

ORDINANCE NO. 1401

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES RELATING TO NUISANCES TO ESTABLISH A FORECLOSED PROPERTY REGISTRATION PROGRAM; PROVIDING DEFINITIONS; PROVIDING REQUIREMENTS FOR REGISTRATION, INSPECTION AND MAINTENANCE, SECURITY AND POSTING OF FORECLOSED PROPERTIES AND THOSE INVOLVED IN FORECLOSURE LITIGATION, ALL AS MORE PARTICULARLY SET FORTH IN THE BODY OF THE ORDINANCE; DECLARING VIOLATIONS TO BE A PUBLIC NUISANCE AND PROVIDING REMEDIES THEREFOR; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

**WHEREAS**, the mortgage foreclosure crisis resulted in a rising number of vacant and abandoned properties with serious negative implications for all communities trying to manage the resulting property vacancies, such as decreases in property values, lack of maintenance, and other problems that stem from financial crisis; 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 are broken, exteriors suffer damage from normal wear-and-tear, vagrants and vandalism, communities suffer, and these consequences have a negative impact first on neighboring residences and then on entire neighborhoods; and

**WHEREAS**, the conditions identified above negatively impact the City of Panama City Beach and blight neighborhoods; and

**WHEREAS**, the City of Panama City Beach is challenged to identify and locate owners or foreclosing parties who can correct negative impacts and maintain the properties that are in the foreclosure process or that have been foreclosed; and

**WHEREAS**, the City of Panama City Beach finds that neighborhoods should be protected from becoming blighted through the lack of adequate maintenance and security of vacant properties or properties that are subject to mortgages that are in default; and

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

**WHEREAS**, a foreclosed property registration process is necessary for the City of Panama City Beach to provide a monitoring mechanism and additional enforcement for defaulted properties; and

**WHEREAS**, the City of Panama City Beach finds that the registration process would include properties that have already been foreclosed upon, are currently in the foreclosure process, or may be in the foreclosure process in the future; and

**WHEREAS**, the City Council of the City of Panama City Beach has determined that the following additions to the City's code will serve and contribute to promoting and protecting the general health, safety and welfare of the residents of the City of Panama City Beach; and

**WHEREAS**, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, the City Council desires that by imposing the registration and other requirements set forth in this Ordinance, vacant real property and real property in foreclosure will less likely become public eye sores and public nuisances; and

**WHEREAS**, the City also desires to provide a local mechanism to collect and share information regarding foreclosed real property so these properties can quickly move into the hands of owners who can make productive use of them for the economic well-being of the community.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:**

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

SECTION TWO. From and after the effective date of this ordinance Article III, Chapter 15 of the Code of Ordinances of the City of Panama City Beach, related to Nuisances is created to read as follows:

## CHAPTER 15 – NUISANCES

**Chapter 15 NUISANCES**  
**ARTICLE I. IN GENERAL**  
**Secs. 15-1—15-15. Reserved.**

**ARTICLE II. NUISANCE ABATEMENT CODE**

**ARTICLE III – FORECLOSED PROPERTY REGISTRATION PROGRAM**

**Sec. 15-40. Purpose and intent.**

It is the purpose and intent of this Article to establish a process to monitor and address the deterioration of property located within the City of Panama City Beach, which property is in mortgage foreclosure, where ownership has been transferred to a lender or mortgagee by any legal method or where property is deemed to be vacant or abandoned. It is further intended to establish a registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance or through abandoned or vacated properties which are subject to mortgages that are in default.

**Sec. 15-41. 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.

*Default* means that the mortgagee has filed a foreclosure action in a court of law or recorded a lis pendens.

*Enforcement officer* means any law enforcement officer, building official, fire inspector or code enforcement officer employed by the City of Panama City Beach.

*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 or dead vegetation or both; electricity, water or other utilities turned off; stagnant swimming pool; or statements by neighbors, passers-by, delivery agents or government agents.

*Foreclosed property* means real property that is in default.

*Foreclosure* means the judicial process by which a property, placed as security for a mortgage loan, after a judicial process, is sold at an auction to satisfy a debt upon which the borrower has defaulted.

*Owner of record* means the person or entity holding record title to the real property in questions as reflected in the Official Records of Bay County, Florida.

*Secure manner* means and includes, but is not limited to, the closure, locking or repairing of all windows, doors, fences, gates, garages and other openings that may allow access to the interior of a building or structure on real property. In the case of broken windows or doors, securing shall mean replacing the window or door. Temporary boarding of openings may be allowed pending repairs.

*Vacant* means any building or structure that is not lawfully occupied or inhabited as evidenced by the conditions set forth in the definition of "*Evidence of Vacancy*" above.

**Sec. 15-42. Applicability.**

This Article applies to improved property which is in default located within the City of Panama City Beach, or which property is in or has been in foreclosure, or where ownership of such property has been transferred to a lender or mortgagee by any legal method.

**Sec. 15-43. Registration Requirements.**

- (a) Any mortgagee who holds a mortgage on real property located within the City shall within ten 10 days of default by the mortgagor of the real property that is the security for the mortgage register the property with the City. Registration shall be on a form provided by the City and shall, at a minimum, include the following:
- (1) The mortgagee's name, direct mailing address, email address, contact person and telephone number;
  - (2) The address and parcel identification number of the real property that is being foreclosed upon by mortgagee;
  - (3) Whether the property is vacant or occupied during the default period;
  - (4) If the real property is or becomes vacant, the name, street address, email address and telephone number of the local property manager that will work on the mortgagee's behalf to inspect maintain and secure the real property. The local property manager's current street address and land line telephone number shall be within Bay or Walton County;
  - (5) If a foreclosure complaint involving the real property has been filed in circuit court, or the real property is subject to a bankruptcy proceeding, the style of the case including court name, case number, and parties; and
  - (6) Provide express authorization for city employees to enter upon the exterior of the property in the event the property becomes vacant for the purpose of ensuring compliance with this Article.
- (b) Any person or other legal entity that has registered a property under this section shall be required to report any change of information contained in the registration within ten 10 days of the change.
- (c) In the event there are several mortgagees with mortgages on the property, the registration, inspection, maintenance, and security requirements imposed by this article shall apply to the mortgagee with the most superior mortgage that has declared the mortgage in default unless the several mortgagees notified the City to the contrary in writing. However, nothing herein shall prevent inferior mortgagees from voluntarily complying with this ordinance after a primary mortgagee registers hereunder.
- (d) An annual registration fee in an amount of \$50.00, per property, shall accompany the registration. Said fee may be amended from time to time by resolution of the City Council, and shall be based on the reasonable estimated costs of administering the provisions of this article. Fees may be based on the size and type of property being registered. Fees shall be due and payable at the time of registration or re-registration.
- (e) Once the property is transferred or sold, the mortgagee shall provide the City written proof of the sale in order to be relieved of the requirements of this Article.

**Sec. 15-44. Mortgage Inspection requirements.**

(a) If the foreclosed property becomes vacant or shows evidence of vacancy at any time, the mortgagee, or a local property manager designated by the mortgagee performing on the mortgagee's behalf, shall initiate and maintain on-site inspections of the property to verify compliance with this article and any other applicable laws. Said inspections shall occur a minimum of once every [sixty] days unless a code enforcement officer or police chief determine,

in writing, that more frequent inspections are required to ensure compliance with this article or to prevent a decline of the property, a public or attractive nuisance, or a blight on the surrounding neighborhood. Such inspections shall continue until such time as the default is cured, or property is transferred or sold to a third party. Once the property is transferred or sold, the mortgagee shall provide the City written proof of the sale in order to be relieved of the requirements of this Article. At the written request of the City prior to any inspection required by this Article, the person performing the inspection shall be required to schedule the inspection with the City for a date and time certain so that a city code or law enforcement officer can meet the person on-site in order to address any compliance issues under this Article.

**Sec. 15-45. Maintenance requirements.**

Properties subject to this Article shall be maintained in accordance with all relevant City regulations, and the following specific standards:

- (a) The property shall be kept free of excessive weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices (excluding those required by federal, state or local law), discarded personal items such as furniture, clothing, appliances, printed materials or any other items that give the appearance that the property is abandoned or not being properly maintained.
- (b) The property shall be maintained free of graffiti or similar markings by removal or painting over such graffiti or markings with an exterior grade paint that matches the color of the exterior structure.
- (c) Yards shall be regularly landscaped and maintained in good condition pursuant to the property maintenance standards set forth by the City in its Code of Ordinances or Land Development Code, as applicable. At a minimum, landscaping shall include, but be limited to, grass, ground covers, bushes, shrubs, hedges, mulch, or similar planting which are appropriately designed for residential, commercial, or industrial installation as applicable. Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required landscape and removal of all trimmings.
- (d) Pools, spas, fountains or ponds shall be regularly kept in working order so as to prevent the creation of an environment for the breeding of mosquitoes or other unsanitary environment through the accumulation of stagnant or polluted water, pollutants or debris. Water clarity shall be such that the bottom of the pool or spa can be seen from the pool or spa deck. If the pool or spa is emptied, it shall be securely covered.
- (e) Outdoor play equipment, furnishings, or other accessory structures shall be properly maintained and secured so as not to be accessible to unauthorized persons or not to create an attractive nuisance or safety hazard.
- (f) In the event the National Weather service or National Hurricane Center declares a hurricane warning for any portion of the City, all materials, furnishing and equipment at the property shall be secured, stored or removed so as to not create a safety hazard due to hurricane force winds.
- (g) The property shall be regularly monitored for indications of criminal activity on the premises such as vagrancy, use and sale of controlled substances, prostitution, and criminal street gang activity. Any indication of criminal activity shall be reported to the Police Department at such time it becomes reasonably known or apparent.

**Sec. 15-46. Security Requirements.**

Buildings and structures on property subject to this article shall be maintained in a secure manner at all times so as not to be accessible by unauthorized persons.

**Sec. 15-47. Posting of Property.**

- (a) When a property subject to this Article becomes vacant or abandoned, unless prohibited by recorded covenants and restrictions, 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, at a minimum, with supporting information:

THIS PROPERTY IS MANAGED BY \_\_\_\_\_  
AND IS INSPECTED ON A REGUALR BASIS. THE PROPERTY  
MANAGER CAN BE CONTACTED BY TELEPHONE AT  
\_\_\_\_\_ OR BY EMAIL AT  
\_\_\_\_\_.

(b) The posting required in subsection (a) above shall be placed on the interior of a window facing the street to this 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 posting in a location that is at all times visible from the street to the front of the property buy not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.

**Sec. 15-48. Additional authority of City Manager and Police Chief.**

The City Manager or police chief shall have the authority to require the mortgagee or owner of record, or both, of property subject to this article to implement additional maintenance or security measures as may be reasonably required to prevent a decline of the property, a public or attractive nuisance, or a blight on the surrounding neighborhood. Said additional requirements shall be stated in writing and shall have the force of law under this article.

**Sec. 15-49. Public nuisance, remedies.**

(a) All real property in violation of this Article is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared necessary for the health, safety and welfare of the residents of the City.

(b) The provisions of this article may be enforced and penalties imposed on mortgagees or owners of record for violations of this article as provided by law. Without limiting the City's right to impose any other penalties as provided by law, or to enforce this article by any other lawful means, a violation of this article may be punished by a civil penalty not exceeding [\$250]. Nothing under this article shall be construed as imposing liability on local property managers acting on a mortgagee's behalf pursuant to this article.

(c) Upon failure of the mortgagee to comply with the maintenance or security requirements under this article, the City Manager or his or her designee may take such appropriate action deemed necessary to remedy a maintenance or security failure on property subject to this article. The City Council shall assess the entire cost of the action against the real property, which assessment, when made, shall constitute a lien upon the property in favor of the City. The City may also collect this abatement cost through the additional and alternative method of levying a special assessment.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 4. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the

provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

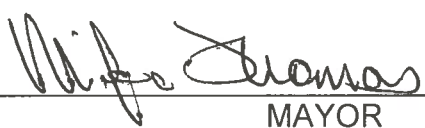
SECTION 5. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 12<sup>th</sup> day of January, 2017.

  
MAYOR

ATTEST:  
  
CITY CLERK

EXAMINED AND APPROVED by me this 12<sup>th</sup> day of January, 2017.

  
MAYOR

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