall be published once fifteen ~~(15)~~-days prior to the hearing date during each week for four ~~(4)~~-consecutive weeks (four ~~(4)~~-publications being sufficient) in the newspaper designated by the board for legal and notice publication.
 - (2) Proof of publication shall be made as provided in Sections 50.041 and 50.051, Florida Statutes.
 - (3) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a).

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this article have been met, without regard to whether or not the alleged violator actually received such notice.

Sec. 2-113. Jurisdiction of special magistrate.

- (a) The assigned special magistrate shall have the jurisdiction and authority to hear and decide alleged violations of the following codes and ordinances of the county, ~~with the county's designated code enforcement staff bearing~~

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the responsibility for investigation and prosecution except as otherwise indicated:

- (1) The Land Development Code.
 - (2) Section 2-118 (Abandoned Properties).
 - (3) Chapter 4, Article II (Animals and Fowl: Animal Control).
 - (4) Section 10.1 (Littering).
 - (5) Section 11.5-41 (Standard Housing Code) and the code adopted thereunder.
 - (6) Chapter 14, Article II (Nuisances: Abandoned Vehicles).
 - (7) Chapter 18, Article II (Roads, Bridges, Public Transportation Facilities, etc.: Construction).
 - (8) Chapter 18, Article VIII (Roads, Bridges, Public Transportation Facilities, etc.: Illicit Discharge).
 - (9) Chapter 18.5, Article II (Vegetation: Tree Preservation).
 - (10) Chapter 18.5, Article III (Vegetation: Landscaping).
 - (11) Appendix A (Subdivisions).
 - (12) Appendix D, Article III (Solid Waste Franchising and Collection).
- (b) The designated staff of the division or other organizational unit of county government below the department level responsible for animal care and control shall be responsible for the investigation and prosecution of Chapter 4, Article II (Animals and Fowl: Animal Control), and shall be deemed code inspectors for such purposes.
- (c) The designated code inspectors of the division or other organizational unit of county government below the department level responsible for code enforcement shall be responsible for the investigation and prosecution of all codes and regulations set forth in subsection (a), with the exception of Chapter 4, Article II (Animals and Fowl: Animal Control).
- (a) ~~Minimum housing, building code, sign and tree ordinances.~~
- (b) ~~Zoning, land development regulations, abandoned vehicles, landscape ordinances.~~

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- ~~(c) — Subdivision, water and drainage, work in county right-of-way ordinances.~~
- ~~(d) — Litter and solid waste ordinance.~~
- ~~(e) — Clay County Animal Control Ordinance, to be investigated and prosecuted by the designated staff of the animal control division.~~
- ~~(f) — Illicit Discharge Ordinance.~~

Sec. 2-114. Lien research fee.

The board may establish a uniform fee to be paid in advance for research conducted by county personnel at the request of any party regarding the status of, or the outstanding amount due, on a lien created under section 2-108. The fee shall be based upon the average cost incurred by the county, through its personnel, in conducting the research for a single lien.

Sec. 2-115. Request for lien reduction.

- (a) The board may establish a uniform fee to be paid in advance by any party submitting a request to the assigned special magistrate for a recommendation to reduce the amount of a lien created under section 2-108. Such fee must be paid each time that the same party submits such a request for the same lien. The fee shall be based upon the average cost incurred by the county, through its personnel and the assigned special magistrate, in processing a single request, in hearing the request, and in submitting any recommendation on the request to the board.
- ~~(b) Upon presenting a bona fide written contract for purchase and sale of property subject to a lien created under section 2-108, the purchaser under the contract may submit a request for reduction of the lien directly to the board without first seeking a recommendation from the assigned special magistrate. The board shall be authorized to enter into a written agreement to reduce the lien to a specified amount determined in the discretion of the board conditioned upon the purchaser's abatement of the violation or repeat violation giving rise to the lien, and such agreement shall include such terms and conditions for the reduction and abatement as the board may deem necessary and appropriate. No such lien reduction may take effect until such violation or repeat violation has been abated in accordance with such terms and conditions.~~

Sec. 2-116. Costs.

If the county prevails in prosecuting a case before the assigned special magistrate, it shall be entitled to recover all costs incurred in such prosecution, as

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determined by the assigned special magistrate, and such costs may be included in the lien created under section 2-108.

Sec. 2-117. Provisions supplemental.

It is the legislative intent of this article to provide an additional or supplemental means of obtaining compliance with the codes and ordinances set forth in section 2-113. Nothing contained herein shall prohibit the county or the code enforcement staff from enforcing such codes and ordinances by any other lawful means.

Sec. 2-118. Abandoned properties.

(a) *Intent and purpose.* It is the intent and purpose of this ~~section article~~ to ~~establish adopt~~ provisions for controlling the excessive growth or accumulation of weeds and similar plant material, or the accumulation of debris or other noxious material upon property situated in the unincorporated area of the county that creates a haven or breeding place for snakes, rats, rodents and other vermin of like or similar character, creates a fire hazard to adjacent properties, and creates a traffic hazard at road intersections within the county. It is the ~~county's~~ further intent and purpose of this section to specifically establish an abandoned real property program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties. It is hereby declared, due to the character and population density of the county, that the excessive growth or accumulation of weeds and similar plant material, or the accumulation of debris or other noxious material upon abandoned property situated in the unincorporated area of the county is contrary to the public health and safety, and that such excessive growth and accumulations be prohibited in accordance with this ~~section article~~.

(b) *Definitions.* ~~As used in For the purpose of this section article, and unless the context clearly requires otherwise, the following certain terms shall have the meanings herein ascribed; to them in this section, unless the context clearly indicates otherwise.~~

(1) *Abandoned real property shall mean* ~~means any~~ improved lot ~~property that is vacant or exhibits evidence of vacancy and is~~

a. _____ under a current notice of default by the holder of a mortgage on the property; ~~or~~

b. _____ under a current notice of mortgagee's sale pursuant to a final judgment of foreclosure of a mortgage on the

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~~property; by the lender or the subject of a tax lien certificate sale or~~

~~c. owned by the holder of a mortgage on the property through properties that have been purchase at the subject of a foreclosure sale held pursuant to a final judgment of foreclosure of the mortgage where the; or title was retained by the beneficiary of a mortgage involved in the foreclosure~~

~~d. owned by the holder of a mortgage on the property through and any properties transferred under a deed given in lieu of foreclosure of the mortgage or sale.~~

(2) *Accessible property shall mean any* ~~means~~ a property that is accessible through a ~~compromised~~ ~~comprised~~ or breached gate, fence, wall or similar barrier.

(3) *Accessible structure shall mean* ~~means~~ a structure or building that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.

(4) *Agricultural uses shall mean* ~~means~~ those uses of land which involve the science and art of production of plants and animals useful to man including to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise and shall include horticulture, floriculture, viticulture, aquaculture, forestry, dairy, livestock, including the breeding and training of horses, poultry, bees, ratites, and any and all forms of farm products and farm production.

(5) *Code enforcement officer* shall mean any authorized agent or employee of the county, whose duty it is to assure compliance with the codes and ~~ordinances~~ ~~articles~~ of the county.

(6) *Director shall mean* ~~means~~ the director of the department of county government that includes the division, or his or her designee ~~Clay County Development Services Manager.~~

(7) *Division shall mean* ~~means~~ the division or other organizational unit of county government below the department level responsible for the enforcement of codes and ordinances as provided in this article and staffed by code enforcement officers ~~Clay County Code Enforcement Division.~~

(8) *Evidence of vacancy, with respect to any parcel of real property, shall mean* ~~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. ~~The term~~ Such conditions may include, but ~~is are~~ not limited to, overgrown or dead vegetation, accumulation of abandoned personal property, and statements by neighbors, passersby, delivery agents or government agents; ~~among other evidence that the property is vacant.~~

(9) *Foreclosure shall mean* ~~means~~ the process by which a parcel of real property mortgaged, ~~placed~~ as security for a real estate loan; is sold at public sale to satisfy the debt if the borrower defaults.

(10) *General agriculture shall mean* ~~means~~ those uses of land which involve the science and art of production of plants and animals useful to man including to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise and shall include horticulture, floriculture, viticulture, aquaculture, forestry, dairy, livestock, including the breeding and training of horses, poultry, bees, ratites, and any and all forms of farm products and farm production.

(11) *Improved lot shall mean* ~~means~~ any lot ~~as defined~~ which contains a principal structure as defined in the county's Clay County Land Development Code, or that has been cleared of existing vegetation for the purposes of constructing a principal structure in the future.

(12) *Inspection shall mean* ~~means~~ a close viewing of the property and the exterior of any structures located thereon mortgaged ~~placed~~ as security for a real estate loan and includes a viewing of any interior portions of the structure which are visible from the outside of the structure. However, an inspection does not require an entry onto the property for purpose of viewing the interior.

(13) *Lot shall mean* ~~means~~ a designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon.

~~Manager means the development services manager.~~

(14) *Nonintensive agriculture shall mean* ~~means~~ the milking, feeding or sheltering of farm animals or growing of supplemental food supplies for the domestic, noncommercial use of the families living on the land.

(15) *Nuisance shall mean* ~~means~~ the keeping, maintaining, propagation, existence, or allowing permission of any condition or thing ~~anything~~ by any person or entity, by which the health or lives of individuals may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused, and includes the existence of nuisance weeds or the accumulation of debris or other noxious material upon property situated in the unincorporated area of the county that creates a haven or breeding place for snakes, rats, rodents and other vermin of like or similar character, creates a fire hazard to adjacent property, or creates a traffic hazard at road intersections within the county.

(16) *Nuisance weeds, with respect to abandoned real property, shall* ~~mean~~ mean ~~means~~ the accumulation or untended growth of weeds, grass, undergrowth or other dead or living plant life such to the extent that the abandoned property is, or may reasonably become, inhabited by rats, mice, other rodents, snakes, vermin, or pests, or may furnish a breeding or harboring place for flies, mosquitoes or other harmful insects, or substantially impairs the value economic welfare of adjacent property, or creates a fire hazard to adjacent property, or creates a traffic hazard at road intersections within the county.

(17) *Owner,* with respect ~~The word owner applied to a building or land,~~ shall mean ~~include~~ any part owner, joint owner, tenant in common, ~~tenant in partnership,~~ joint tenant or tenant by the entirety, of the whole or a part of such building or land.

(18) *Person shall mean any natural person or artificial entity capable of owning real property.*

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

(20) ~~*Property registrar shall mean the person designated by the county manager to provide the registration services provided under subsection (e) or the entity under contract with the county to provide the registration services provided under subsection (e).*~~

(21) *Unimproved lot shall mean any lot in its natural state.*

(22) *Vacant, with respect to a* ~~means any~~ building or structure, shall mean ~~that is not~~ legally occupied.

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(c) *Applicability.* This ~~section article~~ shall be considered cumulative and not superseding or subject to any other law or provision, but shall rather be an additional remedy available to the county above and beyond any other state, county or local ~~laws or regulations provisions~~. This ~~section article~~ shall be applicable within effective in the unincorporated areas of the county Clay County.

(d) *Nuisance declared a violation.* ~~Declaration of nuisance and prohibited conditions.~~ The existence of a nuisance abandoned real property or nuisance weeds on abandoned real property is hereby declared to be a public nuisance and a violation of this ~~section article~~, the abatement of which is necessary to protect the health, safety and welfare of the residents of the county Clay County.

(e) *Registration of abandoned real property.*

(1) Any mortgagee holding who holds a mortgage on real property located within the county 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 real property and the mortgagee shall, within ten ~~(10)~~ days following of the inspection, register the property with the property registrar development services manager, or his/her designee, on a form ~~forms~~ provided by the county. A separate registration is required for each parcel of abandoned real vaeant property.

(2) If the inspection under paragraph (1) indicates that the property is occupied but remains in default, the mortgagee it shall cause the property to be inspected thereafter by the mortgagee or the mortgagee's designee monthly until

a. ~~(1)~~ the mortgagor or other party remedies the default; or

b. ~~(2)~~ the property it is found to be vacant or shows evidence of vacancy, whereupon it shall be at which time it is deemed abandoned real property; and the mortgagee shall, within ten ~~(10)~~ days following the of that inspection by which such finding is made, register the property with the property registrar development services manager, or his/her designee, on forms provided by the county.

(3) 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 the mortgagee's contact, a

[Additions are underlined; deletions are stricken.]

facsimile number and e-mail address and, in the case of a corporation or nonlocal out-of-area mortgagee, the property management person or agent company responsible for the security and maintenance of the property.

- (4) The registering mortgagee must pay a ~~An annual registration fee established by resolution of~~ by the board upon filing a of county commissioners shall accompany the registration under this section and annually thereafter form.
 - (5) For so long as a parcel of property remains abandoned real property, ~~Properties subject to this section shall remain under the registration requirement,~~ and the security and maintenance standards of this section shall remain applicable as long as they remain vacant.
 - (6) Any person who ~~or corporation that has~~ filed a registration of abandoned real registered a property under this section must file a revised registration reflecting ~~report~~ any change of information contained in the registration within ten ~~(10)~~ days following ~~of the~~ change.
 - (7) The holder of ~~Any mortgagee who holds~~ a mortgage on real property located within the county which is in default and the subject of an outstanding notice of default as of September 27, 2011, shall perform an inspection of the property by October 27, 2011. If the inspection shows that the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned real property, and the holder of the mortgage mortgagee shall, within ten ~~(10)~~ days following ~~of the~~ inspection, register the property in accordance with paragraph (1) with the development services manager, or his/her designee, on forms provided by the county. If the property is occupied but remains in default, it shall thereafter be subject to the reinspection requirements ~~as set forth in paragraph subsection (2) above.~~
- (f) **Maintenance requirements.** The person filing a registration of abandoned real property under subsection (e) mortgagee shall be responsible for maintaining the registered property as follows:
- (1) The exteriors of the property properties ~~subject to this chapter~~ shall be kept free of nuisance 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,

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printed material, or any other items that give the appearance that the property is abandoned.

- (2) The exteriors of 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.
 - (3) Front, side, and rear yard landscaping on the property shall be maintained. Such landscaping shall be deemed to include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings. Maintenance shall include, but not be limited to, watering, cutting, mowing and removal of yard waste.
 - ~~(4) Landscaping shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings.~~
 - ~~(5) Maintenance shall include, but not be limited to, watering, cutting, and mowing of required landscape and removal of yard waste.~~
 - ~~(46) Pools and spas on the property shall be maintained such that so the water remains free and clear of pollutants and debris. Pools and spas shall be enclosed as required by law.~~
 - ~~(5) Any nuisance existing on the property must be abated.~~
- (g) *Additional authority.* The director development services manager, or his/her designee, shall have the authority to require the holder of a first mortgage mortgagee or the owner of record of any abandoned real property subject to this article, to implement additional maintenance in addition to maintenance required under subsection (f) if reasonably required to for the preservation of the property or for public safety, and such or security measures reasonably required for the preservation of the property, including, but not limited to, securing any and all door, window or other openings, or employment of an on-site security guard, or other measures as may be reasonably required to prevent a violation of this article.
- (h) *Exemptions.* This section ~~Notwithstanding any other provisions to the contrary, this article shall not apply to:~~
- (1) Any property within the unincorporated areas of the county Clay County used for general agricultural or nonintensive agriculture uses.
 - (2) Any rights-of-way of municipal, county, state or federal roads or highways.

[Additions are underlined; deletions are stricken.]

- (3) Any property owned or under the control of any municipality, county, state or federal government or agencies thereof.
- (4) Any unimproved lot ~~as defined herein~~.
- (i) *Designation of investigating and enforcing authority.* The division is hereby designated as the investigating and enforcing authority regarding ~~pursuant to the provisions of this section article~~. The director ~~development services manager~~ and code enforcement officers are authorized and hereby directed and empowered to inspect abandoned real property land on which a nuisance ~~is or other prohibited conditions are~~ suspected to exist and to receive all complaints for violation of this section article. The director and development services manager, code enforcement officers, ~~and/or a private entity~~ shall be responsible for providing all notices to affected property owners as required by this section article, and to take such other action as is necessary to accomplish the purposes purpose of this section article.
- (j) *Enforcement.*
- (1) If the director manager or a code enforcement an officer determines that a nuisance ~~exists or other prohibited condition or conditions exist~~ on abandoned real property a lot during an inspection, then the division shall notify the record owner or owners of the abandoned real property lot by regular United States mail, by hand delivery or by posting of notice on the property of such nuisance ~~or prohibited condition or conditions~~. Said notice shall advise the owner or owners that a nuisance ~~or other prohibited condition~~ exists on said abandoned real property lot or lots and that said nuisance ~~must or prohibited condition shall be~~ abated by the owner or owners. The notice shall specify what corrective action shall be taken by the owner or owners to abate the nuisance ~~or to correct the prohibited condition~~, and that failure to abate said nuisance ~~or to correct said condition~~ shall result in the issuance of a notice of violation and notice of hearing to said owner or owners to appear before the assigned special magistrate for proceedings under this article. The notice shall provide a reasonable time, in light of the nature of the nuisance ~~or prohibited condition~~, to abate the nuisance ~~or to correct the prohibited condition~~.
- (2) If the nuisance is not abated ~~or the prohibited condition corrected~~ by the time specified in the notice, the division shall schedule a hearing before the assigned special magistrate and issue a notice of violation and notice of hearing to the record owner or owners of

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the abandoned real property ~~lot~~ to appear before the assigned special magistrate for proceedings under this article.

- (3) If a violation of this section ~~article~~ is found by the assigned special magistrate, the assigned special magistrate may issue all orders and written findings and impose any fines as permitted pursuant to Chapter 162, Florida Statutes, and this article ~~Code~~.

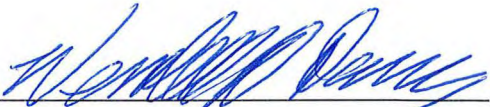
Section 2. If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

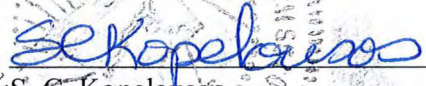
Section 3. This ordinance shall become effective as prescribed by Florida general law.

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DULY ADOPTED by the Board of County Commissioners of Clay County, Florida, this 28th day of January, 2014.

BOARD OF COUNTY COMMISSIONERS
CLAY COUNTY, FLORIDA

By: 
Wendell D. Davis
Its Chairman

ATTEST:

S. C. Kopelousos
County Manager and Clerk of the
Board of County Commissioners