

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING CHAPTER 96, "HEALTH AND SAFETY," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY CREATING SECTION 96.58, "MORTGAGEE REGISTRATION REQUIREMENTS," TO REQUIRE THE REGISTRATION OF VACANT FORECLOSURE REAL PROPERTY IN THE CITY; PROVIDING DEFINITIONS; PROVIDING MAINTENANCE AND SECURITY REQUIREMENTS; PROVIDING FOR ENTRY BY AND PROHIBITING OBSTRUCTION OF, ENFORCEMENT OFFICERS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission recognizes that the mortgage crisis has resulted in an increased number of vacant and abandoned properties throughout the city; and

WHEREAS, vacant and abandoned properties often present a serious threat to the public health, safety and welfare of the community due to neglect and resulting problems such as overgrown grass, weeds and other vegetation, stagnant swimming pools, broken windows, and unauthorized access to structures; and

WHEREAS, many of the vacant and abandoned properties in the city have been foreclosed by mortgagees who may not be maintaining said properties; and

WHEREAS, the City Commission has an interest in protecting city neighborhoods from blight and decay caused by vacant and abandoned properties and concludes that it is in the best interest of the public to address aesthetic concerns to assure that property subject to a mortgage in default or foreclosure will continue to be maintained and secured so that blight will not occur; and

WHEREAS, the City Commission finds that registration of abandoned and vacant real property which are subject to foreclosure or a mortgage that is in default, will establish a contact person for the city to address conditions on such properties and may assist in resolving any violations or hazards on such properties; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 96.58, "Mortgagee Registration Requirements," of Chapter 96 of the Code of Ordinances of the City of Pompano Beach, Florida, entitled "Health and Safety," is hereby created to read as follows:

§ 96.58 MORTGAGEE REGISTRATION REQUIREMENTS

(A) **Definitions.** For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ENFORCEMENT OFFICER. Any full-time law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector employed within the city.

EVIDENCE OF VACANCY. 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 personal real property, stagnant swimming pool, lack of utility service, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

FORECLOSURE. The process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.

PROPERTY MANAGEMENT COMPANY. A local property manager, property maintenance company or similar entity responsible for the maintenance of abandoned real property.

VACANT. Any building/structure that is not legally occupied.

(B) Applicability. This section 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.

(C) Registration of vacant foreclosure real property.

(1) 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, or upon the issuance of a notice of default.

a. If the property is found to be vacant or shows evidence of vacancy, the mortgagee shall, within ten (10) days of the inspection, register the property with the Director of Development Services or his designee, on forms provided by the city. A registration is required for each such vacant property.

b. If the property is occupied but remains in default, it shall be inspected by the mortgagee or his designee monthly until the mortgagor or other party remedies the default, or the property is found to be vacant or shows evidence of vacancy, and the mortgagee shall, within (10) days of that inspection, register the property with the Director of Development Services or his designee on forms provided by the city. A registration shall be provided for each such property.

c. If the property has been subject to a foreclosure sale where the title has been transferred to a mortgagee in a foreclosure or where title has been transferred to a mortgagee by a deed or other legal means in lieu of a foreclosure sale, the mortgagee shall, within ten (10) days of the transfer of title, regardless if same has been recorded in the public records, register the property with the Director of Development Services or his designee, on forms provided by the city. A registration is required for each such property.

(2) Copies of all registrations required under subsection (1) above, shall be provided on a weekly basis to the supervisor of the department

responsible for code enforcement duties for the city by the Director of Development Services or the person designated to process the registrations.

(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 mortgagee facsimile number and e-mail address 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.

(4) An initial registration fee in the amount of seventy-five dollars (\$75.00), per property, shall accompany each registration form. The registration shall be renewed on the anniversary date of the initial registration for a fee of twenty-five dollars (\$25.00).

(5) Properties subject to this section shall remain under the annual registration requirement, security and maintenance requirements of this section as long as they remain vacant.

(6) Any person or corporation that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.

(D) Penalties. Failure of a mortgagee to register a property as required under this section shall be a violation. Each day the violation occurs shall constitute a separate violation. Such violations shall be punishable before the city's Special Magistrate for Code Enforcement pursuant to Chapter 162, F. S. and Chapter 37 of this Code, which may result in liens placed on the subject property.

(E) Maintenance requirements.

(1) Properties subject to this section shall be kept free of the violations listed in Sections 96.26 and 96.40 of this Code including, but not limited to, overgrown grass, weeds, and 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 such as furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

(2) The property shall be maintained free of graffiti or similar markings in accordance with Section 131.16 of this Code, including removal or painting over graffiti with an exterior grade paint that matches the color of the exterior structure.

(3) Landscaping shall be maintained in accordance with the city's standards.

(a) 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.

(b) Maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing of required landscape and removal of all trimmings.

(4) Pools and spas shall be maintained so the water remains free and clear of pollutants, debris and stagnation. Pools and spas shall comply with the enclosure requirements of the City's Code of Ordinances and Florida Building Code, as amended from time to time.

(5) 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 issuance of a citation or notice of violation/notice of hearing by a Code Enforcement Inspector. Pursuant to a finding and determination by the city's special magistrate, the city may take the necessary action to ensure compliance with this section.

(F) Security requirements.

(1) Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons. 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 persons to access the interior of the property and/or structure. Broken windows shall be secured by re-glazing or boarding of the window.

(2) If the property is owned by a corporation and/or out of area mortgagee, a local property management company shall be contracted to perform bi-weekly inspections to verify compliance with the requirements of this section, and any other applicable laws.

(3) The property shall be posted with the name and twenty-four (24) hour contact phone number of the local property management company. The posting shall be no less than an eight-inch by ten-inch sign. 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, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible or, if no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. Exterior posting shall be constructed of and printed with weather-resistant materials.

(5) The local property management company shall inspect the property on a bi-weekly basis to ensure that the property complies with this section. Upon the request of city, the local property management company shall provide a copy of the inspection reports to the Director of Development Services.

(6) 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 issuance of a citation or notice of violation/notice of hearing by an Enforcement Officer. Pursuant to a finding and determination by the city's Special Magistrate, the city may take the necessary action to ensure compliance with this section, which may result in liens on the property.

(G) It shall be a violation for any person to oppose, obstruct or resist any enforcement officer or any person authorized in the discharge of duties as provided in this section and upon conviction, any such person shall be punished as provided in section 10.99 of this Code or as set forth in Florida Statutes.

(H) Immunity of enforcement officer. Any enforcement officer or any person authorized by the city to perform services to remediate violations or hazards on the subject property 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 section.

(I) Additional authority. The Director of Development Services or his designee 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 further decline of the property or to correct any health and safety issue.

(J) Nothing contained in this section shall prohibit the city from enforcing its codes by any other means including, but not limited to, injunction, abatement or as otherwise provided by the city's Code or Florida Statutes.

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall become effective upon passage.

PASSED FIRST READING this 28th day of July, 2009.

PASSED SECOND READING this 8th day of September, 2009.



LAMAR FISHER, MAYOR

ATTEST:



MARY L. CHAMBERS, CITY CLERK

MEB/jrm
7/14/09
L:ord/ch96/2009-247