

ORDINANCE NO. 09-1310

AN ORDINANCE OF THE CITY OF CASSELBERRY, FLORIDA, CREATING ARTICLE VI, "RESIDENTIAL PROPERTY FORECLOSURES" OF CHAPTER 58, "OFFENSES AND MISCELLANEOUS PROVISIONS"; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE REGISTRATION OF RESIDENTIAL PROPERTIES IN DEFAULT OR FORECLOSURE; PROVIDING FOR REQUIRED MAINTENANCE OF RESIDENTIAL PROPERTIES IN DEFAULT OR FORECLOSURE; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Casselberry City Commission finds that in difficult economic times there is increased incidence of defaults and foreclosures of real property; and

WHEREAS, the City Commission finds that vacant and abandoned residential property, and neglected residential property in default or foreclosure, results in the deterioration of property values of the vacant, abandoned or neglected property, as well as adjacent properties, through the promotion of rodent and insect infestations; the accumulation of trash, junk, debris; and the excessive growth of grass, weeds, brush, or branches; and

WHEREAS, the City Commission finds that the presence of vacant and abandoned residences, and neglected residential property in default or foreclosure, can create a public nuisance and lead to neighborhood decline; and

WHEREAS, the City Commission finds the presence of vacant and abandoned residences, and neglected residential property in default or foreclosure, can discourage potential buyers from purchasing a home adjacent to or in neighborhoods of the vacant, abandoned or neglected residences; and

WHEREAS, many vacant, abandoned, and/or neglected residential properties in default or foreclosure, are the responsibility of out-of-area and out-of-state lenders and trustees; and

WHEREAS, in many instances the lenders and trustees fail to adequately maintain and secure these vacant, abandoned or neglected residential properties in default or foreclosure; and

WHEREAS, the City has an obligation to protect its residential neighborhoods from decline and devaluation; and

WHEREAS, the City Commission finds it is necessary and in the best interest of the public's health, safety and welfare to adopt procedures whereby the City can control abandoned and neglected real property, and neglected residential property in default or foreclosure, within the City of Casselberry,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF CASSELBERRY, FLORIDA, AS FOLLOWS:

SECTION 1: SHORT TITLE. This Ordinance shall be known and may be cited as the "Casselberry Residential Property Foreclosure Ordinance".

SECTION 2: PURPOSE AND INTENT. It is the purpose and intent of the City to establish a process to address the amount of real property located within the City which is in the default or foreclosure process. It is the City's further intent to specifically establish a program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

SECTION 3: DEFINITIONS. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned real property means any improved property that is vacant and is under a current notice of default and/or notice of mortgagee's sale by the lender or a pending tax assessors lien sale and/or 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.

Accessible property means a property that is accessible through a comprised/breached gate, fence, wall, etc.

Accessible structure means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

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

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 and/or dead vegetation, accumulation of abandoned personal property, utilities being shut off, 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.

Private property means all lands and improvements other than public lands and improvements.

Property Management Company means a local property manager, property maintenance company or similar entity responsible for the maintenance of real property.

Public property means canals, all waterways, lands and improvements owned by a governmental body or any governmental agency including but not limited to easements and rights-of-way, but excluding the campus of any institution of the state university system.

Neglected real property means any improved property that is in default or foreclosure, whether occupied or abandoned, which is not maintained as required by Casselberry Code of Ordinances. These properties include, but are not limited to, those under a current notice of default and/or notice of mortgagee's sale by the lender, or a pending tax assessor's lien sale, and/or 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.

Residential building means any improved real property, or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property.

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

SECTION 4: APPLICABILITY. This chapter 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 and/or local provisions for same.

SECTION 5: PENALTIES. Any person who shall violate the provisions of this chapter shall, upon conviction, be punished as provided in Section 1-13 of the Code of Ordinances.

SECTION 6: REGISTRATION OF ABANDONED REAL PROPERTY.

(a) Any mortgagee who holds a mortgage on real property located within the City shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor prior to the issuance of a notice of default. If the property is abandoned real property as defined herein, within ten (10) days of the issuance of a notice of default the mortgagee will register the property with the Police Department's Code Enforcement Section on forms provided by the City. A registration is required for each abandoned real property in default.

(b) Registration pursuant to this section shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of the mortgagee, including facsimile number and e-mail address and, in the case of a corporation or out-of-area mortgagee, the local property management company responsible for the security and maintenance of the property.

(c) An annual non-refundable registration fee in the amount of one hundred dollars (\$100.00), per property, shall accompany the registration form(s).

(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) Properties subject to this section shall remain under the annual registration requirement, and the security and maintenance standards of this section as long as they remain in default or foreclosure.

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

SECTION 7: MAINTENANCE REQUIREMENTS.

(a) All properties in the City, including 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; discarded personal items, included, 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; all as more particularly set forth in Section 70-2.

(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 yard landscaping shall be maintained in accordance with the City's standard at the time registration was required.

(d) Landscape 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. Landscape 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 landscape and removal of all trimmings.

(f) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the City Code of Ordinances and International Property Maintenance Codes, as amended from time to time.

(g) Failure of the mortgagee and/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's code enforcement officer. Pursuant to a finding and determination by the City's Code Enforcement Board, the City may take the necessary action to ensure compliance with this section. Where property is abandoned or neglected, the City's code enforcement officer may bring a case against either the mortgagee, even if the property is not yet owned by the mortgagee, or the property owner or both.

SECTION 8: SECURITY REQUIREMENTS.

- (a) Abandoned or neglected real properties subject to this section 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 and/or structure. Broken windows shall be secured by glazing or boarding of the window.
- (c) When a property becomes abandoned or neglected and the mortgagee has been notified, the mortgagee shall assume responsibility or, if out of the area contract with a local property management company, to perform bi-weekly inspections to verify compliance with the requirements of this section, and any other applicable laws.
- (d) The abandoned or neglected property shall be posted with the name and twenty-four (24) hour contact phone number of the local property management company. The posting shall be no less than an eight-inch by ten-inch sign. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY:

TO REPORT PROBLEMS OR CONCERNS CALL:

The posting shall be placed on the interior of a window facing the street to the front of the abandoned or neglected property so it is visible, or secured

to the exterior of the building/structure facing the street to the front of the property so it is visible or, if no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. Exterior posting shall be constructed of and printed with weather-resistant materials.

- (e) The local property management company shall inspect the abandoned or neglected property on a bi-weekly basis to ensure that the property is in compliance with this chapter. Upon the request of City, the local property management company shall provide a copy of the inspection reports to the Code Enforcement Section.
- (f) Failure of the mortgagee and/or property owner of record to properly maintain the abandoned or neglected 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's code enforcement officer. Pursuant to a finding and determination by the City's Code Enforcement Board, the City may take the necessary action to ensure compliance with this section.

SECTION 9: OPPOSING, OBSTRUCTING ENFORCEMENT OFFICER;
PENALTY. Whoever opposes, obstructs or resists any enforcement officer, or any person authorized by the enforcement officer, in the discharge of duties as provided in this chapter, upon conviction, shall be punished as provided by law. In addition to any criminal enforcement, the City or any individual may pursue any available civil remedies deemed appropriate and necessary.

SECTION 10: 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 this chapter.

SECTION 11: ADDITIONAL AUTHORITY. The Code Enforcement Supervisor, or his or her designee, shall have authority to require the mortgagee and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, or other measures as may be reasonably required to help prevent further decline of the property.

SECTION 12: CONFLICTS. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 13: CODIFICATION. It is the intention of the City Commission of the City of Casselberry, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Casselberry, Florida; that the Sections of this Ordinance may be renumbered or re-

lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

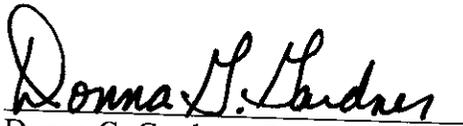
SECTION 14: SEVERABILITY. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 15: EFFECTIVE DATE. This Ordinance shall become effective January 1, 2010.

FIRST READING this 9th day of November A.D. 2009.

SECOND READING AND ADOPTION this 14th day of December A.D. 2009.

ATTEST:



Donna G. Gardner, City Clerk



Charlene Glancy
Mayor/Commissioner