

AN ORDINANCE BY THE PASCO COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING ORDINANCE 10-49 REQUIRING REGISTRATION OF PROPERTIES FOR WHICH LIS PENDENS OR FORECLOSURE ACTION FILED; EXPANDING REGISTRATION AND MAINTENANCE OBLIGATIONS TO PROPERTIES OWNED BY THE LENDER OR ASSOCIATED ENTITIES AFTER FORECLOSURE SALE; REMOVING POSTING REQUIREMENTS; PROVIDING FOR APPLICABILITY IN UNINCORPORATED PASCO COUNTY; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR TRANSMISSION OF ORDINANCE TO DEPARTMENT OF STATE AND AN EFFECTIVE DATE.

WHEREAS, implementation of the previously-adopted foreclosure registry process has had a beneficial effect on the abatement of nuisances and property maintenance violations on properties that are the subject of foreclosure proceedings; and

WHEREAS, properties sold to lenders (or companies, trusts, or entities in which the lender has a financial interest) after foreclosure have a higher rate of property maintenance violations than those properties that are physically occupied by a natural person who is the owner of the property, and pose the same challenges to enforcement as properties that are still in the foreclosure process; and

WHEREAS, imposing continuing registration and maintenance obligations on properties owned by the lender (or a connected company, trust, or entity) will increase compliance with the County's regulations and aid in enforcement of its property maintenance regulations; and

WHEREAS, certain minor changes to the ordinance (such as removing the posting requirement) are also necessary based on experience gained in implementing the registry regulations in the past 4 years.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pasco County, Florida, as follows:

SECTION 1. AUTHORITY.

This Ordinance is enacted pursuant to Chapter 125, Florida Statutes (2015), and under the home rule powers of the County.

SECTION 2. LEGISLATIVE FINDINGS OF FACT.

The foregoing WHEREAS clauses are hereby adopted as legislative findings of the Board of County Commissioners and are ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 3. AMENDMENT TO CHAPTER 18, ARTICLE IX OF THE PASCO COUNTY CODE OF ORDINANCES.

Chapter 18 (Foreclosure Registry/Real Property Registration System), Article IX., of the Pasco County Code, shall be amended by certain minor changes, as follows:

ARTICLE IX. - FORECLOSURE REGISTRY/REAL PROPERTY REGISTRATION SYSTEM

Sec. 18-151. - Legislative findings, intent and purpose.

- (a) The Board of County Commissioners of Pasco County hereby adopts and incorporates into this article the recitals set out in Ord. No. 10-49, and in this ordinance, as if fully restated herein.
- (b) The Board of County Commissioners of Pasco County finds that abandoned and vacant real property is unsightly, unsafe and has a negative impact on the community. The board of county commissioners of Pasco County hereby declares that all abandoned and vacant real property in unincorporated Pasco County, including those properties that are abandoned and vacant because they have been foreclosed upon or are the subject of foreclosure actions or proceedings, can quickly become a public nuisance if not maintained during the foreclosure process, and the abatement of such nuisances pursuant to the county's police power is hereby declared to be necessary for the health, safety and welfare of the citizens of Pasco County.
- (c) It is the intent and purpose of this article to protect and preserve public safety, security, and quiet enjoyment of abutters and neighborhoods by (i) identifying vacant and abandoned properties; (ii) requiring all mortgagees, including lenders, trustees, and service companies, to register properties that have been foreclosed upon or are the subject of foreclosure actions or proceedings and to identify whether such properties are abandoned, vacant, or show evidence of vacancy; and (iii) regulating the inspection, security, and maintenance of abandoned properties that have been foreclosed upon or are the subject of foreclosure actions or proceedings, to prevent blighted and unsecured residences.

Sec. 18-152. - Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates and requires a different meaning:

Abandoned real property means any real property in unincorporated Pasco County that (1) is vacant or shows evidence of vacancy, and (2) is the subject of a lis pendens, a foreclosure action or proceeding, a foreclosure sale where the title was retained by the mortgagee involved in the foreclosure, and/or has been transferred under a deed in lieu of foreclosure or sale to the mortgagee or any company, trust, or entity in which the mortgagee has a financial interest.

Code enforcement officer or inspector means any authorized agent or employee of Pasco County whose duty it is to assure code compliance.

County means Pasco County, Florida.

Days means consecutive calendar days.

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/other utilities turned off, a stagnant or green swimming pool, statements by neighbors/passers-by/delivery agents or government agents, lack of response to notices, returned or forwarded mail, unsecured doors, absence of, or condition of, personal belongings on the property, habitation by vagrants/transients/trespassers, etc.

Foreclosure means the legal process by which a parcel, tract, lot or other defined area of real property, placed as security for a real estate loan, is prepared for sale by the lender/mortgagee to satisfy the debt if the borrower/mortgagor defaults. This definition shall include all processes, activities and actions, by whatever name, associated with the described process.

Local means within the boundaries of Pasco County, Florida.

Local agent means the agent designated by the mortgagee upon registration as required under this article. The local agent or its employee must be able to be located and served at a local address during a majority of the regular working week (8:00 a.m. to 5:00 p.m. Monday through Friday).

Mortgagee means the creditor, including, but not limited to, trustees; service companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement. This includes any company, trust, or entity in which the mortgagee has a financial interest. For purposes of this article only, the term "mortgagee" does not apply to

governmental entities (including HUD, Fannie Mae, and Freddie Mac), civic associations, HOAs, and/or CDDs.

Owner means every person, entity, or service company, who alone or severally with others:

- (1) Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, building, structure, or parcel of land, vacant or otherwise, including a mobile home park; or
- (2) Has, or has exercised, care, charge or control of any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including, but not limited to, agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; changing of locks or service of paperwork directing occupants to vacate the premises is prima facie evidence of the exercise of care, charge, or control of any dwelling; or
- (3) Is a mortgagee in possession of any such property; or
- (4) Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- (5) After a property subject to registration is sold, or the lis pendens and foreclosure action is terminated, a former mortgagee (or any company, trust, or entity in which the former mortgagee has a financial interest) that obtains possession, ownership, and/or control of the property.

Property means any real property, or portion thereof, located in unincorporated Pasco County, including building or structures situated on the property. For purposes of this article only, property does not include property owned or subject to the control of the county or any of its governmental bodies.

Securing means any measures that assist in making the property inaccessible to unauthorized persons.

Vacant means any building, structure or property that is not legally occupied.

Sec. 18-153. - Registration of certain properties required; identification of abandoned or vacant property.

- (a) Within ten days of filing of a lis pendens in connection with a default on a mortgage or similar instrument that secures debt upon real property, or within ten days of filing an action to foreclose upon a mortgage or similar instrument, all owners and mortgagees making such filings shall register the subject property with Pasco County

The registration will require the owner and mortgagee to certify that the property has been inspected within the preceding 30 days, and to certify whether the property was found to be abandoned, vacant, or showed evidence of vacancy. The registration will require the owner and mortgagee to designate and retain a local individual or local property management company as the local agent responsible for inspecting the property in accordance with this article, for the security and maintenance of the property in accordance with section 4 of this article, and for timely updates of the registration.

All registrations must state the property address; the owners' names, mailing addresses, and telephone numbers; the occupants' (if any, and if known) names and telephone numbers; the mortgagee's name, mailing address, and telephone number. Registrations will include a local agent's name, mailing address, telephone number and email address. Mailing addresses may not be a post office box.

- (b) All property registrations are valid for one calendar year from the date of issuance. An annual registration fee in an amount established by the board of county commissioners of Pasco County by adoption of a resolution, shall accompany each registration form. Subsequent annual registrations and fees are due on or before the expiration of the previous registration. The county may charge an additional fee for subsequent annual registrations and fee payments that are not completed. Any part of the registration process may be performed by an agent or independent contractor for the county, or by the tax collector or the clerk of the circuit court pursuant to an agreement with the county.
- (c) Once the property is sold, or the lis pendens and foreclosure action is terminated, the mortgagee must provide proof of sale or termination of the legal proceedings to the Pasco County Code Compliance Department or its designee; the registration and the mortgagee's

continuing obligations under this article will then terminate unless the mortgagee obtains possession, ownership, and/or control of the property.

- (d) Any person that has registered a property under this article must report any update or change to the information contained in the registration within ten days of the change. The county may charge an additional fee for modifications to registrations.

Sec. 18-154. - Maintenance requirements.

- (a) All owners of properties which are abandoned real property, vacant, or show evidence of vacancy, are responsible for maintaining the properties in accordance with the provisions of this article and all other applicable Pasco County codes and ordinances.
- (b) If the owner of the property is not a natural person physically residing on the property, the owner shall contract with a local agent to perform monthly inspections on the property and to verify compliance with the requirements of this article and any other applicable laws. The local agent shall be empowered to accept service of warnings, citations, and other legal process for the owner if the owner is not a natural person physically residing on the property.
- (c) Abandoned real property, vacant property, and property showing evidence of vacancy must be maintained by owners to meet the standards in the county's minimum housing codes located in chapter 18 of the Pasco County Code of Ordinances, and to comply with local regulations concerning external and/or visible maintenance. These ordinances include section 42-1 of the Pasco County Code of Ordinances (Overgrown conditions and related public safety violations), section 106-54 of the Pasco County Code of Ordinances (Outdoor storage of inoperative, unregistered, abandoned, or wrecked vehicles on any property prohibited), and sections of the Land Development Code pertaining to accumulation of debris; property maintenance; fences and walls;. Pools must be maintained in accordance with chapter 18 of the Pasco County Code of Ordinances.
- (d) Compliance with this article does not relieve the owner of any applicable obligations set forth elsewhere in the Pasco County Code of Ordinances, the Pasco County Land Development Code, or within any covenants, conditions and restrictions and/or homeowner's association rules and regulations.

Sec. 18-155. - Security requirements.

- (a) All owners are responsible for maintaining their abandoned and/or vacant properties in a secure manner so as not to be accessible to unauthorized persons. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates, fences, and other openings of such size that may allow unauthorized persons, including children, to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or replacing of the window.
- (b) Any excavations or swimming pools, (whether finished or unfinished) must be filled in with dirt or properly barricaded in accordance with section 42-1 of the Pasco County Code of Ordinances (Overgrown conditions and related public safety violations) and the Pasco County Land Development Code (Private swimming pools).

Sec. 18-156. - Inspections.

The owner's local agent shall inspect all registered properties, and all properties subject to registration, on a monthly basis to determine if the property is abandoned, vacant, or shows evidence of vacancy, or evidence of unlawful occupation (i.e, squatters), and to ensure that the property is in compliance with this article and other laws and regulations. If the inspection reveals information different than what is contained on the registry, the owner shall update the registry within ten days of the inspection.

Sec. 18-157. - Enforcement and persons responsible for violation.

- (a) *Enforcement.* The requirements of this article may be enforced as follows:
 - (1) By citation for civil penalties pursuant or to appear in county court pursuant to the authority granted by F.S. § 125.69, F.S. ch. 162, pt. II, and/or section 1-11 of this Code;
 - (2) By an action for injunctive relief, civil penalties, or both, through a court of competent jurisdiction;

- (3) By exercise of the county's powers of eminent domain, or by condemnation and demolition pursuant to chapter 79 of this Code, or by the nuisance abatement process;
- (4) By revocation or temporary suspension of necessary permits and/or certificates or occupancy and/or licenses;
- (5) By any other process permitted at law or equity; and

Use of one enforcement process or theory does not preclude the county from seeking the same, different, or additional relief through other enforcement methods.

- (b) *Separate offenses.* A violation of this article shall constitute a separate offense for each day it shall continue or recur. Each condition which exists in violation of this article is a separate violation. Each day a property remains unregistered when required to be registered by this article is a separate offense for each day it shall continue or recur. Each day a property is not inspected as required by this article is a separate offense. Each day a property is not secured as required by this article is a separate offense. Each day a condition violating the county's minimum housing codes or property maintenance codes exists on a property subject to registration under this article is a separate offense.
- (c) *Persons responsible for violations.* The local agent, owner, or mortgagee as those terms are defined in this article, and their duly authorized officers, employees or agents employed in connection therewith who has assisted in the commission of the violation or failed to perform as required by the ordinance shall be guilty of the violation. In addition to those persons and the persons generally responsible for violations of the Pasco County Code of Ordinances and the Pasco County Land Development Code, any person (or officer, agent, or employee thereof) causing or contributing to a violation, or exercising care, custody or control of the relevant premises may also be held responsible for the violation.

SECTION 4. APPLICABILITY AND EXEMPTIONS.

This Article shall be applicable in the unincorporated areas of Pasco County.

SECTION 5. REPEALER.

Any Ordinance provisions in conflict herewith are hereby repealed only to the extent of such conflict.

SECTION 6. SEVERABILITY.

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

SECTION 7. INCLUSION IN CODE.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pasco County Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and the word "Ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall be transmitted to the Department of State by the Clerk to the Board by electronic mail within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon confirmation by the Department of State of its receipt.

ADOPTED with a quorum present and voting this 22nd day of June, 2015.



BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

By: 
PAULA S O'NEIL, Ph.D.
CLERK & COMPTROLLER

By: 
THEODORE SCHRADER, CHAIRMAN
PASCO COUNTY
BCC

APPROVED
IN SESSION

JUN 22 2015