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ORDINANCE NO. O-2019-XXX

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 24 ENTITLED “LAND DEVELOPMENT CODE”, BY CREATING ARTICLE XXI. CERTIFICATE OF USE PROGRAM; CREATING SECTIONS 24-285 THROUGH 24-291 PROVIDING FOR CERTIFICATES OF USE; REQUIRING BUSINESSES TO OBTAIN A CERTIFICATE OF USE PERMIT; PROVIDING FOR DEFINITIONS OF CERTIFICATE OF USE, CONTAINING PROCEDURES, PROVISIONS FOR IMPLEMENTATION, APPEAL AND REVOCATION AND PENALTIES; CONTAINING A PROVISION FOR INCLUSION IN THE CITY CODE; AND TO AMEND ARTICLE XVIII, DEFINITIONS, SECTION 24-245, A ADD DEFINITIONS AS REQUIRED; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND TO AMEND ARTICLE XVIII, DEFINITIONS, SECTION 24-245, A ADD DEFINITIONS AS REQUIRED.

WHEREAS, the City of Oakland Park wishes to create a mechanism to provide for the issuance and enforcement of certificates of use;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA THAT:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. That Section 24-285 - 24-291. of Article XXI. entitled “Certificate of Use,” of the Code of Ordinances of the City of Oakland Park is hereby created as follows:

ARTICLE XXI. CERTIFICATE OF USE PROGRAM

Sec. 24-285. - Certificate of use permit requirements.

For the purpose of enforcing and administering this Code, the following words shall have the definition and meanings (and regulations related thereto) as herein set forth.

- 42 (A) Generally. This article is intended to protect the city's residents and
43 businesses from the harmful effects of illegal business operations by establishing a
44 certificate of use requirement, which shall provide a review procedure to ensure
45 that new business occupancies and uses, and changes of existing business
46 occupancies and uses, comply with the city's Land Development Code, Code of
47 Ordinances, building code and life safety requirements, and other applicable codes
48 and regulations.
- 49 (B) Certificate of use required. No structure, other than a single-family residence or
50 duplex, shall be used or any existing use modified, as provided herein, or any new
51 use made of any land, body of water, or structure, without first obtaining a certificate
52 of use (C.U.) from the City. Said certificate of use shall be required for each
53 individual business including each multi-family building located within the City of
54 Oakland Park. For purposes of this article, businesses, professions or occupations
55 including those subject to the requirement for a business tax receipt pursuant to
56 Chapter 7 of the Code of Ordinances, shall be subject to the certificate of use
57 requirement. For the purposes of this article, houses of worship shall be required to
58 obtain a certificate of use permit including day care centers, community recreation
59 facilities and private primary and or secondary educational facilities affiliated with
60 the house of worship. Home occupations, as defined in Section 24-75 of the Land
61 Development Code, shall not be required to obtain a certificate of use.
- 62 (C) Requirements. A separate certificate of use shall be obtained for each place of
63 business. It shall be the duty of every person owning, operating, or purchasing any
64 business within the city limits to comply with the requirements of this article prior
65 to opening any business, profession, or occupation within any building, structure,
66 or location within the city.
- 67 (D) Term of certificate of use, modification, and transfer.
- 68 (1) Once issued, a certificate of use shall remain valid, until one of the following
69 occurs and a new certificate of use application shall be required:
- 70 (a) There is a change of or addition to the use or business location from that
71 specified on the approved certificate of use; or
- 72 (b) The business location undergoes any repair, reconstruction, rehabilitation,
73 addition or improvement of the building or structure, the cost of which
74 equals or exceeds fifty (50) percent of the market value of the structure before
75 the improvement or repair is started.
- 76 (2) A certificate of use may be transferred to a new owner when the use(s) of the
77 property remain unchanged and there has been a bona-fide sale of the property
78 or establishment upon payment of a transfer fee to be established by resolution
79 of the city commission and presentation of the original certificate of use and
80 evidence of sale is submitted to the Engineering & Community Development
81 Department.

- 82 (E) Payment of certificate of use fee. Payment of the certificate of use fee shall be
83 required prior to issuance of the certificate of use. The City shall collect the
84 certificate of use fee, which shall be as provided in the city's adopted fee schedule.
- 85 (F) Existing businesses. All existing businesses, professions, and occupations which
86 hold a valid business tax receipt, as of the effective date of the ordinance, as well
87 as any business type listed in Section 24-285(B) shall be considered to have an
88 active certificate of use. Any existing businesses, as of the effective date of this
89 ordinance shall be required to submit an application for a Certificate of Use should
90 one of the following occur:
- 91 (1) There is a change of or addition to the use or business location from that
92 specified on the approved certificate of use; or
- 93 (2) The business location undergoes any repair, reconstruction, rehabilitation,
94 addition or improvement of the building or structure, the cost of which equals
95 or exceeds fifty (50) percent of the market value of the structure before the
96 improvement or repair is started; or
- 97 (3) Transferred as set forth within this ordinance.
- 98 (G) Inspections. Any person applying for or obtaining a certificate of use shall be
99 subject to an inspection of the place of business to ensure compliance with all
100 zoning regulations, life safety code requirements, and all applicable local and
101 state regulations. For the purpose of enforcing the provisions of this article,
102 inspectors designated by the director or designee of the Engineering &
103 Community Development Department shall have the right of inspection, provided
104 that said inspection shall be reasonable and scheduled at the convenience of the
105 applicant or certificate holder and the inspector. Failure to permit inspection of
106 the premises shall be grounds for denial of an application for a certificate of use
107 or revocation of an existing certificate of use.

108
109 **Sec. 24-286. - Application procedures.**

- 110 (A) Procedures for issuance. No certificate of use shall be issued or
111 granted to any business, profession, or occupation unless:
- 112 (1) An application is filed with the City of Oakland Park on forms provided
113 for that purpose;
- 114 (2) There has been a site inspection of the applicant's premises;
- 115 (3) The Planning and Zoning Division has reviewed and approved the zoning
116 use classification; and
- 117 (4) The City has verified compliance with all applicable laws and regulations
118 and has collected all applicable fees due to the city.
- 119 (B) In the event there is a question as to the legality of a use, the Engineering &
120 Community Development Department director or designee, as appropriate,
121 may require affidavits and such other information he/she may deem

122 appropriate or necessary to establish the legality of the use, before a certificate
 123 of use shall be issued.

124 (C) *Obtaining a certificate of occupancy and/or change of use prior to issuance of*
 125 *certificate of use.* All businesses required to obtain a certificate of occupancy
 126 and/or change of use pursuant to the Code of Ordinances must do so prior to
 127 the issuance of a certificate of use.

128 (D) *Grounds for denial.* The director of the Engineering & Community
 129 Development Department or designee, as appropriate, shall have the authority
 130 to deny an application for a certificate of use on the following grounds:

131 (1) That the applicant has failed to disclose or has misrepresented a material
 132 fact or any information required by this article in the application;

133 (2) That the applicant desiring to engage in the business, profession, or
 134 occupation, as described in the application, has selected a proposed site or
 135 type of business activity which does not comply with the City's Land
 136 Development Code;

137 (3) That the applicant has failed to obtain a certificate of occupancy and/or
 138 change of use;

139 (4) That the certificate of occupancy or change of use for the proposed location
 140 has been denied, suspended or revoked for any reason;

141 (5) The issuance of a certificate of use is based on the applicant's compliance
 142 with specific provisions of federal, state, city or county ordinance, with
 143 respect to the specific use, and the applicant

144 (a) is required to obtain said approvals prior to issuance of a certificate
 145 of use; or

146 (b) has violated such specific provisions;

147 (6) The applicant has violated any provision of the Code of Ordinances or Land
 148 Development Code, and has failed or refused to cease or correct the
 149 violation within 30 days after notification thereof;

150 (7) The applicant is delinquent in the payment of the applicable certificate of
 151 use fee, or is delinquent on any code compliance lien, special assessment
 152 lien and/or any other debt, fee, or obligation due to the city;

153 (8) The applicant has been denied a business tax receipt, or the applicant's
 154 business tax receipt has been revoked within the last 12 months;

155 (9) The applicant failed to permit inspection by the city as required by Section
 156 24-285(G); or

157 (10) Or as otherwise provided in the Code of Ordinances.

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159 (E) Any person whose application has been denied as provided herein shall have
 160 the right to appeal to the Special Master in accordance with the procedures of
 161 Section 24-234 of the Code of Ordinances.
 162

163 **Sec. 24-287. - Display of certificate.**

164 Each certificate of use issued by the city shall be displayed conspicuously at the place
165 of business and in such a manner as to be viewable to the public and subject to the
166 inspection of all duly authorized officers of the city. Failure to display the certificate
167 in the manner provided for in this section shall subject the owner/operator to applicable
168 code compliance procedures and/or any other remedies as permitted by law.

169
170 **Sec. 24-288. - Lost or stolen certificates; issuance of duplicate.**

171 A duplicate certificate of use shall be issued by the City, as appropriate, to replace any
172 valid and duly issued certificate which has been lost, stolen, defaced or destroyed without
173 any willful conduct on the part of the certificate holder. A duplication fee shall be
174 charged for each duplicate certificate.

175
176 **Sec. 24-289. - Revocation of certificate of use; enforcement.**

177 (A) The following shall be nonexclusive grounds for revocation of a Certificate of Use
178 permit:

179 (1) The certificate holder has failed to disclose or has misrepresented a
180 material fact or information required by this article in the application;

181 (2) The certificate holder does not engage in the use described in the
182 application or has changed the use without authorization through approval of
183 a new certificate for the changed use, as required herein;

184 (3) The certificate of occupancy for the location has been denied, suspended
185 or revoked for any reason;

186 (4) In the event of a conviction of any owner, operator, manager, supervisor,
187 or any employee acting at the direction or with the knowledge of the owner,
188 operator, manager, or supervisor, by a court of competent jurisdiction, for the
189 violation of any criminal statute committed in conjunction with the business
190 operation;

191 (5) The certificate holder has violated any provision of this article and has
192 failed or refused to cease or correct the violation after notification thereof;

193 (6) The holder of the certificate of use, or the holder's designated manager,
194 operator, or supervisor, refuses to permit an authorized City Building
195 Inspector, Fire Inspector or Code Officer to inspect the premises during normal
196 business hours for the purpose of investigating a complaint which has been
197 filed against the business operation.

198
199 (B) **Revocation procedure.** The procedure for revocation of a Certificate of Use
200 permit shall be as follows:

201 (1) If at any time the City of Oakland Park determines that the business is
202 operating in any manner in violation of Federal, State or County law or harmful
203 to the public health, safety or welfare the City may file a Notice of Violation,

204 through the Special Master process in the manner provided for by F.S. Ch. 162,
205 and Chapter 24, article XVII, section 24-234 of the Code of Ordinances.

206 (2) If a Certificate of Use permit is revoked the applicant(s) may not be issued
207 another certificate of use permit one (1) year from the date of the effective
208 date of the revocation, unless the basis for the revocation has been corrected
209 or abated.

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211 **Sec. 24-290. - Additional violations.**

213 It shall be unlawful for a property owner to allow by lease, license, grant or other
214 written or oral agreement, the use of any real property for the operation of a business
215 without a valid and current certificate of use.

216 **Sec. 24-291. - Penalty provisions.**

217 Any person, firm, landlord, tenant, corporation, for profit or non-profit entity which
218 commences the use of any property before receiving a certificate of use from the
219 Engineering & Community Development Department as required by this article shall
220 be subject to enforcement pursuant to Sections 24-217 through 220 of this Code or the
221 city may also enforce the provisions of this article through the code enforcement
222 process set forth within Chapter 24, Article XVII, Section 24-234 of the Code of
223 Ordinances

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225 **Sec. 24-245. - General definitions.**

226

227 (12a) *Certificate of use* means a document issued by the City of
228 Oakland Park confirming that the proposed uses(s) are consistent with
229 Zoning and Land Development Regulations and any other applicable
230 codes and state laws.

231

232 (13a) *Church* means and shall include all uses as defined under the term
233 "house of worship.

234

235 (47e) *House of worship* means a building or portion thereof used as a
236 place wherein persons regularly assemble for the sole purpose of
237 religious worship, including but not limited to sanctuaries, temples,
238 mosques, chapels and cathedrals, and where permitted, such other
239 onsite buildings supporting the principal use such as parsonages,
240 friaries, convents, fellowship halls, non-academic religious schools
241 such as Sunday schools. But not including day care centers, community
242 recreation facilities and private primary and or secondary educational
243 facilities.

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SECTION 3. If any clause, section or other part of this Ordinance shall be held by any Court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflicts.

SECTION 5. This Ordinance shall be effective after its passage and adoption by the City Commission of the City of Oakland Park.

PASSED BY THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA, ON FIRST READING, THIS _____ DAY OF _____, 2019.

S. GUEVREKIAN	_____
M. SPARKS	_____
J. BOLIN	_____
M. CARN	_____
T. LONERGAN	_____

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA, ON SECOND READING, THIS _____ DAY OF _____, 2019.

CITY OF OAKLAND PARK, FLORIDA

S. GUEVREKIAN	
S. GUEVREKIAN	_____
M. SPARKS	_____
J. BOLIN	_____
M. CARN	_____
T. LONERGAN	_____

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ATTEST:

RENEE M. SHROUT, CMC, CITY CLERK

LEGAL NOTE:

I hereby certify that I have approved the form of this Ordinance. (O-2019-XXX)

DONALD J. DOODY, CITY ATTORNEY