

ORDINANCE NO. _____

AN ORDINANCE OF PINELLAS COUNTY, FLORIDA, REGARDING FORECLOSED ABANDONED—PROPERTY REGISTRATION; AMENDING THE PINELLAS COUNTY CODE TO ADD ARTICLE III OF CHAPTER 22; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR REGISTRATION AND INSPECTION OF DISTRESSED REAL PROPERTY IN FORECLOSURE; PROVIDING FOR ANNUAL REGISTRATION FEES; PROVIDING FOR POSTING REQUIREMENTS; PROVIDING FOR MAINTENANCE REQUIREMENTS; PROVIDING FOR ENFORCEMENT OF VIOLATIONS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the ongoing mortgage foreclosure crisis has serious negative implications for all communities trying to manage the resulting property vacancies, decreases in property values, lack of maintenance, and other related problems; and

WHEREAS, foreclosed homes quickly succumb to the forces of nature and the elements, grass and weeds grow, swimming pools become stagnant public health hazards, landscaping dies from lack of attention, or grows out of control, windows are broken, exteriors suffer damage, and these consequences have a negative impact first on neighboring properties and ultimately on entire neighborhoods; and

WHEREAS, the conditions identified above negatively impact Pinellas County; and

WHEREAS, Pinellas County is challenged to identify and locate owners or foreclosing parties who can potentially correct negative impacts and maintain properties that are in the foreclosure process or have been foreclosed; and

WHEREAS, Pinellas County has adopted property maintenance codes to regulate standards for the interior and exterior of structures and the condition of properties as a whole; and

WHEREAS, a foreclosed property registration process will enhance the ability of Pinellas County to provide a monitoring mechanism and additional enforcement for for properties in the foreclosure process and properties that have been foreclosed but retained by the mortgagee defaulted properties; and

~~WHEREAS, Pinellas County finds that the registration process would include properties that have already been foreclosed upon, are currently in the foreclosure process, or those properties may be foreclosed upon in the future; and~~

WHEREAS, the Pinellas County Board of County Commissioners has determined that the following additions to the County's code will serve to promote and protect the general health, safety, and welfare of the residents of Pinellas County.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pinellas County, Florida:

Section 1. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

1. The findings contained in the recitals above are true and correct and are incorporated herein.
2. It is in the interest of the public health, safety and welfare to adopt this Ordinance to establish an annual foreclosed ~~/abandoned~~ property registration program to ensure that ~~foreclosed~~ properties in the foreclosure process and those that have been foreclosed but retained by the mortgagee are being actively maintained and inspected.

Section 2. Purpose and Intent. This Ordinance is enacted to establish a process to limit and reduce the deterioration of property located within unincorporated Pinellas County, which property is in mortgage foreclosure, ~~or;~~ where ownership has been transferred to a lender or mortgagee by any legal method; ~~or, where property is distressed or deemed to be abandoned due to actions of a mortgagee.~~

Section 3. Chapter 22, Article III, Sections 22-56 through Section 22-66 is hereby added to the Pinellas County Code to read as follows:

Chapter 22 – Buildings and Building Regulations

ARTICLE III. ~~— FORECLOSED ABANDONED~~ PROPERTY REGISTRATION PROGRAM

Sec. 22-56. - Title.

This article is known and may be cited as the "~~Abandoned~~ Foreclosed Property Registration Program".

Sec. 22-57. - Applicability.

This article is applicable in the unincorporated areas of Pinellas County.

Sec. 22-58. - Purpose and intent.

The purpose and intent of this article is to protect and preserve public safety, security and enjoyment of communities by identifying properties that are currently in the foreclosure process or have already been foreclosed upon and retained by the mortgagee by (i) requiring mortgagees to register said properties; (ii) identifying to the best of their ability whether such properties are abandoned,; and (iii) regulating the inspection, security and maintenance of properties where the mortgagee is in legal possession to prevent blighted and unsecured residencies. ~~establish a process to limit and reduce the deterioration of property located within unincorporated Pinellas County, which property is in mortgage foreclosure; where ownership has been transferred to a lender or mortgagee by any legal method; or, where property is distressed or deemed to be abandoned due to actions of a mortgagee. The further intent of this article is to establish a registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance, or through distressed and/or abandoned properties that are subject to mortgages in default.~~ Additionally it is intended that these properties be returned to the market in a viable condition for sale, rent or lease.

Sec. 22-59. - Definitions.

The following words, terms and phrases, when used in this article, have the meanings set forth below, except where the context clearly indicates a different meaning:

Abandoned means any building or structure that is not lawfully occupied or inhabited as evidenced by, but not limited to overgrown and/or dead vegetation; electricity, water or other utilities turned off or otherwise non-operational; stagnant swimming pool; statements by neighbors, passers-by, delivery agents or government agents; or other conditions that would indicate the property is not lawfully inhabited.

Code Enforcement Officer means any law enforcement officer, building official, fire inspector or code enforcement officer employed by, or working on behalf of Pinellas County; those authorized agents or employees of the county whose duty it is to ensure compliance with Pinellas County regulations.

~~*Default* means that the mortgagee has filed a foreclosure action or notice of default on the mortgage. A mortgage is considered in default at such time as the mortgagee declares the mortgage to be in default by letter or notice to the property owner, by recording a lis pendens, by commencing foreclosure proceedings, or by any other actions demonstrating a breach of a security covenant on a property.~~

~~*Distressed property* means any real property that is under default; properties under notice of mortgagee's sale, or pending sale; properties that have been the subject of a mortgage foreclosure sale where title is retained by the mortgagee involved in the foreclosure; or, properties transferred~~

~~to the mortgagee under a deed in lieu of foreclosure sale or sale to the mortgagee or any company, trust or entity in which the mortgagee has a financial interest, short sale or any other legal means.~~

Foreclosure means the judicial process initiated by the recording of a lis pendens or by filing a formal legal complaint by which a property, placed as security for a mortgage loan, is to be sold at an auction to satisfy a debt upon which the borrower has defaulted. This definition shall include all processes, activities and actions, by whatever name associated with the described process.

Foreclosed Property means property that is in the foreclosure process or property that has been foreclosed upon and purchased and retained by the mortgagee.

Mortgagee means the lender or creditor responsible for initiating the foreclosure process, including but not limited to service companies, trustees, lenders in a mortgage agreement, or any agent or employee of said parties. This includes any company, trust or entity in which the mortgagee has a financial interest.

Mortgagee in Possession means a mortgagee who has lawfully acquired actual possession of the mortgaged premises for purpose of enforcing the security on such property.

Sec. 22-60. - Registration and inspection of foreclosed ~~distressed~~ real property.

- (a) Registration. Within ten (10) days of initiating the foreclosure process, ~~the date of taking an action that results in a property located in unincorporated Pinellas County qualifying as distressed or default~~, the mortgagee ~~holding a mortgage~~ must register the property that is the security for the mortgage. A registration, on the form prescribed by the county, is required for each property. Registration pursuant to this section must contain, at minimum, the name and mailing addresses of the mortgagee and local registered agent for purposes of service; and, the name of the local property manager along with the property manager's address, email address and 24-hour telephone number. The property manager's mailing address may not be a post office box and must be the physical address where the manager may be contacted. A local property manager must be designated at the time the registration is filed and will be responsible for compliance with the requirements herein, ~~inspecting, securing and maintaining the property~~. The property manager named in the registration must be locally available to be contacted by the county, Monday through Friday between 8:00 a.m. and 5:00 p.m. The mortgagee shall also indicate if the property appears to be occupied or abandoned.

For property subject to a foreclosure action or foreclosed upon and retained by the mortgagee qualifying as distressed or a default property prior to January 1, 2017, the mortgagee will have until January 13, 2017 to register in accordance with the requirements of this article.

- (b) Inspection. Within ten (10) days of becoming a mortgagee in possession, ~~the date of taking an action that results in a property located in unincorporated Pinellas County qualifying as distressed or default~~, the mortgagee in possession ~~holding a mortgage on the property~~ must have the property physically inspected to evaluate and comply with conditions 1-~~34~~, below.
- (1) The mortgagee in possession must inspect the property to ensure the maintenance requirements as described in Section 2-63 herein are met.

~~If the property is occupied, but the property remains distressed or in default, t~~

~~(2) The mortgagee in possession must register the property as "occupied" and must inspect the property every sixty (60) days quarterly until:~~

~~a. The property no longer qualifies as foreclosed property, distressed or in default; or~~

~~b. The property is found to be abandoned, in which case the mortgagee must update the property's status to "abandoned" within ten (10) days of the last inspection.~~

~~(2) Property that is found to be abandoned must be inspected at least every thirty (30) days by the mortgagee or mortgagee's designee.~~

~~(23) The mortgagee in possession or mortgagee's designee must be able certify that each inspection has taken place and provide a copy of the results of each inspection if specifically requested by the County. The acceptable format of the documentation shall be specified by the County.~~

~~(4) Maintenance requirements described Sec 2-64 of this article.~~

(c) Continuing requirement. Properties subject to this article will remain under the registration requirement and the inspection, security and maintenance standards required under this article as long as they remain foreclosed properties, distressed properties or in default.

(d) Change in status. Any person or other legal entity that has registered a property under this article must report a change to the status of the property or information contained in the registration within ten (10) days of the change.

Sec. 22-61. - Annual registration fee.

An annual registration fee in an amount approved by the board of county commissioners must be paid upon registration of each foreclosed distressed property. Subsequent annual registrations and fees are due on or before the expiration of the previous registration. The county may charge an additional fee for subsequent registrations that are not completed before expiration of the previous annual registration.

Sec. 22-62. - Posting requirements.

(a) When a property subject to this article becomes abandoned, it must be posted by the mortgagee in possession or designee with the name and the 24-hour contact telephone number of the mortgagee's local property manager, unless such posting is prohibited by recorded covenants and restrictions. The posting must be no less than eighteen (18) inches by twenty-four (24) inches and must be of a font that is legible from a distance of forty-five (45) feet. The posting must contain the following language, at minimum, with supporting information:

THIS PROPERTY IS MANAGED BY _____ AND IS INSPECTED ON A REGULAR BASIS.

THE PROPERTY MANAGER CAN BE CONTACTED

BY TELEPHONE AT _____

AND BY EMAIL AT _____

- (b) The posting required in subsection (a) above must be placed on the interior of a window facing the street to the front of the property so that it is visible from the street; or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street; or, if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property. All postings must be weather-resistant and clearly legible at all times. Postings shall be inspected during the required 30 day inspection. Damaged, missing, or illegible postings shall be replaced within 5 working days of the inspection or upon notice by a Code Enforcement Officer that the sign needs to be replaced.

Sec. 22-63. - Maintenance requirements.

- (a) Properties subject to this article must be maintained in accordance with all relevant county regulations, including but not limited to provisions contained in Chapter 2, Administration, Chapter 22, Buildings and Building Regulations, Chapter 58, Environment, and Part III, Land Development Code;
- (b) Properties subject to this article must be kept free of overgrown vegetation and/or brush, dead vegetation, trash, junk, debris, garbage, refuse, rubbish, building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state or local law), inoperable or abandoned vehicles, discarded personal items, including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.
- (c) The property must be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- (d) Front, side and rear yards, including landscaping, must be maintained.
- (e) Pools and spas must be maintained so that the water does not become stagnate, remains free and clear of pollutants and debris. Pools and spas must comply with all requirements of the Pinellas County regulations and Florida Building Code, as amended from time to time.
- (f) Properties subject to this article must be maintained in a secure manner so as to not be accessible to unauthorized persons or open to the elements. A "secure manner" means and includes, but is not limited to, the closure and locking of all windows, doors, and any structural openings of such size that will allow a child or adult to access the interior of the structure and pool area, if any. Broken windows and doors must be secured by reglazing or boarding. Boarding of any opening is a temporary measure and proper repair of the boarded opening shall be made within 30 days after the initial boarding.

Sec. 22-64. - Violations and enforcement.

- (a) Violations. Violations of this article include, but are not limited to, the following:
 - (1) Failure of mortgagee ~~and/or property owner~~ of record to properly register or modify the registration to reflect a change of information as required.
 - (2) Failure of ~~the mortgagee and/or property owner of record~~ mortgagee in possession to properly inspect, secure or ~~properly maintain~~ distressed or abandoned the foreclosed property. ~~or property in default.~~

- (3) Failure of the ~~mortgagee and/or property owner of record~~ mortgagee in possession to properly post and maintain required signs.
- (c) Enforcement. The provisions of this article will be enforced by a Code Enforcement Officer, or by other legal means available to the County.
- (d) Cost recovery. In accordance with F.S. Ch. 125 and 162, and the Pinellas County Code, upon a finding and determination by the special magistrate or adjudication by the county court, the county may take the necessary corrective action to ensure compliance with this article. In the event the county takes corrective action, the county is entitled to recover all costs and expenses, including reasonable attorney fees; and, to record a lien in favor of the county against the subject real property.

Sec. 22-65. – Penalty for violation of this article.

Violations of this article are punishable as provided in Chapter 1, Section 1-8.

SECTION 4. SEVERABILITY.

If any Section, paragraph, clause, sentence, or provision of the Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgement shall affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect therefore shall be confined to the section, paragraph, clause, sentence, or provision immediately involved in the controversy in which such judgement or decree shall be rendered.

SECTION 5. INCLUSION IN CODE.

The provision of this Ordinance shall be included and incorporated in the Pinellas County Code, as an amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

SECTION 6. FILING OF ORDINANCE; EFFECTIVE DATE

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the ordinance with the Department of State.