

ORDINANCE NO. C-12-38

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CHAPTER 18, NUISANCES, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA TO INCLUDE A CITY RESIDENTIAL ABANDONED PROPERTY PROGRAM; PROVIDING FOR ABANDONED PROPERTY REGISTRATION BY FORECLOSING MORTGAGEES; PROVIDING FOR DEFINITIONS; PROVIDING FOR RESPONSIBILITY FOR COMPLIANCE OF NUISANCE VIOLATIONS; PROVIDING FOR INSPECTIONS OF ABANDONED PROPERTY; AND FURTHER PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, a fundamental purpose of local government is to promote, protect, and improve the health, safety, and general welfare of its residents and visitors; and

WHEREAS, the City Commission recognizes an increase in the number of vacant and abandoned properties located throughout the City as a result of foreclosure proceedings; and

WHEREAS, the City Commission finds that these vacant and abandoned properties usually result in public nuisances and code violations in the City; and

WHEREAS, the City Commission finds that it is necessary to more effectively and efficiently abate public nuisances in the City by requiring foreclosing lenders and trustees to inspect, maintain and secure abandoned properties in residential areas of the City; and

WHEREAS, the City Commission finds that the health, safety and general welfare of the City will be protected and improved by adopting this ordinance and imposing registration, inspection and maintenance requirements for abandoned properties in the City;

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

SECTION 1. That Chapter 18, Nuisances, Article I, Public Nuisances, Sec. 18-3. Definitions, is hereby amended to read as follows:

Sec. 18-3. Definitions

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section.

Abandoned Dwelling shall mean any residential building or structure which is a Vacant Dwelling and is under a current Notice of Default or Notice of Mortgagee's Sale by lender or trustee for lender or a pending Tax Assessor's Lien Sale or subject of a foreclosure sale when the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under deed in lieu of foreclosure or sale.

Evidence of vacancy shall mean 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 are not limited to, overgrown or dead vegetation; stagnant and unsanitary pool water; nonfunctioning electric, water or gas utilities; accumulation of abandoned personal property; statements by neighbors, passers-by, delivery agents, or government agents; or any other evidence that the property is vacant.

Foreclosure shall mean the process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt upon a default by the borrower.

Mortgagee shall mean the creditor, including, but not limited to, service companies, lenders in mortgage agreement, trustees, and any agent, servant, or employee of the mortgagee, or any successor in interest or assignee of the mortgagee's rights, interest, or obligations under the mortgage agreement.

Owner shall mean any person, persons, or entity having legal or equitable title, or any real or contingent interest in any real property; being shown to be the property owner in the records of the Broward County Property Appraiser's Office; being identified on the abandoned real property registration form pursuant to this Article; or being a mortgagee in possession of real property. Any such person, persons, or entity shall have joint and several obligations for compliance with the provisions of this Chapter.

Property Management Company shall mean a local property manager, property maintenance company, or similar person or entity responsible for maintenance and security of Abandoned Dwellings.

SECTION 2. That Chapter 18, Nuisances, Article I, Public Nuisances, is hereby amended to read as follows:

Sec. 18-12.1. Registration of Abandoned Dwellings

- (a) Upon default by the mortgagor, any Mortgagee holding a mortgage on residential real property located within the City of Fort Lauderdale shall perform an inspection of the property that is the security for the mortgage prior to the issuance of a notice of default to determine if said property is vacant or shows Evidence of vacancy. If the property is vacant, it shall be deemed an Abandoned Dwelling and the Mortgagee shall, within ten (10) days of inspection, register the property with the Director or a duly authorized designee on forms provided by the Department.
- (b) If the residential real property is occupied but remains in default, it shall be inspected by the Mortgagee, or designee, on a monthly basis until either the default is remedied or is found to be vacant or shows Evidence of vacancy at which time it is deemed an Abandoned Dwelling and the Mortgagee shall, within ten (10) days of the inspection, register the Abandoned Dwelling with the Director on forms provided by the Department.
- (c) Registration pursuant to this section shall, at a minimum, contain the name of the Mortgagee, the direct mailing address of the Mortgagee, a direct contact name and telephone number of the Mortgagee, a facsimile number or email address for the Mortgagee, and, in the case of a corporation or out-of state area Mortgagee, the name, address and contact information for the Local Property Management Company responsible for maintenance and security of the property.
- (d) A non-refundable annual registration fee in the amount of two hundred (\$200.00) dollars per property shall accompany the registration form(s) pursuant to this section. The renewal of the registration shall be the responsibility of the Mortgagee.
- (e) The provisions of this Article shall also apply to properties that have been the subject of foreclosure sale, where the title was transferred to the Mortgagee, trustee or beneficiary of a mortgage involved in the foreclosure, and to any properties transferred under a deed in lieu of foreclosure sale.
- (f) Property subject to the provisions of this Article shall remain under the annual registration requirement, maintenance requirements, and security requirements of this Article as long as the property remains an Abandoned Dwelling.
- (g) Any person or entity that has registered a residential property under this Article shall report to the Director any change of required information contained in the registration form within ten (10) days of the change.

Sec. 18-12.2. Property Management Sign Requirements.

A sign shall be posted on the Abandoned Dwelling, with the name, address, and an emergency 24 hour contact telephone number of Property Management Company. The posted sign shall be a minimum size of eight (8) inches by ten (10) inches, and shall be of a font that is clearly visible and legible from the abutting sidewalk or street of the Abandoned Dwelling. The posted sign shall either be placed on the interior of the window facing the abutting street of the front of the Abandoned Dwelling or secured to the exterior of the Abandoned Dwelling and constructed of water-resistant materials.

Sec. 18-12.3. Inspections Required.

The Local Property Management Company shall inspect the Abandoned Dwelling on a bi-weekly basis to ensure that the property is in compliance with this Chapter. Upon the request of the Director, or designee, the Local Property Management Company shall provide a copy of all inspection reports of the Abandoned Dwelling to the Department.

Sec. 18-12.4. Specific Maintenance Requirements.

- (a) Abandoned Dwelling surrounding property shall be kept free of any accumulation or untended growth of weeds, overgrowth, or dead or living plant life; overgrowth of lawn, grass, weeds or foliage; trash, rubbish, paper, refuse, garbage, yard waste, solid waste, or debris; any abandoned or derelict motor vehicle or vessel; any discarded machinery, appliances, furniture or similar article; any stagnant water; and any other objectionable, unsightly, or unsanitary matter.
- (b) Abandoned Dwelling shall be maintained free of graffiti or similar markings.
- (c) Abandoned Dwelling which has a swimming pool, spa, hot tub or similar structure on its property shall be maintained in a proper operating condition so that the water is not stagnant and the water clarity is sufficient so that the deepest point is clearly visible from the pool or water's edge. It must also remain clear of any accumulation of garbage or solid waste.
- (d) Abandoned Dwelling shall be maintained in a secure manner. All doors, windows or other openings shall remain intact and secure from the unauthorized entrance to the interior of the structure.

Sec. 18-12.5. Responsibility for Compliance.

It is the responsibility of the Owner to maintain the Owner's real property in accordance with the provisions of this Chapter. A Mortgagee that is in violation of this Article shall be a responsible party for the compliance with this Article upon the filing of a lis pendens and/or legal action, the purpose of which is to foreclose upon the mortgage or similar instrument that secures debt upon the residential real property. The Mortgagee's responsibility for compliance with the provisions of this Article shall only be effective during periods of time that the Abandoned Dwelling is in existence and in foreclosure. The responsibility of the Mortgagee shall remain until such time as the subject real property is sold or transferred to a new owner, or the foreclosure action is dismissed. The Mortgagee and Owner are jointly

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and severally liable for all violations of this Chapter.

SECTION 3. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 4. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 5. That nothing in this ordinance shall be construed so as to affect any past or pending actions, notice of violation, or order of the code enforcement board or special magistrate, or any past, pending, or existing liens, fines, costs, or other obligations arising from code enforcement, or otherwise, all of which shall continue in full force and effect as if this ordinance has not been adopted.

SECTION 6. That this ordinance shall be in full force and effect ninety (90) days from the date of final passage.

PASSED FIRST READING this the 18th day of September, 2012.

PASSED SECOND READING this the day of 2nd day of October, 2012.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH

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