

ORDINANCE NO. C-14-

AN ORDINANCE AMENDING CHAPTER 16, MISCELLANEOUS PROVISIONS AND OFFENSES, ARTICLE IV, OFFENSES INVOLVING PUBLIC PEACE AND ORDER, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA; CREATING SECTION 16-83, OUTDOOR STORAGE ON PUBLIC PROPERTY, PROVIDING FOR A PROHIBITION ON OUTDOOR STORAGE ON PUBLIC PROPERTY; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROCEDURES FOR REMOVAL AND DISPOSAL OF PERSONAL PROPERTY; PROVIDING FOR NOTICE AND HEARING; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Fort Lauderdale has a substantial interest in aesthetics, sanitation, public health, and safety, as well as keeping public spaces open and available for public use, and a prohibition against storage of property on public spaces is a reasonable means of achieving that goal; and

WHEREAS, the City acknowledges there exists a procedure for removal and disposal of abandoned or lost property pursuant to Florida Statutes, section 705.103, but said procedure does not provide for the unpermitted storage of personal property on public property owned or leased by the City and removal and proper storage of such property; and

WHEREAS, the City recognizes that there is a need for the removal of unauthorized ~~storage of~~ stored personal property on public property owned or leased by the City and the need for proper notice and procedures for storage and disposal; and

WHEREAS, the City has a compelling interest to ensure that sidewalks are unobstructed for the passage of pedestrian traffic and access to public rights of way; and

WHEREAS, the City has a compelling interest in promoting the health and safety of the public by regulating potentially hazardous conditions on public property and security concerns to the public and City employees; and

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Exhibit 2
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WHEREAS, the City recognizes that individuals may not have a place to store their belongings and when they do not have a permanent place to do the same, and the City is willing and able to assist, on a limited basis, in providing storage facilities for these individuals; and

WHEREAS, the City Commission of the City of Fort Lauderdale has determined that the following amendments promote and protect the general health, safety, and welfare of the residents of the City of Fort Lauderdale;

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

SECTION 1. That Article IV, Offenses Involving Peace and Order, of Chapter 16, Miscellaneous Provisions Offenses of the Code of Ordinances of the City of Fort Lauderdale is hereby amended to read as follows:

Sec. 16-83. Outdoor Storage on Public Property.

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

(1) *Occupant* means any person in actual or apparent control of the property upon which an item is located.

(2) *Officer* means sworn law enforcement officer or Code inspector as defined in Code section 11-2.

(3) *Public property* means any street, alley, sidewalk, pedestrian pathway, swale, bicycle lane, sidewalk, median, or any other area encompassed within the public right-of-way, any park, or other outdoor recreation facility, or any other grounds, buildings, or other facilities owned or leased by the City of Fort Lauderdale.

(4) *Reasonable charges* means actual costs and that the City shall take into

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consideration the owner's ability to pay the charges.

(5) Store means any action to place, leave, park, locate, or set an item upon the public property for a period of time in excess of twenty-four (24) hours and less than twenty (20) feet from the occupant.

(b) Prohibition. It shall be unlawful for any person in the City of Fort Lauderdale to store on any public property an occupant's personal possessions or property.

(c) Process for removal of unlawfully stored property.

(1) If an occupant fails to remove any personal possession or property which is unlawfully stored on public property within twenty-four (24) hours after having been served with written notice, as described in subsection (d) of this section, which requires such removal, the City may cause the removal of such unlawfully stored items.

(2) In the event an officer determines the unlawfully stored items located on public property are a threat to the health, safety, or welfare of the public, an officer may immediately remove such unlawfully stored items. A threat to the health, safety, or welfare of the public shall include, but not be limited to, a fire hazard, an explosive hazard, noxious odors, or an infestation of vermin, including rodents, lice, roaches and fleas. If items are removed pursuant to this subsection and without prior notice, a written notice shall be posted at the location where the items were removed which identifies the determined threat to the health, safety, or welfare of the public and the location to which the items have been removed.

(3) If an item, as described in subsection (b) of this section, is unlawfully stored on public property which public property is posted with a sign stating that unattended items may be removed immediately, then no additional notice shall be required and the item may be removed immediately. Such written notice may only be placed public property under the following conditions:

a. In the interest of security and safety, temporary signs warning of immediate removal of items from public property may be posted on public property at

least thirty-six (36) hours in advance of special events as described in Chapter 15, Article V of this Code, including, but not limited to, parades and festivals which are likely to draw large crowds to the City.

b. In the interest of security and safety, permanent signs warning of the immediate removal of items from public property may be posted around public buildings which are likely targets for the placement of explosive devices or other security risks related to terrorists or dissidents.

c. In the event the City determines the need for an area-wide cleanup, the City shall post written notice of the clean-up in the area to be cleaned at least thirty-six (36) hours in advance of the cleaning. Any items left when the clean-up commences may be immediately removed and stored according to the procedures set forth in this section.

(4) The City may dispose of the items thirty (30) days after removal from the public property or after seven (7) days if the items are deemed to be a threat to the health, safety, or welfare of the public pursuant to this subsection. If the owner of the items wishes to retrieve the items, adequate proof of ownership and payment to the City of reasonable charges for storage and removal of the items are required. If the owner demonstrates he or she does not have the ability to pay the reasonable charges, such charges will not be required to retrieve the items.

(d) Notice.

(1) The written notice required by this section shall be deemed to have been served if:

a. A copy is personally delivered to the occupant or identified owner of the item; or

b. A copy is left at the party's usual place of abode with some person of the family above fifteen (15) years of age and informing such person of the contents thereof; or

c. A copy is mailed by either registered or certified United States mail with

return receipt requested; or

d. If the name of such party or the place of residence or post office address cannot be ascertained after diligent search and inquiry or in the event a notice sent by either registered or certified mail shall be returned undelivered, a copy of such notice is shall be posted in a conspicuous place on the property upon which the items described in this section are or were located; or

e. A copy is attached to the unlawfully stored items.

(2) The notice required by this section shall contain the following:

a. A complete description of the item to be removed (such description may refer to an attached photograph);

b. The location of the property;

c. The section of the Code in violation;

d. The location to which the item will be removed;

e. The date and time by which the item must be removed from the private or public property; and

f. The date by which the item must be claimed from the location where they are being stored.

(f) Abandoned and lost property is regulated and may be removed pursuant to F.S. §705.101, et seq.

SECTION 2. That if any clause, section, or other part of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not

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be affected thereby, but shall remain in full force and effect.

SECTION 3. That this ordinance shall be in full force and effect thirty days from the date of final passage.

PASSED FIRST READING this the _____ day of _____, 2014.

PASSED SECOND READING this the _____ day of _____, 2014.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH

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