

ORDINANCE NO. 120-04-109

AN ORDINANCE OF THE CITY OF LAUDERHILL AMENDING THE CODE OF ORDINANCES CHAPTER 10, GARBAGE AND TRASH/UNSANITARY AND UNSIGHTLY CONDITIONS TO CREATE ARTICLE III, ABANDONED REAL PROPERTY REGISTRATION, MAINTENANCE AND FORECLOSURE REPORTING; PROVIDING TITLE, PURPOSE AND INTENT, DEFINITIONS, ESTABLISHMENT OF A REGISTRY, REGISTRATION OF ABANDONED REAL PROPERTY, POSTING AND INSPECTION, MAINTENANCE REQUIREMENTS, REPAIR AND REMEDIES, VIOLATIONS OF ARTICLE, GRANTING OF IMMUNITY FROM PROSECUTION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY MAYOR RICHARD J. KAPLAN)

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA THAT:

Section 1. That the City of Lauderhill's Code of Ordinances, Chapter 10 , Garbage and Trash/Unsanitary and Unsightly Conditions /Abandoned Real Property, is hereby amended as to the title and to create Article III:

ARTICLE III. ABANDONED REAL PROPERTY REGISTRATION, MAINTENANCE AND FORECLOSURE REPORTING.

Sec. 10-30. Title.

This Article may be cited as the "Abandoned Real Property Registration, Maintenance, and Foreclosure Reporting Ordinance."

Sec. 10-31. Purpose and intent.

(a) It is the purpose and intent of the City to establish a process to address the increasing amount of abandoned real property located within the City. Further, it is the City's intent to specifically establish an abandoned property registration and maintenance program as a mechanism to protect residential and commercial neighborhoods from being blighted through the lack of maintenance and security of abandoned properties.

(b) The provisions and procedures contained in this article shall be considered cumulative and in addition to and supplemental to any other remedies now existing or subsequently available to the city including, but not necessarily limited to, those set forth in the city's code, Broward County code, the Florida Building Code, and State and Federal Statutes.

Sec. 10-32. Definitions.

For the purpose of this Article, the following words, terms and phrases shall have the following meanings, except where the context clearly indicates a different meaning:

(a) "Abandoned property" means any real property that is vacant of lawful occupants or not properly maintained and has had a lis pendens filed against it by the lender holding a mortgage on the property, is subject to an ongoing foreclosure action, under a 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. The designation of a property as "abandoned" shall remain in place until such time as the property is sold or transferred to a new owner or the foreclosure action has been dismissed.

(b) "Enforcement officer" means any law enforcement officer, building official, code enforcement officer, fire inspector, or building inspector employed by the city, or other city employee or city agent authorized by the city manager or by city code to enforce the provisions of this article.

(c) "Legal agent" means an employee or designee of a lender designated by the lender for purposes of receiving legal notices relating to real property.

(d) "Lender" means the owner and holder of a note and mortgage or other similar instrument that secures a debt upon the property. "Lender" as used herein shall be synonymous with the term "Mortgagee" for the purpose of this Article.

(e) "Maintenance agent" means an employee or designee of a lender designated by the lender for purposes of maintaining the

condition of real property. This shall be synonymous with a "property management company" or similar entity designated by the lender as being responsible for the maintenance of the abandoned real property.

(f) "Mortgagee" shall mean: (i) the holder of an indebtedness or obligee of a non-monetary obligation secured by a mortgage or any person designated or authorized to act on behalf of such holder; (ii) any person claiming through a mortgagee as successor; and (iii) any person indentified as such in a recorded document which has been released, assigned, or superseded of record. For the purpose of this Article, "Mortgagee" shall be synonymous with the term "Lender".

Sec. 10-33. Establishment of a registry.

The city hereby establishes a registry cataloging each abandoned property within the city, containing the information required by this article.

(a) The city shall use the information collected in the registry to establish a schedule for the monitoring of abandoned property located within the city.

Sec. 10-34. Registration of real property.

(a) Upon the default of a mortgagor, a lender holding a mortgage on real property located within the City shall, prior to the issuance of a notice of default, perform an inspection of the property that is the security for the mortgage. If, upon inspection, the property is found to be vacant or shows evidence of vacancy, it shall be classified as an abandoned property and the lender shall, within ten (10) days of the inspection, register the property with the city. A separate registration is required for each abandoned property.

(b) If the property is occupied but remains in default, it shall be inspected by the lender monthly until either: (i) the mortgagor or other party remedies the default, or (ii) it is found to be vacant or shows evidence of vacancy at which time it is deemed to be abandoned, and the lender shall, within ten (10) days of that inspection, register the property with the city.

(c) Registration pursuant to this section shall contain: the

property owner's name, the address of the property, the folio or parcel control number, the lender's name, the lender's loan number and the name, address, telephone number and email address for the lender's maintenance and legal agents. The City may require such other information the City deems necessary to fulfill the intent and purpose of this section. The lender's legal agent and maintenance agent may be the same person.

(d) The city shall charge a non-refundable annual registration fee of one-hundred and fifty dollars and no cents (\$150.00) per abandoned real property, which shall accompany the required registration form and/or renewal registration form provided by the city for the filing of information of each property listed in the registry. The annual registration fee shall correspond to the fiscal year of the city and renewal of the registration must be completed prior to October 1st of any applicable year so long as the property remains abandoned. A failure to timely register shall be subject to the issuance of a citation upon the lender and a civil penalty of five hundred dollars (\$500.00). The renewal of the registration form with its accompanying fee each year shall be the responsibility of the lender and a failure to timely renew shall also be subject to the issuance of a citation upon the lender and a civil penalty of five hundred dollars (\$500.00). Said penalty(s) shall be used towards satisfying any city liens upon the premises that accrued prior to the filing in the registry and any excess penalty moneys shall be retained by the city.

(e) In the event that the information required during the registration has changed, the lender shall update the registry to reflect the updated information within ten (10) days of the change, including the status of the proceedings initiated by the lender, if any, to foreclose the mortgage on a registered property. Any notice of violation or legal process which has been delivered or served prior to the receipt by the city of an amended registration form shall be deemed effective service. Registration pursuant to this section shall not be transferable.

(f) Properties subject to this section shall remain under the annual registration requirement, security and maintenance standards enumerated in this section as long as they remain abandoned.

(g) A lender's registration of a property shall constitute the consent of the lender for the city's enforcement officer to enter the premises for inspection purposes in the limited circumstances defined in section 10-35(a).

(h) Any action or case initiated pursuant to this section may be

presented to the code enforcement board, court, or other entity or person with jurisdiction even if, prior to a hearing, the property is no longer abandoned or vacant or the violation has been remedied.

Sec. 10-35. Inspection and posting.

(a) The city's enforcement officer may physically enter the premises of a registered property in the normal course of property inspections under the same legal authority possessed by the lender to enter upon such property, not more often than once every month, for the purpose of examining the property to ensure that the property is properly secured and is not a danger to the surrounding area. The city shall notify the maintenance agent of the date and time of the proposed inspection at least ten (10) days prior to entering the property. The lender's maintenance agent may accompany the City's inspectors during such inspection.

(b) The city's enforcement officer may issue notices requiring a lender to correct a violation[s] of the city code, observed by the city during the inspection.

(c) The abandoned property shall be posted with the name, address and twenty-four-hour contact phone number of a local maintenance agent. The posted sign shall be no less than eight (8) inches by ten (10) inches or any larger than four (4) square feet. All written information thereupon shall be clear, legible and update as required within ten (10) days of any change of information. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY:
[Insert Name and Address]
TO REPORT PROBLEMS OR CONCERNS CALL:
[Insert Direct Phone Number]

The posting shall be placed in a manner so that it is visible either on the interior of a building facing the front, or if no building exists on the property then on a stake of sufficient size to support the posting in a location as close as possible to the front of the property.

Sec. 10-36. Maintenance Requirements.

The lender must comply with any and all applicable laws relative to the abandoned property including, but not limited to, State Statutes, Federal Codes, county codes, building codes, and city codes

in order to properly maintain the abandoned property in a secure manner, which shall include but not be limited to, the following requirements for so long as the building remains abandoned.

(a) Properties subject to this article shall be kept free of weeds, overgrown grass, 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.

(b) Properties 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 standards enumerated in the City Code at the time registration was required.

(d) Landscape shall include, but not be limited to, grass, ground covers, bushes, trees, 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 vegetative trimmings.

(f) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall be sanitary. Pools and spas shall comply with the enclosure requirements of the city code, the county code, and the Florida Building Code, as amended from time to time.

(g) The structural integrity of any buildings, stairs and steps shall be reasonably maintained.

(h) The fences and gates shall be reasonably maintained and secure.

(i) All doors and windows shall be secured such that all building openings are closed, secure, weather tight (hurricane proof, etc.), and rodent proof as may be required by city code.

Sec. 10-37. Repair and remedies.

(a) The city may notify the maintenance agent for any property listed in the registry that is not maintained in accordance with the provisions enumerated in section 10-36. If, after providing such notice, the property remains unsecured or vandalized, in violation of the city Code, or in disrepair or uninhabitable as described in Section 10-36, the city may, but is not required to, initiate repairs. Pursuant to s. 162.09, Florida Statutes, the city is not obligated to maintain or continue any repairs it has initiated.

(b) The city may recover the full amount of the cost of such repairs from the lender. Such costs shall be assessed against the property and shall constitute a lien on such property equal in priority to real property taxes, including any post lis pendens assessment filed by the city, which shall be deemed valid, during a foreclosure proceeding, and shall be superior to all mortgage liens and other liens or judgments against such property, which must be satisfied in full upon sale of the property occurring as a result of the foreclosure proceeding or upon settlement or dismissal in the proceeding, provided that:

i. The lender's legal agent (in addition to the lender's maintenance agent) is provided notice of the citation.

ii. The lender has been afforded the opportunity to be heard and to dispute the evidence or present evidence of its intent to secure and repair the property; and

iii. The property is not brought into compliance by the lender within the required timeframe, then the city may proceed to initiate and complete repairs and secure the property, and all associated costs will be imposed as a special assessment lien upon the lender. The city may also impose monitoring fees as necessary to justify the costs of code enforcement officers relative to abandoned properties.

(c) This section does not prohibit the city from inspecting property and enforcing its laws or from exercising any other remedies available to the city as provided by law. Additionally, if the real property poses an immediate danger to the public health, safety, and welfare, the

city may take any authorized action provided by law, and the costs of correcting the immediate danger shall hold the same status as an assessment provided in this section.

Sec. 10-38. Violations of Article/penalties.

It shall be unlawful for any lender to fail to comply with any provision of this article. Failure of a lender to properly maintain the abandoned property is a violation of the city code which may be subject to one or more of the following remedies: the issuance of a citation, or of a notice of violation/notice of hearing by code enforcement, abatement of a nuisance, action of the unsafe structures board, or the application of any other remedy or legal proceeding available to the city to ensure compliance with this section. In any instance where the city takes action, the city shall provide the lender's legal agent with the same notice as the property owner. Failure to comply with the requirements of this notice shall be unlawful and subject to penalty of the city code and the Florida Building Code as applicable.

Sec. 10-39. Immunity from Prosecution.

Any enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon the subject abandoned property while in the discharge of duties imposed by this article.

Section 2. It is the intention of the City Commission of the City of Lauderhill, Florida that the provisions of this ordinance shall become and be made a part of the City of Lauderhill's Code of Ordinances. The sections of this ordinance may be re-numbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 3. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

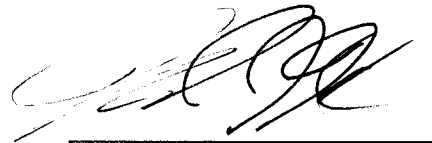
Section 4. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction

to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

DATED this 30th day of April, 2012.

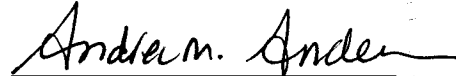
PASSED on first reading this 9th day of April, 2012.

PASSED AND ADOPTED on second reading this 30th day of April, 2012.



PRESIDING OFFICER

ATTEST:



CITY CLERK

	FIRST READING	SECOND READING
MOTION	<u>Bates</u>	<u>Benson</u>
SECOND	<u>Benson</u>	<u>Bates</u>
M. BATES	<u>Yes</u>	<u>Yes</u>
H. BENSON	<u>Yes</u>	<u>Yes</u>
H. BERGER	<u>Yes</u>	<u>Yes</u>
K. THURSTON	<u>Yes</u>	<u>Yes</u>
R. KAPLAN	<u>Yes</u>	<u>Yes</u>

CITY OF LAUDERHILL
COMMISSION MEETING

Agenda Request
By
City Commission

Indicate with an (x) this type of request:

ORDINANCE
 RESOLUTION
 OTHER

Meeting Date:

April 9, 2012

Request Action: (State the action requested of the Commission and why the action is necessary. What is the expected outcome of the action?)

Approve an Ordinance establishing an abandoned real property registry, requiring foreclosing lenders to register and maintain the subject property for as long as it is "abandoned" as defined therein.

Need: (Why is there a need for this action?)

To protect neighborhoods from being blighted through the lack of adequate maintenance and security of abandoned properties.

Summary Explanation/ Background: (Provide a summary/background of this agenda request)

The number of abandoned properties and foreclosures has continued to increase during the decline in the economy and the decline in real estate values. The creation of a registry so that the city has the necessary information to establish a schedule for monitoring abandoned properties and for enforcement if the foreclosing lenders do not maintain the property during the foreclosure proceeding as required by the ordinance is necessary. The Ordinance places responsibility on the foreclosing lender to ensure that the property is registered and properly maintained prior to the issuance of a notice of default. If the lender fails to do so, then fines and penalties will be imposed on the lender. Inspection and posting of the property required. Numerous cities within Broward County have passed similar Ordinances (i.e. Sunrise, Cooper City, Coral Springs, Pembroke). In addition, other cities such as Chicago and Las Vegas have passed stringent Ordinances requiring lien holders to take responsibility for maintaining vacant properties prior to foreclosure or face stringent penalties. Mayor Richard J. Kaplan has requested that this item be prepared. Vice Mayor Hayward J. Benson, Jr. has also previously expressed support of a foreclosure registry.

Attachments: (Number all attachments consecutively)

None.

(This agenda request is to be displayed with the Agenda announcement on the City's website)

CITY OF LAUDERHILL
COMMISSION MEETING

Agenda Request
By
City Commission

Cost Summary/ Fiscal Impact: (Include projected cost, approved budget amount and account number, source of funds, and any future funding requirements)

None.

Master Plan: Explain how this Agenda item advances one or more objectives

Goal 1: Clean, Green Sustainable Environment

- Increase mass transit ridership
- Reduce City energy consumption
- Reduce water consumption

Goal 2: Safe and Secure City of Lauderhill

- Crime in lower 50% in Broward
- Residents feel safe in neighborhood
- Reduce emergency fatalities

Goal 3: Open Spaces and Active Lifestyle for all ages

- Increase participation in youth sports
- Add new park land and amenities
- Increase attendance at cultural programs and classes

Goal 4: Growing Local Economy, Employment and Quality of Commercial Areas

- Increase commercial tax base
- Increase employment in Lauderhill businesses
- Decrease noxious and blighted uses in commercial areas

Goal 5: Quality Housing at all Price Ranges and Attractive Communities

- Neighborhood signs and active HOAs
- Housing & streets improved, litter reduced
- Increase proportion of single family homes and owner occupied housing

Goal 6: Efficient and Effective City Government, Customer Focused & Values Diversity

- Improves City efficiency
- Increase use of Information Technology
- Increases residents perception of Lauderhill as an excellent place to live

] Requested By:

Mayor Richard J. Kaplan

(This agenda request is to be displayed with the Agenda announcement on the City's website)

**FOR NEWSPAPER ARTICLES
INCLUDED AS BACK UP,
PLEASE LOOK BEHIND
ORDINANCE 120-04-109**