COUNCIL ITEM 8B
DATE 3/26/12

COUNCIL ITEM ~~10A~~
DATE 3/12/12

# ORDINANCE NO. 12-11

**AN ORDINANCE OF THE CITY OF PORT ST. FLORIDA, CREATING CHAPTER 42 OF THE CITY OF PORT ST. LUCIE CODE OF ORDINANCES; ESTABLISHING AN ABANDONED REAL PROPERTY REGISTRATION SYSTEM; PROVIDING FOR PURPOSE AND INTENT, DEFINITIONS, REGISTRATION OF ABANDONED PROPERTIES, STANDARDS FOR MAINTENANCE OF ABANDONED PROPERTIES, INSPECTIONS, ENFORCEMENT AND PENALTIES; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** recent events in the housing market have led to a drastic rise in the number of foreclosed properties in the City of Port St. Lucie (the "City"); and

**WHEREAS,** many of these properties are vacated prior to the conclusion of the foreclosure process and can go unoccupied for months or even years, leaving the properties vacant and untended for extended periods of time awaiting foreclosure sale; and

**WHEREAS,** foreclosed homes can quickly succumb to the forces of nature and the elements, resulting in conditions, which include, but are not limited to: broken windows and other breaches to the building envelope; unsecured and unmaintained pools; inoperable vehicles; trash and debris, open storage; and overgrown grass and bushes; and

**WHEREAS,** the aforementioned conditions negatively impact the City and blight neighborhoods; and

**WHEREAS,** the City is challenged to locate a party to correct negative impacts and maintain the properties that are in the foreclosure process or that have been foreclosed; and

**WHEREAS,** the City finds that neighborhoods should be protected from the blight originating from the lack of adequate maintenance and security of abandoned and vacant properties; and

**WHEREAS,** the City has already adopted property maintenance codes to regulate community standards for the interior and exterior of structures and the condition of property as a whole; and

**WHEREAS,** the City Council finds that mortgagees have an interest in maintaining vacant and abandoned real property subject to the terms of each mortgage; and

**WHEREAS,** the City finds that these vacant and abandoned real properties should be maintained at the same standard as all other properties within the City; and

**WHEREAS,** the City finds that the registration of vacant and abandoned real properties pursuant to Chapter 42 of the Code of Ordinances will protect against the blight they cause and is

in the best interest of the public health, safety and welfare and in maintaining a high quality of life within the City.

**NOW, THEREFORE, THE CITY OF PORT ST. LUCIE 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 City of Port St. Lucie Code of Ordinances is hereby amended by creating Chapter 42, entitled "Abandoned Property", which shall read as follows:

Section 42.01. Purpose and intent.

Abandoned real property negatively impacts the community and causes blight. Many properties undergoing foreclosure are vacated prior to the conclusion of the foreclosure process and can go unoccupied for months or even years, leaving the properties abandoned and untended for extended periods of time awaiting foreclosure sale. It is the purpose and intent of this Chapter to establish a registration process to limit and reduce the deterioration of property which has been abandoned due to a foreclosure or where ownership has been transferred to a lender or mortgagee by any legal method.

Section 42.02. Definitions.

As used in this Chapter, the following terms shall have the following meanings:

*Abandoned Real Property* means any real property that is vacant and/or 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.

*Enforcement Officer* means code enforcement officer, police officer, the City Manager or City Manger designee.

*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 are not limited to: overgrown and/or dead vegetation; the lack of electrical, water, sewer or other utility connections; a stagnant swimming pool; breaches to the building envelope; or statements by neighbors or other witnesses.

*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 St. Lucie County, Florida.

*Local Agent* means an agent, located in St. Lucie County, designated by the mortgagee upon registration as required under this Section.

*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; and successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement. For purposes of this Chapter only, the term "Mortgagee" does not apply to governmental entities.

*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 care, charge or control of any 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, administratix, trustee or guardian of the estate if the holder of legal title; or
3) is a mortgagee in possession of any such dwelling, dwelling unit, mobile dwelling unit, building, structure, or parcel of land, vacant or otherwise, including a mobile home park; or
4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land, vacant or otherwise, including a mobile home park; or
5) is a person who operates a rooming house.

*Vacant* means any building structure or dwelling, dwelling unit, mobile dwelling unit, building, structure, or parcel of land, vacant or otherwise, including a mobile home park that is not legally occupied for more that fifteen (15) days as evidenced by the conditions set forth in the definition of "Evidence of Vacancy" above.

Section 42.03. Registration of Abandoned Real Properties.

1. Upon the filing of a lis pendens and/or any action to foreclose upon a mortgage or similar instrument, all mortgagees must register with the City of Port St. Lucie Code Enforcement Division, or other unit of the City as determined by the City Manager, on forms provided by the City or, when available, electronically, all abandoned real property within ten

(10) calendar days after the mortgagee determines, or is notified by the City, that the real property is abandoned. The mortgagee must designate and retain a local individual or local property management company as the local agent responsible for the security and maintenance of the real property. All registrations must state the property address; the Owner's name, mailing address and telephone number; the mortgagee's name, mailing address, and telephone number; and the local agent's name, mailing address, telephone number and e-mail address. Mailing addresses may not be a post office box. This registration must also certify that the real property was inspected and is Abandoned Real Property.

2. All real property registrations are valid for one (1) calendar year. An annual registration fee of one hundred dollars ($100.00) for residential real property and one hundred fifty ($150.00) for multifamily residential real property or commercial or such other amount established by the City Council by adoption of a resolution, shall accompany each registration form. Subsequent annual registrations and fees are due fifteen (15) days before the expiration of the previous registration.

3. Once the real property is no longer Abandoned Real Property or is sold, the mortgagee must provide proof of sale or written notice and proof of occupancy to the Code Enforcement Division, or other unit of the City as determined by the City Manager.

4. Any mortgagee that has registered real property under this Section must report, in writing, any change of information contained in the registration within ten (10) calendar days of the change. The City will not charge an additional fee for modifications to registrations.

Section 42.04. Maintenance Requirements.

1. All Abandoned Real Property must be maintained by Owner in accordance with the provisions of this Chapter, the Property Maintenance Code, the Code of Ordinances and all applicable law.

2. If the Owner of the real property is a company and/or mortgagee, the Owner shall contract with the Owner's local agent to perform monthly inspections on the real property, as required by Section 42.06 of this Chapter, to verify compliance with the requirements of this Section and any other applicable laws for the duration of the abandonment.

3. Adherence to this Section does not relieve the Owner of any applicable obligations set forth elsewhere in the Code of Ordinances or within any covenants, conditions and restrictions and/or homeowner's association rules and regulations.

Section 42.05. Security Requirements.

1. All Owners are responsible for maintaining their abandoned real properties in a secure manner so as not to be accessible to unauthorized persons.

2. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates, fencing and other openings. Broken windows shall be secured by reglazing or replacement of the window.

3. Any excavations, swimming pools or other attractive nuisances must be filled in with dirt or properly secured in accordance with all applicable provisions of the Florida Building Code.

4. If the Owner of the real property is a company and/or mortgagee, the real property shall be posted with the name and twenty-four (24) hour contact telephone number of the Owner's local agent. The posting shall be no less that 18" x 24", and shall be clearly visible from the street but not readily accessible to vandals. The posting shall contain the following language:

This Property is Managed by:
To Report Any Problems Or Concerns Call:

Section 42.06. Inspections.

1. The Owner's local agent shall inspect the real property on a monthly basis to ensure that the property is in compliance with this Chapter.

2. The Owner's local agent shall maintain written proof of the monthly inspections and provide same to the City upon request.

3. The City shall have the authority to inspect real properties subject to this Section for compliance and to issue notices for any violations. The City shall have the discretion to determine when and how such inspections are made, provided that its policies are reasonably calculated to ensure that this Section is enforced.

Section 42.07. Subsequent Review and Sunset Provision.

Pursuant to this Chapter, this Abandoned Real Property registration system is being added for the health, safety and welfare of the citizens of the City during difficult economic times and a period of heightened foreclosure activity. This Chapter shall be repealed on January 1, 2015, unless the City Council takes action to extend it. Nothing in this section shall prevent the City Council from taking action sooner.

Section 42.08 Enforcement and Penalties.

1. The City may enforce the provisions of this Chapter by any means available to the City under the Code of Ordinances, State law or other applicable law, including, but not limited to, Chapter 37, Code of Ordinances, and Chapter 162, Florida Statues.

2. The penalties for violation of this Chapter shall be as set forth in the code enforcement method asserted by the City under the Code of Ordinances or as may be available

under State law including but not limited to, Chapter 37, Code of Ordinances, and Chapter 162, Florida Statues.

3. Each day a violation continues shall be considered a separate offense.

**Section 3.** 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 section of this Ordinance.

**Section 4.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any conflict.

**Section 5.** This ordinance shall take effect immediately upon becoming a law.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this _____ day _____, 2012.

CITY COUNCIL
CITY OF PORT ST. LUCIE

BY:_____
JoAnn M. Faiella, Mayor

ATTEST:

_____
Karen A. Phillips, City Clerk

APPROVED AS TO FORM: _____
Roger G. Orr, City Attorney

COUNCIL ITEM 13G
DATE 2/27/12

# Memorandum

TO: JERRY A. BENTROTT, CITY MANAGER

FROM: GREGORY J. ORAVEC, ASSISTANT CITY MANAGER

DATE: FEBRUARY 22, 2012

SUBJECT: PROPERTY REGISTRATION ORDINANCE

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Attached, please find a proposed property registration ordinance which I would like to present to the City Council for discussion. Though not a magic bullet, the proposed ordinance would serve as an important tool in our fight against the blight which has resulted from the foreclosure crisis. Lenders would no longer be able to give us excuses with impunity about abandoned homes within their inventories.

As you are aware, we patterned the attached ordinance on a similar ordinance of St. Lucie County. In researching these types of ordinances, we found that St. Lucie County's was very similar to a Hillsborough County Ordinance; that the City of Tampa had a similar ordinance to Hillsborough County's; and that many cities and counties throughout the state have related ordinances. We tried to incorporate the best provisions of established ordinances in the attached draft.

I look forward to receiving your input on this matter. If you have any questions or require additional information, please do not hesitate to let me know.

Thank you.

Attachment

c: Roger G. Orr, City Attorney
Joel Dramis, Building Code Administrator

RECEIVED

FEB 22 2012

City Manager's Office