

ORDINANCE NO. 45-2009

AN ORDINANCE OF THE CITY OF TITUSVILLE, AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES BY ADDING ARTICLE V REQUIRING MORTGAGEE REGISTRATION RELATING TO REAL PROPERTY MORTGAGES IN DEFAULT; PROVIDING FOR AN ELECTRONIC FORM OF REGISTRATION PROCESS AND FEE; REQUIRING MAINTENANCE AND SECURITY FOR REAL PROPERTY IN DEFAULT; PROHIBITING OBSTRUCTION OF CODE ENFORCEMENT OFFICERS; PROVIDING FOR IMMUNITY OF CODE ENFORCEMENT OFFICERS; PROVIDING FOR ADDITIONAL SECURITY; PROVIDING SUPPLEMENTAL AUTHORITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the mortgage foreclosure crisis has serious negative implications for all communities trying to manage the resulting vacant properties, increases in crime, homelessness, and other problems that stem from family financial crisis; and

WHEREAS, the City of Titusville is challenged because of the recent wave of foreclosures and it has been determined local codes must be adopted to mitigate the negative impact of foreclosures; and

WHEREAS, relying on common law tradition and the statutory grant of general police power, local governments have a variety of powerful tools available to combat the negative impact foreclosures have on neighborhoods; and

WHEREAS, foreclosed homes quickly succumb to the forces of nature and the elements, grass and weeds grow long, swimming pools become stagnant, public health hazards, landscaping dies from lack of attention or grows out of control, windows break, and exteriors suffer damage from normal wear-and-tear and vandalism and communities suffer, and has a negative impact first on neighboring residences and then on entire neighborhoods; and

WHEREAS, property maintenance codes to regulate community standards for the interior and exterior condition of structures have been adopted; and

WHEREAS, registration requires the personal contact information of the owner or other responsible party who shall be personally liable for any violation of codes when such person is or was the person owning or managing, controlling, or acting as agent in regard to buildings or premises; and

WHEREAS, the City finds that neighborhoods should be protected from becoming blighted through the lack of adequate maintenance and security of abandoned and vacant properties subject to mortgages that are in default; and

WHEREAS, the City finds that the mortgagee's registration of abandoned and vacant real property, or property subject to a mortgage which is in default, will establish a contact person for the City of Titusville to address concerns regarding the maintenance and security of the property; and

WHEREAS, the City finds that it is in the public interest to address safety and aesthetic concerns of the City to assure that property subject to a mortgage in default or foreclosure will continue to be maintained and secured and that blight will not occur.

Now therefore, be it enacted by the City of Titusville, Florida, as follows:

Section 1. That Chapter 13 of the Code of Ordinances of the City of Titusville is hereby amended by adding a new article to be numbered Article V which said Article reads as follows:

ARTICLE V. REGISTRATION & MAINTENANCE OF MORTGAGED REAL PROPERTY IN DEFAULT

Sec. 13-106. Purpose & Intent of the Registration.

The purpose and intent of this Section is to protect the health, safety and welfare of the public by establishing a process to limit and reduce the amount of deteriorating property located within the City. Vacant buildings and real property under foreclosure are a major source of blight, especially when the owner or mortgagee fails to properly maintain said buildings and property. Real property under foreclosure often suffers from a lack of maintenance and becomes neglected during the time it takes a mortgagee to complete the foreclosure process and secure property. It is further the intent of the City to establish registration and maintenance requirements for vacant properties and properties under foreclosure as a mechanism to protect neighborhoods from becoming blighted through the lack of inadequate maintenance of abandoned and vacated properties subject to mortgages in default.

Sec. 13-107. Definitions.

The following words, terms, or phrases shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning.

Abandoned Real Property means any real property that is vacant and is under public notice of default, notice of mortgagee's sale, or has been the subject of a foreclosure sale where title is retained by the mortgagee, or properties transferred to mortgagee under a deed-in-lieu of sale.

Default means that the mortgagee has decided to file a mortgage foreclosure action on the defaulted mortgage. A mortgage shall be considered in default at such time as the mortgagee provides the mortgagor a written notice declaring the mortgage in default, and the mortgagor vacates or abandons the property, or the mortgagee takes action to commence foreclosure

proceedings in a court of law, and the default shall continue until such time as the mortgagor cures the default and the action has been completed or the ownership of the real property has transferred to a new owner that intends to occupy the real property.

Evidence of vacancy means 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 shall include, but not be limited to, overgrown and/or dead vegetation, electricity, water or other utilities turned off, stagnant swimming pool, statements by neighbors, passers-by, delivery agents or government agents, among other evidence.

Foreclosed property means real property that is in default.

Foreclosure means the judicial process by which a property, placed as security for a mortgage loan, after a judicial process, is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

Enforcement officer means any fulltime law enforcement officer, building official, fire inspector or code enforcement officer employed by the City.

Vacant means a building or parcel of land that is neither lawfully occupied nor used, or when it is in a nonoperative status.

Sec. 13-108. Applicability.

This ordinance relates to abandoned and vacant property and to property subject to a mortgage that has been determined by the mortgagee to be in default.

Sec. 13-109. Registration of real property mortgagee holding mortgages in default.

- (a) Any mortgagee who holds a mortgage on real property located within the City of Titusville shall, within ten (10) days of the date the mortgagee declares its mortgage to be in default, register the real property with the City or City's designee and, at the time of registration, shall designate in writing a local property manager to inspect, maintain and secure the real property subject to the mortgage in default.
- (b) Registration. Registration pursuant to this section shall contain the following minimum information:
 - (1) The mortgagee's name, direct mailing address, e-mail address, contact person, and telephone number;
 - (2) The address and parcel identification number of the real property that is being foreclosed upon by mortgagee;
 - (3) Whether the property is vacant or occupied during the default period;
 - (4) If the real property is, or becomes, vacant, the name, street address, e-mail address, and telephone number of the local property manager that will work on the mortgagee's behalf to inspect, maintain, and secure the real property. The

local property manager's current street address and land line telephone number shall be within one of the following counties: Brevard, Indian River, Orange, Osceola, Seminole, or Volusia and shall be available to be contacted by the City Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.; and

- (5) If a foreclosure complaint involving the real property has been filed in circuit court, or the real property is subject to a bankruptcy proceeding, the style of the case including, court name, case number, and parties;
 - (6) Provide express authorization for city employees to enter upon the exterior of the property in the event the property becomes vacant for the purpose of ensuring compliance with this article.
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- (c) This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the mortgagee as well as any properties transferred to the mortgagee under a deed in lieu of foreclosure.
 - (d) Properties subject to this section shall remain under the annual registration requirement, inspection, security, and maintenance standards of this section as long as they remain in default.
 - (e) Any person or other legal entity that has registered a property under this ordinance must report any change of information contained in the registration within ten (10) days of the change.
 - (f) Failure of the mortgagee and/or property owner of record to properly register or to revise from time to time the registration to reflect a change of circumstances as required by this ordinance is a violation of the Code of Ordinance of the City of Titusville and shall result in a Notice of Violation by the Code Enforcement Department.

Sec. 13-110. Registration Fees.

The City Council shall establish by resolution fees for the registration and re-registration requirements of this article. Said fees shall be based on the reasonable estimated cost of administering the provisions of this article and shall be due and payable at the time of registration or re-registration. The City may delegate the collection of such fee to an independent contractor.

Sec. 13-111. Maintenance requirements.

- (a) Properties subject to this ordinance shall be kept free of weeds, overgrown 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 including, but not limited to, furniture, clothing, large and small appliances, or any other items that give the appearance that the property is abandoned or not being properly maintained. Weeds, overgrown brush or dead vegetation over twelve (12) inches tall are prohibited.

- (b) The property shall 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.
- (c) Yards shall be landscaped and maintained pursuant to the standards set forth in the code.
 - (1) Landscaping shall include, but not be limited to, grass, ground cover, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential, commercial or industrial installation, as applicable. Landscaping shall not include weeds, gravel, broken concrete, asphalt or similar material.
 - (2) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required landscape and removal of all trimmings and weeds.
- (d) Pools and spas shall be kept in working order so that pool and spa water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the City's code and the Florida Building Code.
- (e) Failure of the mortgagee and/or property owner of record to properly maintain the property is a violation of the Code of Ordinances and shall result in the issuance of a Notice of Violation by the Code Enforcement Department.

Section. 13-112. Security requirements.

- (a) Improved properties subject to this article, and property subject to this article which is required to be enclosed or secured in accordance with law, shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- (b) 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 shall allow a child or adult to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or boarding.
- (c) If a mortgage on the property is in default on the property and has become vacant or abandoned, a local property manager shall be designated by the mortgagee to perform the work necessary to bring the property into compliance with the Code of Ordinances and the mortgagee, or local property manger on the mortgagees behalf, must perform weekly inspections to verify compliance with the requirements of this section, and any other applicable laws or ordinances of the City.
- (d) Failure of the mortgagee and/or property owner of record to properly inspect and secure the property is a violation of this ordinance and shall result in the issuance of a Notice of Violation by a Code Enforcement Officer.

Sec. 13-113. Opposing, obstructing enforcement officer; penalty.

Whoever opposes obstructs or resists any enforcement officer, or any person authorized by the City, in the discharge of duties as provided in this ordinance, upon conviction shall be sanctioned as provided in the Code of Ordinances of the City, or Chapter 162, Florida Statutes.

Sec. 13-114. Immunity of enforcement officer.

Any enforcement officer, or any person authorized by the City Manager to enforce this ordinance, shall be immune from prosecution, civil or criminal, for reasonable, good faith entry or trespass upon real property while in the discharge of duties imposed by this article.

Sec. 13-115. Additional authority.

The City Manager or designee shall have authority to require the mortgagee and/or owner of record of any property affected by this ordinance to require an on-site security guard. Failure to comply with the terms of this Chapter shall constitute a continuing public nuisance. The City shall have the authority to promptly abate the public nuisance, in whole or in part, at the expense of the mortgagee or other responsible party.

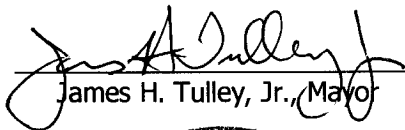
Sec. 13-116. Supplemental Provisions.

Nothing contained in this ordinance shall prohibit the City from enforcing its codes by any other means, including, but not limited to, injunction, abatement or as otherwise provided by code.

Section 2. Severability. It is the intention of City Council that the paragraphs, sentences, and clauses of this ordinance are severable and if any section or portion of a section of this ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this ordinance.

Section 3. Effective Date. This ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED this 8th day of December 2009.


James H. Tulley, Jr., Mayor

ATTEST


Wanda F. Wells, City Clerk

