

ORDINANCE NO. 465

AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA, REGULATING THE MAINTENANCE OF ABANDONED FORECLOSING RESIDENTIAL PROPERTIES; PROVIDING DEFINITIONS; PROVIDING FOR REGISTRATION OF ABANDONED FORECLOSING RESIDENTIAL PROPERTIES AND DESIGNATION OF LOCAL AGENT; PROVIDING FOR MAINTENANCE REQUIREMENTS; PROVIDING FOR INSPECTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING AN APPEAL PROCESS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, recent events in the housing market have led to a drastic rise in the number of foreclosed houses. In municipalities all over the nation, homes are being left empty as families are forced to move out. These homes are frequently retaken by banks, financial institutions and large real estate conglomerates that have little or no connection with the municipality in which they own property, and

WHEREAS, many of these homes are frequently vacated and abandoned prior to the conclusion of the foreclosure process. Homes sit empty for months or years at a time awaiting foreclosure sale; often creating an attractive public nuisance. Some homes are in violation of multiple aspect's of state law and local ordinances. The mortgagees are large financial institutions located out of state, making enforcement of the code very difficult, and

WHEREAS, these code violations include, among multiple other violations, unoccupied buildings susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unlocked houses, overgrown grass and bushes, and unsecured swimming pools that are not only a threat to children but become breeding grounds for infectious insects such as mosquitoes, and

WHEREAS, this problem exists nationwide. Banks and other financial institutions are refusing to maintain properties, and code compliance officers have turned into investigators as they try to find out who the owners are and how to contact them to correct code violations.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN COMMISSION OF THE TOWN OF BELLEAIR, PINELLAS COUNTY, FLORIDA, as follows:

SECTION 1. Purpose. It is the intent of this ordinance pursuant to the above recitals, which are hereby adopted and incorporated into this ordinance, to protect and preserve public safety, security, and quiet enjoyment of occupants, abutters, and neighborhoods by: (i) requiring all residential property owners, as defined herein, to properly maintain abandoned foreclosing properties; and (ii) regulating the maintenance of abandoned foreclosing residential properties to prevent blighted and unsecured residences.

SECTION 2. Definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates and requires a different meaning.

ABANDONED. A property is abandoned when mortgage foreclosure proceedings have been initiated for that property, no mortgage payments have been made by the property owner for at least ninety (90) days, and the property has been unoccupied for at least ninety (90) days.

TOWN. The Town of Belleair, Florida.

TOWN MANAGER. The Town Manager of the Town of Belleair or other person(s) designated by the Town Manager to carry out the enumerated responsibilities of the Town Manager in this ordinance.

DAYS. Consecutive calendar days.

FORECLOSING, FORECLOSURE ACTION OR PROCEEDING. The process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

INITIATION OF THE FORECLOSURE PROCESS. Taking any of the following actions: (i) taking possession of a residential property; (ii) delivering the Mortgagee's notice of intention to foreclose to the borrower; or (iii) commencing a foreclosure action on a property in Pinellas County Circuit Court.

LOCAL. Within Pinellas, Pasco, Hillsborough or Manatee Counties.

MORTGAGEE. The creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

OWNER. Every person, entity, service company, property manager or real estate broker, who alone or severally with others:

1) has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or

2) has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit 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; 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) is an officer or trustee of the association of unit owners of a condominium. However, this ordinance shall not apply to either Condominium Association created pursuant to Chapter 718, Florida Statutes; a Cooperative Association created pursuant to Chapter 719, Florida Statutes; or a Homeowner's Association created pursuant to Chapter 720, Florida Statutes, to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association.

PROPERTY. Any real, residential property, or portion thereof located in the Town of Belleair, including buildings, structures and other improvements situated on the property. For purposes of this ordinance only, property does not include property owned or subject to the control of the Town or any of its governmental bodies.

RESIDENTIAL PROPERTY. Any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

SECURING. Measures that assist in making the property inaccessible to unauthorized persons.

SECTION 3. Registration of Abandoned Foreclosing Residential Properties; Duty to Provide Written Notice of Abandoned Residential Property.

A. All owners must register abandoned foreclosing residential properties with the Town on forms provided by the Town. All registrations must state the individual owner's or agent's phone number and mailing address located within the State. The mailing address may not be a post office box unless a physical mailing address is also stated. This registration must also certify that the property was inspected. The owner and/or registrant shall designate and retain a local individual or local property management company responsible for the security and maintenance of the property. This designation shall state the individual or company's name, phone number, and local mailing address. If the property is in the process of foreclosure, then the registration must be received within seven (7) days of the initiation of the foreclosure process as defined in Section 2 herein.

B. All property registrations are valid for one (1) calendar year. An annual registration fee of One Hundred Dollars (\$100.00) or such other amount established by the Town Commission by resolution shall accompany each registration form. Subsequent annual registrations and fees are due within thirty (30) days prior to expiration of previous registration and shall certify whether the foreclosing or foreclosed property remains abandoned.

C. Once the property is no longer abandoned or is sold, the owner must provide proof of sale or written notice and proof of occupancy to the Town.

SECTION 4. Maintenance Requirements.

A. Properties subject to this ordinance must be maintained in accordance with the relevant nuisance, maintenance, sanitary and building codes, and the Town's regulations concerning external and/or visible maintenance. The owner, local individual or local property management company must inspect and maintain the property on a quarterly basis for the duration of the vacancy shall provide a written affidavit to the Town within fifteen days (15) after each inspection certifying when the inspection was made and that the inspection revealed no condition in violation of the referenced codes and regulations.

B. Adherence to this ordinance does not relieve the owner of any applicable obligations set forth elsewhere in the Code of Ordinances or within any covenant conditions and restrictions and/or homeowner's association rules and regulations.

SECTION 5. Inspections. The Police Department or other code enforcement staff shall have the authority and the duty to inspect properties subject to this ordinance for compliance and to issue citations for any violations in accordance with the processes and procedures available for code enforcement under the laws of the Town. Such police and code enforcement staff shall have the discretion to determine when and how such inspections are to be made, provided that its policies are reasonably calculated to ensure that this ordinance is enforced.

SECTION 6. Enforcement and Penalties.

A. The Town may enforce the provisions of this ordinance by any means available to the Town under the Code of Ordinances of the Town of Belleair or as may be available under the controlling provisions of state law for violations of local ordinances. The violation of this ordinance shall constitute a Class I offense under the Pinellas County Uniform Fine Schedule for Local Ordinance Violations and each day a violation continues shall be considered a separate offense.

B. The penalties for violation of this ordinance shall be set forth in the code enforcement method asserted by the town or as may be available under the controlling provisions of state law.

SECTION 7. Appeal. Any person aggrieved by the requirements of this ordinance may seek an administrative appeal to the Town Manager within ten (10) days of the action which is sought to be appealed. An additional appeal may be filed to seek review of the Town Manager to the Town Commission within ten (10) working days of the action which is sought to be appealed in accordance with the appeals procedures in Chapter 66, Article VI of the Code of Ordinances of the Town of Belleair. Any person aggrieved by a final decision issued under this ordinance by the Town Commission, may seek relief in any court of competent jurisdiction as provided by the laws of the state.

SECTION 8. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 9. Severability. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the Town Commission of the Town of Belleair that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the Town Commission would have enacted the valid constitutional portions thereof.

SECTION 10. Effective Date. This Ordinance shall be in effect 30 days after passage and approval and upon second and final reading, in the manner prescribed by Section 2.11 of the Town Charter of the Town of Belleair, Florida.

PASSED on first reading this 21ST day of **JULY, 2009.**

PASSED AND ADOPTED on second and final reading this 4th day of **AUGUST, 2009.**

Mayor

ATTEST:

Town Clerk