

ORDINANCE 13-5072

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA AMENDING THE CODE OF THE CITY OF SARASOTA, CHAPTER 17, HEALTH AND SANITATION, BY CREATING AN ARTICLE II, ABANDONED/FORECLOSED PROPERTY REGISTRATION SYSTEM; PROVIDING FOR A PROCESS FOR THE REGISTRATION OF ABANDONED PROPERTIES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission finds that the present foreclosure crisis has had negative implications for Florida communities, including the City of Sarasota, who must try to manage the negative effects of property vacancy and abandonment; and,

WHEREAS, the City Commission recognizes an increase in the number of vacant and abandoned property located throughout the City; and

WHEREAS, vacant and 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; and

WHEREAS, the City finds that it is the foreclosing banks duty—as the party with the greatest, direct financial interest in such properties—to control and maintain properties throughout the foreclosure process; and

WHEREAS, the City many times has problems identifying and locating the lawful owner and/or foreclosing party who can maintain such properties; and,

WHEREAS, the City Commission finds that the continued presence of abandoned properties can lead to a decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetic and can require increased monitoring and regulation by the City's code compliance staff; and,

WHEREAS, the City currently has property maintenance codes to regulate standards for the exterior of structures and the condition of a property as a whole; and,

WHEREAS, the City Commission wishes to amend the City's Code to establish a foreclosed and/or abandoned property registration process that will identify a contact person to address safety and aesthetic concerns to minimize the negative impacts and blighting conditions that occur as a result of abandoned properties; and

WHEREAS, the City Commission has determined it has an interest in protecting neighborhoods against decay caused by abandoned properties and finds it is in the best interests of the health, safety and welfare of its citizens to impose registration and certification requirements on abandoned properties;

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. Chapter 17, "Health and Sanitation", of the Code of the City of Sarasota (the "Code") is hereby amended by the addition thereto of a new Article II, to be entitled "Abandoned/Foreclosed Property Registration System", which shall provide as follows: **(Additions to text are indicated by underline; deletions by ~~strikeout~~.)**

"Article II. – Abandoned/Foreclosed Property Registration System

Sec. 17-5. Registration of properties with mortgages in default or that have been abandoned.

- (a) Any mortgagee who holds a mortgage on any real property located within the City, regardless of the property's land use designation, zoning district, or nature of the use or uses given to the structures found on the property, and who has determined that such mortgage is in default, has issued a notice of default, has recorded a lis pendens, or taken any other legal action to enforce its right to accelerate the debt or foreclose its interest in the property, shall register the property with the City's code compliance division. Additionally, any mortgagee who holds a mortgage on real property located within the City, shall register such property with the city's code compliance division once it has been contacted by the City and put on notice that after reasonable due diligence the City has determined such real property has been abandoned by its owner(s) and/or other inhabitants. The mortgagee must register the property within 15 days from 1) the date it first gives notice to the debtor/mortgagor of its intent to accelerate the debt and/or foreclose its interest in the property, or 2) the date the City sends notice that it has deemed the property abandoned.

Together with the registration, the mortgagee must submit an annual fee for each property registered according to the following:

1. For properties that have been abandoned/foreclosed for less than two (2) years a non-refundable annual registration fee in the amount of \$250.00 per property, shall accompany the registration form(s).
2. For properties that have been abandoned/foreclosed for two (2) years or more, but less than three (3) years, a non-refundable annual registration fee in the amount of \$500.00 per property, shall accompany the registration form(s).
3. For properties that have been abandoned/foreclosed for three (3) years or more, but less than four (4) years, a non-refundable annual registration fee in the amount of \$1,000.00 per property, shall accompany the registration form(s).
4. For properties that have been abandoned/foreclosed for four (4) years or more, but less than five (5) years, a non-refundable annual registration fee in the amount of \$2,000.00 per property, shall accompany the registration form(s).
5. For properties that have been abandoned/foreclosed for five (5) years or more, a non-refundable annual registration fee in the amount of \$4,000.00 per property, shall accompany the registration form(s).

The mortgagee must designate an individual or entity to act as its local agent who shall be responsible for inspecting, maintaining and securing the property according to the provisions of this section and be available to be contacted by the City during regular business hours. The local agent must have a place of business in Sarasota or Manatee County. All registrations must state the property address, the mortgagee's name, address, email address and telephone number, the name of an agent responsible for the property's management, agent's mailing address, email address and telephone number. If the local agent designated by the mortgagee is an entity, the registration must identify an individual and that individual's position within the entity. The individual must have the necessary authority within the entity to make all necessary decisions and take all necessary actions to discharge the mortgagee's obligations pursuant to this section. Postal box office numbers cannot be utilized as mailing addresses. Any change in the information required must be reported to the code compliance division within 10 days from the date of the change. If the mortgagee who first registers the property assigns the mortgage in default to another, the mortgagee must notify the City of the assignment, the identity and contact information of the assignee. The assignee must re-register the property, pay the registration fee, designate a local agent and provide all the information required for registration.

- (b) The mortgagee, through its designated local agent, must perform an inspection within 15 days from the date the mortgagee first gives notice to the debtor/mortgagor of its intent to accelerate the debt and/or foreclose its interest in the property to determine whether it is vacant or abandoned. Vacancy shall be determined when the property is no longer occupied by persons with the lawful right to occupy the property or persons named as party-defendants in a foreclosure action affecting the property. Abandonment shall be determined when one or more conditions on the property, such as failure to keep any one of the maintenance and security standards described herein, leads a reasonable person to believe the property is abandoned. The local agent must continue to inspect the property every 30 days from the date of the agent's first inspection. If at any time the property becomes vacant or abandoned, the mortgagee, through its designated local agent, shall be responsible to perform the work necessary to bring the property into compliance with and maintain and secure the property in accordance with section 801.3, Standard Unsafe Building Abatement Code. Proof of such inspection shall be provided at any time upon request by City, but not less than annually.
- (c) The mortgagee's obligation to register, inspect, maintain and secure properties with mortgages in default or properties the City has deemed abandoned, shall continue for as long as the property remains abandoned or for as long as the mortgage remains in default, whether the mortgage in default has been foreclosed or not, until such time when the default is cured, the property is sold to a third party at a foreclosure sale or the property is sold or transferred to a third party with the consent of the mortgagee who registers the property. The mortgagee, through its designated local agent, must notify the code compliance division of such sale, transfer, or occupancy. There will be no refund of a fee paid to the City. The mortgagee shall be under a continuing obligation to register, inspect, maintain and secure the property if the mortgagee assumes title to the property securing the mortgage in default.
- (d) Properties registered pursuant to this section must be maintained and kept in accordance with all standards set forth in the Code of the City of Sarasota. In addition, properties shall be maintained free from weeds, overgrown grass or brush, dead vegetation, garbage, trash, junk, debris, and accumulation of newspapers, circulars, flyers, discarded personal items such as furniture, clothing, appliances, or any other items leading a reasonable person to believe the property is not being properly maintained or is abandoned. Weeds, grass, brush, or dead vegetation shall not be over six inches in height. 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.

Pools, spas, fountains, ponds, or outdoor aquariums shall be kept in working order so as to prevent the creation of an environment for the breeding of mosquitoes or other unsanitary environment through the accumulation of stagnant or polluted water, pollutants and/or debris. Water clarity shall be such that the bottom of the pool or spa can be seen from the pool or spa deck. If the pool or spa is emptied, then it must be securely covered. Doors, windows, gates, fences and all other openings of such size to allow a child or adult to access the interior of any structure on the property shall be kept locked and secured to prevent any trespassers, squatters or other unauthorized persons.

Additionally, properties subject to the provisions of this article shall be posted with the name, address, and 24-hour contact phone number of the local property management company. The posted sign shall be no less than eighteen (18) inches by twenty-four (24) inches, and shall be of a font that is legible from a distance of forty-five (45) feet. The posting shall contain the applicable contact information along with the name, address, and 24-hour phone number, along with the following language:

THIS PROPERTY IS MANAGED BY . . .
TO REPORT PROBLEMS OR CONCERNS . . .

All written information thereupon shall be clear, legible and updated as required. The posted sign shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street; secured to the exterior of the building/structure facing the street to the front of the property so 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 visible from the street to the front of the property. Exterior posting shall be constructed of and printed with weather-resistant materials.

- (e) Failure to register/pay annual fee, inspect, maintain, or secure the property in accordance with the standards established in this section or failure to notify the City of any changes in material information required by this section is a violation of the Code and may be subject to enforcement by any means available to the City, including, but not limited to, any and all remedies and penalties provided in Chapter 2, Article V, Division 5, Code of the City of Sarasota. Additionally, any judicial order issued by a court in conjunction with a violation of this Article may also be recorded in the manner of recording judgments under Florida law, and the City may take all necessary steps to enforce such judicial order as allowed under Florida law.”

Section 2. Should any section, sentence, clause, part or provision of this ordinance be held or declared invalid or unenforceable by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part held or declared to be invalid.

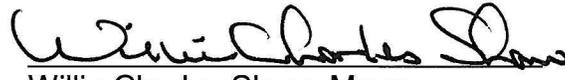
Section 3. City Neighborhood and Development Services Department staff shall make a presentation and report to the City Commission regarding the registration of abandoned/foreclosed properties in the City pursuant to this ordinance by no later than three (3) years after its effective date. The report shall contain an assessment and evaluation of how this ordinance has worked in practice and may recommend amendments to this ordinance in order to better address any particular circumstances that have occurred as a result of the requirement of registration of all abandoned/foreclosed properties within the City. After receipt of the report, the City Commission may determine that no further action is warranted or may set a public hearing to consider either amendment or repeal of this ordinance.

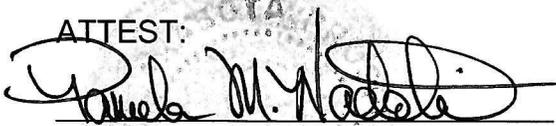
Section 4. This ordinance shall take effect immediately upon second reading.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this 2nd day of September, 2014.

PASSED on second reading and finally adopted this 6th day of October, 2014.

CITY OF SARASOTA, FLORIDA


Willie Charles Shaw, Mayor

ATTEST:

Pamela M. Nadalini, MBA, CMC
City Auditor & Clerk

- Yes Willie Charles Shaw, Mayor
- Yes Susan L. Chapman, Vice Mayor
- Yes Commissioner Suzanne Atwell
- Yes Commissioner Paul Caragiulo
- Yes Commissioner Shannon Snyder