

ORDINANCE NO. 2185

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING CHAPTER 42, "ENVIRONMENT", OF THE CODE OF ORDINANCE OF THE CITY OF APOPKA, FLORIDA, BY CREATING A NEW DIVISION 3, ENTITLED, "REGISTRATION, MAINTENANCE AND SECURITY OF ABANDONED REAL PROPERTY"; PROVIDING FOR REGISTRATION; PROVIDING FOR PENALTIES; RESERVING CERTAIN SECTIONS; PROVIDING FOR DIRECTIONS TO THE CITY CLERK; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City of Apopka (the "City") recognizes an increase in the number of vacant and abandoned properties located throughout the City; and

WHEREAS, the presence of vacant and abandoned properties can lead to a decline in property value, create attractive nuisances, and lead to general decrease in neighborhood and community aesthetic; and

WHEREAS, vacant and abandoned properties present a serious threat to the public health and safety of the community; and

WHEREAS, the presence of vacant and abandoned properties may discourage prospective buyers from purchasing real property within the City; and

WHEREAS, many vacant and abandoned properties are the responsibility of lenders and trustees who fail to adequately secure and maintain such properties; and

WHEREAS, the City has a vested interest in protecting the City against the decay caused by vacant and abandoned properties and concludes that it is in the best interest of the citizens and residents to impose registration requirements on such properties located within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, as follows:

Section 1. That the recitals set forth above are hereby adopted and confirmed.

Section 2. That Division 2 of Chapter 42 is hereby amended to reserve certain sections, as follows:

Secs. 42-65 - 42-70. Reserved

Section 3. That the City Council of the City of Apopka hereby amends Chapter 42 "Environment" of the City Code of Ordinances by creating a new Division 3. entitled, "Registration, Maintenance and Security of Abandoned Real Property, to read as follows:

Division 3. Registration, Maintenance and Security of Abandoned Real Property

Sec. 42-71. Abandoned Real Property; Purpose and Intent.

It is the purpose and intent of the City to establish a process to address the amount of deteriorating real property located within the City, which includes property, whether vacant or occupied, about which a public notice of default has been filed, is in foreclosure, or where ownership has been transferred to lender or mortgagee by and legal method. It is the City's further intent to specifically establish an abandoned residential property program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

Sec. 42-72. Definitions.

The following words, terms and phrases, when used in these sections, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned real property means any property that is vacant or is subject to a mortgage under a current Notice of Default or Notice of Mortgagee's Sale, pending Tax Assessors Lien Sale or vacant properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

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 may include, but not be limited to, overgrown or dead vegetation, accumulation of abandoned real property, as defined herein, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

Foreclosure means 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.

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

Property management company means a property manager, property maintenance company or similar entity or individual responsible for the maintenance of abandoned real property.

Vacant means any building/structure that is not legally occupied.

Sec. 42-73. Applicability.

These sections 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 or local provisions for same.

Sec. 42-74. Penalties; schedule of civil penalties.

Any person who shall violate the provisions of this division shall, upon conviction, be punished as provided for in this section.

The following table shows violations of these sections, as may be amended from time to time, which may be enforced pursuant to the provisions of this regulation; and the dollar amount of civil penalty for the violation of these sections as it may be amended. The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this section, regardless of whether all activities prescribed or required are described in the "Description of Violation" column. To determine whether a particular activity is prescribed or required by this Code, the relevant Code section shall be examined.

TABLE INSET:

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
42-76	Failure to register abandoned real property	\$500.00
42-77	Failure to properly maintain abandoned real property	\$500.00
42-78	Failure to properly secure abandoned real property	\$500.00
42-79	Interference with Code Enforcement Officer	\$500.00
	All section of this Division not specifically listed in this schedule	\$500.00

Sec. 42-75. Public Nuisance.

All abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the City.

Sec. 42-76. Registration of Abandoned Real Property.

(a) Any mortgagee who holds a mortgage on real property located within the City shall, upon default by the mortgagor and prior to the issuance of a notice of default, perform an inspection of the property that is the security for the mortgage. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned real property and the mortgagee shall, within ten (10) days of the inspection, register the property with the mayor, or his designee, on forms provided by the City. A registration is required for each property whether vacant or occupied.

(b) If the property is occupied but the mortgage on the property remains in default, the property shall be inspected by the mortgagee or his designee monthly until: (1) the mortgagor or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of that inspection, update the property registration to a vacancy status providing the date of last inspection with the mayor, or his designee, on forms provided by the City.

(c) Registration pursuant to this section shall contain the name of the mortgagee and the servicer, the direct mailing address of both parties, a direct contact name and telephone number for both parties, a facsimile number and e-mail address for both parties, the folio or tax number, and the name and twenty-four (24) hour contact phone number of the property management company responsible for the security and maintenance of the property.

(d) This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

(e) A registration fee in the amount of \$200.00, per property, shall accompany the registration form(s).

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

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

Sec. 42-77. Maintenance Requirements.

(a) Properties subject to this section 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), abandoned vehicles, portable storage devices, 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.

(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) Front, side, and rear yards, including landscaping, shall be maintained in accordance with the City's Code of Ordinances.

(d) Yard maintenance 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. Acceptable maintenance of yards and/or landscaping shall not include weeds, gravel, broken concrete, asphalt or similar material.

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

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

(g) Failure of the mortgagee 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 City Code Enforcement Officer. Pursuant to a finding and determination by the City's Code Enforcement Hearing Officer, the City may take the necessary action to ensure compliance with this section.

Sec. 42-78. Security Requirements.

(a) Properties subject to this division 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 may allow a child to access the interior of the property or structure. Broken windows shall be secured by reglazing of the window.

(c) If the property is owned by a corporation or mortgagee that is unable or unwilling to perform maintenance and inspections itself, a 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.

(d) The mortgagee shall inspect or have inspected the property on a bi-weekly basis to ensure that the property is in compliance with this section. Upon the request of the City, the mortgagee shall provide a copy of the inspection reports to the code enforcement division.

(e) Failure of the mortgagee 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 City Code Enforcement Officer. Pursuant to a finding and determination by the City's Code Enforcement Hearing Officer, the City may take the necessary action to ensure compliance with this section.

Sec. 42-79. Opposing, obstructing enforcement officer; penalty.

Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this section, upon conviction shall be punished by the imposition of a civil penalty in the amount of \$500.00.

Sect. 42-80. Immunity of enforcement officer.

Any enforcement officer or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by these sections.

Sec. 4-81. Additional Authority.

The mayor, or his designee, shall have authority to require the mortgagee or owner of record of any property affected by this section, to implement additional maintenance or security measures including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard, or other measures as may be reasonably required to prevent a decline of the property.

Section 4. That the City Clerk, or the Clerk's designee, is hereby authorized to include this amendment in the Apopka Code of Ordinances.

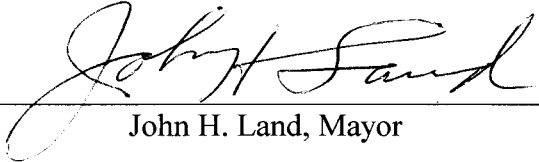
Section 5. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. All sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption.

FIRST READING: July 21, 2010

SECOND READING
AND ADOPTION: August 4, 2010



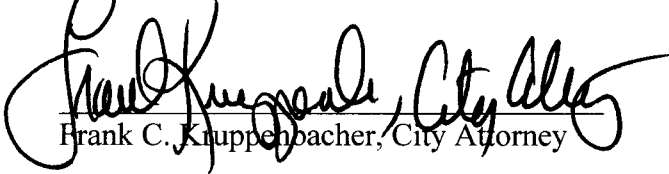
John H. Land, Mayor

ATTEST:



Janice G. Goebel, City Clerk

APPROVED AS TO FORM:



Frank C. Knuppenbacher, City Attorney

DULY ADVERTISED FOR PUBLIC HEARING: July 23, 2010