

CITY OF ST. PETE BEACH, FLORIDA

ORDINANCE NO. 2009-24

AN ORDINANCE RELATING TO MORTGAGED REAL PROPERTY; CREATING CHAPTER 99 OF THE CITY OF ST. PETE BEACH CODE OF ORDINANCES, TITLED FORECLOSURE REGISTRATION, SECTIONS 1 THROUGH 11; PROVIDING PURPOSE, INTENT, DEFINITIONS, AND APPLICABILITY, REQUIRING MORTGAGEE REGISTRATION RELATING TO REAL PROPERTY MORTGAGES IN DEFAULT; PROVIDING FOR AN ELECTRONIC FORM OF REGISTRATION; REQUIRING MAINTENANCE OF CERTAIN REAL PROPERTY BY MORTGAGEES, PROVIDING SECURITY REQUIREMENTS; PROHIBITING OBSTRUCTION OF CODE ENFORCEMENT OFFICERS; PROVIDING FOR IMMUNITY OF CODE ENFORCEMENT OFFICERS; PROVIDING FOR ADDITIONAL MAINTENANCE AND SECURITY REQUIREMENTS; PROVIDING SUPPLEMENTAL AUTHORITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

WHEREAS, the mortgage foreclosure crisis has serious negative implications for the City of St. Pete Beach in trying to manage the resulting vacant properties, increases in crime, homelessness, and other problems that stem from family financial crisis; and

WHEREAS, the City 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, with foreclosure filing at an all time high, delinquencies on the rise, and 2 million adjustable rate mortgages scheduled to re-set this year; 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, 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 previously by the City; and

WHEREAS, registration requires the personal contact information of the owner or other responsible party who may 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 of St. Pete Beach 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 of St. Pete Beach 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 to address concerns regarding the maintenance and security of the property; and

WHEREAS, the City of St. Pete Beach finds that it is in the public interest to address safety and aesthetic concerns and the economic order 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, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA HEREBY ORDAINS:

SECTION 1. The above recitals are true and correct and by this reference are incorporated herein and made an integral part hereof.

SECTION 2. The Code of Ordinances of the City of St. Pete Beach, Florida, is hereby amended by establishing Chapter 99, titled Foreclosure Registration, and the following new sections, to be numbered Sections 1 through 11, which sections read as follows:

Sec. 1. Purpose and intent.

It is the purpose and intent of this ordinance to establish a process to limit and reduce the amount of deteriorating property located within the City, which property about which a public notice of default has been filed, is in foreclosure, or where ownership has been transferred to lender or mortgagee by any legal method. It is further intended to establish a registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of inadequate maintenance of abandoned and vacated properties subject to a mortgage or properties subject to mortgages that are in default.

Sec. 2 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning. Where the context will permit and no definitions are provided herein, the definitions provided in the Florida Building Code shall apply.

Abandoned real property means any real property that is vacant and/or is under a public notice of default, notice of mortgagee's sale, pending tax assessor's lien sale and/or properties that have been the subject of a foreclosure sale where title is retained by the mortgagee, and any properties transferred under a deed-in-lieu of foreclosure sale, a short sale or any other legal means.

Default means that the mortgagee files a foreclosure action or public notice of default on the mortgage. A mortgage shall be considered in default at such time as the mortgagee declares

said mortgage to be in default either in writing, by recording a lis pendens, or by its actions, or commences foreclosure proceedings.

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, electricity, water or other utilities turned off, stagnant swimming pool, statements by neighbors, passers-by, delivery agents or government agents, among other evidence.

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 any building or structure that is not lawfully occupied or inhabited by human beings.

Sec. 3. 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. 4. Penalties. Violations of this ordinance shall be subject to enforcement by the City of St. Pete Beach Special magistrate.

Sec. 5. Registration of real property mortgagee holding mortgages in default.

(a) Any mortgagee who holds a mortgage on real property located within the City shall perform an inspection of the property upon default by the mortgagor or prior to the issuance of a notice of default. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed vacant or abandoned and the mortgagee shall, within two (2) days of the inspection, register the property with the code enforcement office on forms provided by the office or its designee, even though the real property may not be vacant. If the mortgage on the property is in default, no later than ten (10) days after the date that a default is declared, the mortgagee shall register the property with the code enforcement office electronically via the internet and further located at http://www.stpetebeach.org/vacant_registry with forms provided at said address.

(b) If the property is occupied but remains in default, it should be inspected monthly by the mortgagee or mortgagee's designee.

(c) Within ten (10) days of the date the mortgagee declares its mortgage to be in default, the mortgagee shall register the real property with the 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.

(d) *Registration.* Registration pursuant to this section shall contain at a minimum the name of the mortgagee, the mailing address of the mortgagee, e-mail address, and telephone number and name of the local property manager and said person's address, e-mail address, and telephone number. The local property manager shall be responsible to inspect, secure and maintain the property. The property manager named in the registration shall be located within twenty (20) miles of the City of St. Pete Beach and available to be contacted by the City, Monday through Friday between 9:00 a.m. and 5:00 p.m., holidays and lunch hours accepted.

The City shall charge a fee of One hundred Fifty Dollars (\$150.00) for any registration or a modification of registration and it may assign and delegate the collection of such fee to an independent contractor.

(e) 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.

(f) 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 vacant or subject to having been declared by a mortgagee to be in default.

(g) 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.

(h) 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 codes of the City and may result in a citation by the Code Enforcement Officer. Pursuant to a finding and determination by the Special Magistrate or court of competent jurisdiction that any property is in violation of City's ordinances, the City may take the necessary action to ensure compliance with its ordinance and place a lien/s on the property for the cost of the work performed to benefit the property and to bring it into compliance, which lien may be assigned to either the entity that performs the work or arranges to have the work performed.

Sec. 6. 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 ten (10) 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. Yards shall be landscaped and maintained pursuant to the standards set forth in the code. 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.

(c) 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 of the City of St. Pete Beach and may result in the issuance of a citation by the Code Enforcement Officer. Pursuant to a finding and determination by the Special Magistrate, the City may take the necessary action to ensure

compliance with its ordinances and place a lien/s on the property and assign it as provided herein.

Sec. 7. Security requirements.

(a) Properties subject to this ordinance 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 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 local property manager must perform weekly inspections to verify compliance with the requirements of this section, and any other applicable laws or ordinances of the City.

(d) When the property becomes vacant or abandoned, it shall be posted with the name and twenty four (24) hour contact telephone number of the local property manager. The posting shall be no less than 18 inches x 24 inches, and shall be of a font that is legible from a distance of 45 feet. The posting shall contain the following language:

**THIS PROPERTY IS MANAGED BY _____.
TO REGISTER PROPERTY AND OBTAIN AN APPROVED POSTER,
_____.**

(e) The posting shall 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 posing in a location that is at all times visual from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.

(f) Failure of the mortgagee and/or property owner of record to properly inspect and secure the property, and post and maintain the signage noted in this section, is a violation of this ordinance and shall result in the issuance of a Notice of Violation by a code compliance officer. Pursuant to a finding and determination by a Special Magistrate, the City may take the necessary action to ensure compliance with this section, and place a lien/s on the property and assign it as provided herein.

Sec. 8. 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 may be sanctioned as provided in the Code of Ordinances of the City, or Chapter 162, Florida Statutes.

Sec. 9. Immunity of enforcement officer.

Any enforcement officer, or any person authorized by the City 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. 10. Additional authority.

The code enforcement administrator 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. 11. 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 3. *Severability/Interpretation Clause.* It is hereby declared to be the intention of the Commissioners that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. *Ordinances in Conflict.* All ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.

SECTION 5. *Effective Date.* This Ordinance shall become effective upon passage.

Michael Finnerty, MAYOR

FIRST READING : _____
PUBLISHED : _____
SECOND READING : _____
PUBLIC HEARING : _____

I, Theresa B. McMaster, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this _____ day of _____, 2009.