

ORDINANCE NO.: O-23-01

AN ORDINANCE OF THE CITY OF EAGLE LAKE, FLORIDA AMENDING CHAPTER 11, ARTICLE V OF THE EAGLE LAKE CODE OF ORDINANCES, "EAGLE LAKE PROPERTY MAINTENANCE ORDINANCE;" TO INCLUDE THE PROHIBITION OF UNFIT OR UNSAFE DWELLINGS OR STRUCTURES WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVARABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Eagle Lake wishes to promote, protect, and improve the health, safety and welfare of the citizens of the City of Eagle Lake by creating a procedure to allow for the City of Eagle Lake to abate public nuisance due to overgrown lots, accumulation of junk and debris, and unserviceable vehicles; and

WHEREAS, the City Commission previously passed Ordinance O-11-04, entitled the Eagle Lake Property Maintenance Ordinance, which prohibits public nuisances due to overgrown lots, accumulation of junk and debris, and unserviceable vehicles; and

WHEREAS, the City Commission desires to amend its Property Maintenance Code to include the prohibition of unfit or unsafe dwellings or structures within the municipal boundaries of the City of Eagle Lake; and

WHEREAS, this Ordinance is intended to provide an equitable, expeditions, effective and inexpensive method of enforcing the City of Eagle Lake's police powers regarding these public nuisances; and

WHEREAS, the City Commission of the City of Eagle Lake expressly finds that unfit or unsafe dwellings or structures is detrimental to the public health, safety and welfare of the citizens of the City of Eagle Lake;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF EAGLE LAKE, FLORIDA

Section 1. Code Amendment:

Chapter 11 – NUISANCES; ARTICLE V. – PRROPERTY MAINTENANCE, is hereby amended and shall read as follows: (~~striketrough~~ language deleted, underline language added)

SEC. 11-111. - Legislative intent.

The City Commission of the City of Eagle Lake hereby establishes a procedure whereby property located within the incorporated area of the City of Eagle Lake may be cleared of an excessive growth of weeds, grass or other plants, ~~or~~ cleared of an excessive accumulation of plant material or debris, trash, junk or other noxious materials, ~~or~~ cleared of unserviceable vehicles, or the vacation, repair, restoration, demolition or replacement of any unfit or unsafe dwelling or structure. Nothing herein shall prevent the City from pursuing enforcement of such violation described herein through other means.

Sec. 11-112. – Title.

This Ordinance shall be known and cited as the “Eagle Lake Property Maintenance Ordinance.”

Sec. 11-113. – Applicability.

This Ordinance shall apply in incorporated areas of the City of Eagle Lake, Florida that are set forth in the legal descriptions provided in Resolutions that are noticed and passed from time to time pursuant to Section 197.3632(3)(a), Florida Statutes.

Sec. 11-114. – Definitions.

Abandoned Vehicle: shall mean a vehicle which does not have a current license plate or registration for a period of at least 10 days.

Code Inspector: shall mean authorized Code Enforcement Inspector(s) of the City of Eagle Lake.

Debris: shall mean material which is stored externally and is not otherwise covered and shall include, without limitation, discarded household items, refuse, rubbish, garbage, trash or junk, can, bottle, container, paper, tobacco products, tire, and used scrap or discarded lumber, pipe, steel, plumbing fixtures, insulation, and other building material.

Distressed Vehicle: shall mean any vehicle used on public streets or waterways that is incapable of being moved under its power.

Division: shall mean the Code Enforcement Office of the City of Eagle Lake.

Improved lot: shall mean any property with a building or an erected structure or an incomplete or partially demolished structure.

Junk: shall mean any litter, waste materials or any kind, dead or decaying vegetation or vegetative refuse, dead animals, used or unserviceable automobile, vessel and machinery parts, used and nonfunctional furniture and appliances, and used and nonfunctional tools, equipment, implements or other waste material.

Land Development Regulations: shall mean the City of Eagle Lake Land Development Regulations.

Lot: shall mean any tract or parcel of land.

Owner: shall mean any and all persons with legal and/or equitable title to real property in the City of Eagle Lake, as their names and addresses are shown upon the records of the Polk County Property Appraiser's Office. The use of word owner in the singular shall include the plural when applicable.

Person: shall mean any individual, estate, trust, firm, sole proprietorship, partnership, corporation, unincorporated association or other legal entity.

Property: Shall mean any tract or parcel of land.

Special Magistrate: shall mean the City of Eagle Lake Special Magistrate that is authorized by the City Commission of the City of Eagle Lake to hear violations of the City of Eagle Lake's Codes and Ordinances.

Unfit or unsafe dwelling or structure: shall mean any dwelling or structure or any portion thereof, including accessory buildings, which is structurally unsafe, unstable, unsanitary, inadequately provided with exit facilities, constituting a fire hazard, unsuitable or improper for the use of occupancy to which they are put, constituting a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment, dangerous to life or property, or, by reason of fire, age, decay, deterioration, structural defects, improper design, unstable foundation, termites, acts of God, or other causes, dangerous to the occupants thereof, or a menace to the public health, or a fire hazard, or so unsafe as to endanger life or property or render the use of the public streets dangerous, or otherwise in material violation of the housing, building, electrical, plumbing, mechanical, health or fire codes of the City,

Unimproved Lot: shall mean any property without a structure.

Vehicle: shall mean any device propelled by power other than human power designed to travel along the ground or water by use of wheels, treads, runners, propellers or other similar means or slides to transport persons or property, or pull machinery, including without limitation, automobiles, trucks, trailers, motorcycles, tractors, buggies, wagons, boats and recreational vehicles.

Sec. 11-115. – Duty of property owners.

It shall be the duty of every Owner of any Property or land within the incorporated areas of the City of Eagle Lake to reasonably regulate and effectively control the accumulations of Junk,

Debris, ~~and~~ Unserviceable Vehicles, ~~and~~ Overgrown Lots, and unfit or unsafe dwellings or structures, as described herein.

Sec. 11-116. – Prohibition.

(a) Open Storage: It shall be unlawful to utilize a residential property for the open storage of any Junk or Debris.

(b) Accumulation of Junk and Debris: The discarding of accumulation of Junk and Debris upon any public or private Property other than places specifically authorized and permitted as a salvage yard in conformance with the Land Development Regulations shall be prohibited.

(c) Organic debris: Except as provided in this subsection, organic debris in excess of six cubic yards upon any public or private property for more than 30 days shall be prohibited.

(1) This subsection shall not apply to lots greater than one acre in size or lots which have not been cleared or disturbed in the past.

(d) Overgrown Lots: Overgrown lots are prohibited as follows:

(1) Except as provided in this subsection, any grass or weeds on a lot one acre or less in size that is adjacent to a parcel that contains a residential or commercial structure shall not exceed the height of eighteen (18) inches from the ground for more than ten (10) percent of the property;

(i) Except on lots in which the majority of the lot is being used for agricultural purposes, on such lots any grass or weeds within twenty-five (25) feet of an adjacent property line of a lot that contains a residential or commercial structure shall not exceed the height of eighteen (18) inches from the ground.

(e) Storage of Distressed Vehicle or Abandoned Vehicle: Except as provided in this subsection, no Distressed Vehicle or Abandoned Vehicle shall be parked or stored, and no vehicle frame, vehicle body, or vehicle body part shall be stored, on a residentially designated or residential property except when in a completely enclosed garage or building.

(1) Except one Distressed Vehicle or Abandoned Vehicle or vehicle component is permitted in the rear yard of a residential dwelling unit provided such vehicle or vehicle component is stored no closer than five feet from any side or rear boundary line and is completely screened from view of neighboring homes and properties by proper fencing or other screening methods allowed under the Land Development Regulations. Sheet metal, tarpaulin, or car cover shall not be used to satisfy these screening requirements.

(f) Unsafe structures or dwellings. Unsafe structures or dwellings are prohibited.

Sec. 11-117. – Obstruction of officers.

It is hereby declared unlawful for a Person to obstruct or resist a Code Inspector or any person authorized by the Division in the discharge of their duties as provided in this Ordinance. Any person who obstructs or resists a Code Inspector any person authorized by the Division in the discharge of their duties under this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment of not more than sixty (60) days in jail or by both such fine and imprisonment.

Sec. 11-118. – Code inspectors have immunity from liability for trespass.

Any Code Inspector or any person authorized by the Division shall be immune from prosecution, civil or criminal, for trespass upon real property while in the discharge of duties imposed by this Ordinance.

Sec. 11-119. – Enforcement procedure and assessment of costs and fees..

(a) A Code Inspector is empowered to investigate a violation of this Ordinance. In an inspection reveals that a violation of this Ordinance exists, the Code Inspector or Division shall notify the Owner as on record with the Polk County Property Appraiser's Office, that a violation of this Ordinance exists and shall contemporaneously post the property with a copy of the notice described herein on 8 ½ x 11 sheet of paper attached to a yellow placard for ten (10) days. Unless an emergency hearing is requested by the Division pursuant to Section 10(b), the Owner of the property shall have ten (10) days from the date in which the property was posted to correct the violation. The notice shall:

- (1) state the nature of the violation with reference to the section of this Ordinance defining the violation;
- (2) specify the corrective action that must be taken;
- (3) specify the date in which the corrective action must be taken;
- (4) state that a failure to abate the nuisance will result in the City of Eagle Lake abating it, the cost of which action shall be assessed against the Property;
- (5) state the Owner has the right to appeal by filing a written request with the Eagle Lake Code Enforcement Office within ten (10) days of posting of the Property with the address in which appeal should be sent with the appropriate appeal fee;
- (6) state the procedure to request an extension of time from the Division.

(b) If an appeal is filed, enforcement action shall proceed as provided in Section (10) of this Ordinance.

(c) If no appeal is filed as provided in Section (10) of this Ordinance and no extension of time is granted by the Division as provided in subsection (j) of this Section, the Division

shall, upon the expiration of the notification period, reinspect the lot to determine whether or not the nuisance has been abated. If the Division determines that the Lot still contains the violation, it shall cause its abatement according to the provision of this Ordinance. To accomplish that goal, the Division or its designee is authorized by the City Commission of the City of Eagle Lake to enter upon the lot and to take steps reasonably necessary to effect abatement. If the property contains Unserviceable Vehicle(s), the Division is further authorized to have such vehicle removed by any firm or person regularly engaged in the business of transporting vehicles by wrecker; any such firm or person shall be entitled to a reasonable towing fee and a reasonable storage fee and lien for same as provided by Florida Statutes. All cost of removal of such vehicle shall be the sole responsibility of the property owner and no towing or storage fee shall be charged to or collected from the City of Eagle Lake unless specifically authorized by the Division. If the property contains dwelling or structure that has been declared unfir or unsafe by order of the Special Magistrate and has been ordered to be vacated, repaired, restored, replaced or demolished, the Division is authorized to have such dwelling or structure vacated, repaired, restored, replaced or demolished by any firm reasonably necessary to effect abatement. All cost of vacation, repair, restoration, replacement or demolition of such dwelling or structure shall be charged to or cpllected from the City of Eagle Lake unless specifically authorized by the Division.

(d) If abatement is effected by the Division as provided in subsection (c), the cost to the City of Eagle Lake of abating the nuisance on each lot, including all administrative and operating fees shall be calculated and assessed against the Lot as an assessment pursuant to Florida Law and may be collected pursuant to Florida Statute 197.3632.

(e) The Division shall mail a notice of the assessment to the Owner at the address on record with the Polk County Property Appraiser's Office specifying the violation that was abated, the address or parcel identification number of the lot in which the abatement occurred, the cost of abatement with a statement that if not paid in full within ninety (90) days, the cost shall be recorded against the Owner as an assessment and will create a first lien, equal to a lien for nonpayment of property taxes. Such notice shall specify the date certain in which the cost of abatement must be paid.

(f) If not paid after 30 days of the first notice, the Division shall mail a second notice stating the cost due and date certain in which the cost of abatement must be paid. Such notice shall contain the information required under subsection (e) of this section.

(g) If not paid after 30 days of the first notice, the Division shall mail a second notice stating the cost due and date certain in which the cost of abatement must be paid. Such notice shall contain the information required under subsection (e) of this section.

(h) After 90 days of the Notice sent pursuant to subsection (e) of this Section, the Division is hereby authorized and shall record in the Official Records of Polk County a Claim of Lien for Assessment in the name of the City of Eagle Lake, indicating the code enforcement case number and caption, the property owners, the lot subject to the assessment with the legal description and parcel identification number, and the amount of the assessment. Such Claim of Lien for Assessment shall be signed by the Division Director. The lien created hereby shall be a first lien, equal to a lien for nonpayment of property taxes.

(i) The Division shall mail a notice that a lien has been recorded to the owners(s) of each lot described in the lien for assessments. The notice shall be sent by certified or registered mail, return receipt requested to the owner at the address listed with the Polk County

Property Appraiser's Office. The notice shall be in a form prepared by the Division which shall include the following information:

- (1) name and address of the owner;
- (2) legal description of the lot where the nuisance has been abated;
- (3) date of mailing the notice of the lien;
- (4) a brief description of the violation abated;
- (5) the date of abatement;
- (6) a statement of the actual costs of abatement and the operating and administrative fee;
- (7) instructions regarding payment and removal of the lien; and
- (8) additional information as necessary and appropriate.

(j) The Owner may request in writing an extension of time from the Division. Such written request shall state the basis of such request and be hand delivered or mailed by registered or certified mail return receipt requested to the Division. Such request shall be granted or denied in writing within five (5) days of the Division receiving the request. If such request is not granted within five (5) days then it shall be deemed denied. The extension of time is at the sole discretion of the Division Director and shall be final and may not be appealed.

(k) Nothing in this part shall prevent the Division or City of Eagle Lake from pursuing enforcement of violations of this Ordinance through other processes.

Sec. 11-120. – Appeal procedure.

(a) Within ten (10) days after the initial notice of a violation is posted by the Division as provided in Section (9), the Lot Owner(s) may deliver a written request to the City of Eagle Lake Special Magistrate for a hearing to show that the condition alleged in the notice does

not exist. The address to deliver such request shall be stated in the initial notice to the lot owner. The request by the Owner shall be in writing and delivered to the address indicated in the initial notice within ten (10) days of the posting of the violation and shall be accompanied by a certified check or money order in the amount of twenty-five dollars (\$25.00) made payable to the City of Eagle Lake, Florida, which amount shall constitute a fee necessary to defray the cost to the City, the Division, Special Magistrate and administering the appeal. Failure to appeal or to appear before the Special Magistrate in a timely way shall be deemed a waiver of the lot Owner's rights to appeal the administrative action. The Special Magistrate shall hear the appeal on its regularly scheduled agenda unless an emergency hearing is requested by the City pursuant to subsection (b) of this Section. The Division shall give the Lot Owner seeking an appeal written notice of the date and location of the scheduled hearing. The hearing shall be conducted in accordance to the rules of procedures governing Code Enforcement Special Magistrate hearings. The City shall have the burden of proving that a violation exists by preponderance of the evidence. The decision of the Special Magistrate shall be final. Upon finding that a violation of this Ordinance exists, the Special Magistrate may give the lot Owner additional time to correct the violation but such time shall not exceed seven (7) days from the date of the hearing. If the violation is not corrected in the time given by the Special Magistrate, the Division is authorized to abate the violation pursuant to Section 8(c) of this Ordinance.

(b) If the Division believes that a violation exists that is an immediate threat to the public health, safety or general welfare, the Division may request an emergency hearing in front of the Special Magistrate. The Lot Owner shall be given notice of such hearing containing the location, time and date of the hearing.

Section 2. Codification:

All It is the intention of the City Commission that the provisions of this Ordinance may become and be made part of the Code of Ordinances of the City and that in that event sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “chapter”, “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or re-lettered and the correction of typographical and/or scrivener’s errors which do not affect the intent may be authorized by the City Manager or his/her designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 3. Conflicts:

Any ordinance in conflict herewith shall be stricken to the extent of such conflict.

Section 4. Severability:

Should any section, paragraph, clause, sentence, item, word or provision of this Ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any part hereof, not so declared to be invalid.

Section 5. Effective Date:

This ordinance shall take effect immediately upon adoption.

INTRODUCED on first reading this ____ day of _____, 2022.

PASSED on second reading this ____ day of _____, 2022.

CITY OF EAGLE LAKE, FLORIDA

CORY COLER, MAYOR

ATTEST:

CITY CLERK DAWN WRIGHT

Approved as to form:

CITY ATTORNEY HEATHER R. MAXWELL