

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

CITY OF MARGATE, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING
APPENDIX A ZONING, ARTICLE XL - PROPERTY MAINTENANCE
STANDARDS, SECTION 40.16 - ABANDONED REAL AND PERSONAL
PROPERTY; PROVIDING FOR SECTION TITLE AMENDMENT;
PROVIDING FOR AMENDING PROGRAM FOR REGISTRATION OF
PROPERTIES IN FORECLOSURE OR BANKRUPTCY PROCEEDING;
PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION;
PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY;
PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission recognizes the need to
limit and reduce the deterioration of real property located
within the City of Margate which property is under a current
notice of default, in mortgage foreclosure, where ownership
has been transferred to a lender or mortgagee by any legal
method, or where real property is part of a foreclosure or
bankruptcy proceeding; and

WHEREAS, the City Commission recognizes the need to
amend the abandoned real property registration program as a
mechanism to protect neighborhoods from becoming blighted
through the lack of adequate maintenance and security of
properties which are subject to mortgages that are in default
or the subject of a foreclosure.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF

1 **THE CITY OF MARGATE, FLORIDA THAT:**

2 Section 1. The foregoing "WHEREAS" clauses are
3 hereby ratified and confirmed as being true and correct, and
4 are hereby incorporated herein and made a part hereof.

5 Section 2. That Appendix A Zoning, Article XL -
6 Property Maintenance Standards, Section 40.16 - Abandoned
7 Real and Personal Property, of the City of Margate's Code of
8 Ordinances, is hereby amended as follows¹:

9 **Section 40.16. Foreclosure real property and ~~Abandoned real~~**
10 **and personal property.**

11 (1) *Purpose and intent.* It is the purpose and intent of
12 the City Commission to ~~establish a~~ amend the process to limit
13 and reduce the amount of abandoned personal and real
14 property in foreclosure located within the City. It is the
15 City Commission's further intent to ~~specifically establish an~~
16 amend the ~~abandoned~~ foreclosure residential property program
17 as a mechanism to protect residential neighborhoods from

18

19 ¹CODING: Words in ~~struck through~~ text are deletions from existing text;
20 words in underscoring text are additions to existing text, and **shaded**
21 text reflect changes between First and Second Readings.

22

1 becoming blighted through the lack of adequate maintenance
2 and security of ~~abandoned~~ properties subject to foreclosure.

3 (2) *Definitions.* The following words, terms and
4 phrases, when used in this article, shall have the meanings
5 ascribed to them in this section, except where the context
6 clearly indicates a different meaning:

7 *Abandoned personal property* means wrecked or derelict
8 property which has been left abandoned and unprotected from
9 the elements and shall include wrecked, inoperative or
10 partially dismantled motor vehicles, trailers, boats,
11 machinery, refrigerators, washing machines, plumbing
12 fixtures, furniture and any other similar article which has
13 been left abandoned and unprotected from the elements.

14 ~~*Abandoned real property* means any property that is vacant
15 and is under a current notice of default and/or notice of
16 mortgagee's sale, pending tax assessors lien sale and/or
17 properties that have been the subject of a foreclosure sale
18 where the title was retained by the beneficiary of a mortgage
19 involved in the foreclosure, any properties transferred under
20 a deed in lieu of foreclosure or sale or any properties~~

1 ~~transferred or pending transfer as part of bankruptcy~~
2 ~~proceedings.~~

3 *Accessible property* means a property that is accessible
4 through a comprised/breached gate, fence, wall, etc.

5 *Accessible structure* means a structure/building that is
6 unsecured and/or breached in such a way as to allow access to
7 the interior space by unauthorized persons.

8 *Enforcement officer* means any ~~fulltime~~ law enforcement
9 officer, fire department official, building official, zoning
10 inspector or code compliance officer employed within the
11 city.

12 *Evidence of vacancy* means any condition that on its own or
13 combined with other conditions present would lead a
14 reasonable person to believe that the property is vacant.
15 Such conditions may include, but not be limited to, overgrown
16 and/or dead vegetation, accumulation of abandoned personal
17 property or an absence of home furnishings or personal
18 property, as defined herein, statements by neighbors,
19 passersby, delivery agents or government agents, among other
20 evidence that the property is vacant.

1 *Foreclosure* means the legal proceedings initiated by a
2 creditor to repossess the collateral for a residential or
3 commercial loan that is in default.

4 *Foreclosure property* means any property that is under a
5 current notice of default and/or notice of mortgagee's sale,
6 or properties that have been the subject of a foreclosure
7 sale where the title was retained by the beneficiary of a
8 mortgage involved in the foreclosure, any properties
9 transferred under a deed in lieu of foreclosure or sale or
10 any properties transferred or pending transfer as part of
11 bankruptcy proceedings. See also *Registrable property*.

12 ~~*Enforcement officer* means any fulltime law enforcement~~
13 ~~officer, fire department official, building official, zoning~~
14 ~~inspector or code compliance officer employed within the~~
15 ~~city.~~

16 *Nominal salvage value* means the value of an article of
17 abandoned or derelict property which a reasonably prudent
18 person would believe the fair market value of the property
19 would be nominally greater than the costs of salvage
20 including the removal, transportation, storage and sale of
21 same. (This shall take into consideration its useful life,

1 earning capacity or replacement cost, less depreciation and
2 items of general or special depreciation.)

3 *Private property* means all lands and improvements other
4 than public lands and improvements.

5 *Public property* means canals, all waterways, lands and
6 improvements owned by a governmental body or any governmental
7 agency including but not limited to easements and rights-of-
8 way, but excluding the campus of any institution of the state
9 university system.

10 *Real property* means any residential or commercial land
11 and/or buildings, leasehold improvements and anything affixed
12 to the land, or portion thereof identified by a property
13 parcel identification number located within the City limits.

14
15 *Registrable Property means:*

16 a. *Any Real Property located in the City, whether vacant*
17 *or occupied, that is subject to an ongoing Foreclosure*
18 *Action by the Mortgagee or Trustee, has been the*
19 *subject of a Foreclosure Action by a Mortgagee or*
20 *trustee and a judgement has been entered, or has been*
21 *the subject of a Foreclosure sale where the title was*

1 transferred to the beneficiary of a mortgage involved
2 in the Foreclosure and any properties transferred under
3 a deed in lieu of foreclosure/sale. The designation of
4 a "foreclosure" property as "registrable" shall remain
5 in place until such time as the property is sold to a
6 non-related bona fide purchaser in an arm's length
7 transaction or the Foreclosure Action has been
8 dismissed.

9 Registry means a web-based electronic database of
10 searchable real property records, used by the City to allow
11 Mortgagees the opportunity to register properties and pay
12 applicable fees as required in this Section.

13 Residential building means any improved real property, or
14 portion thereof, situated in the City, designed or permitted
15 to be used for dwelling purposes, and shall include the
16 buildings and structures located on such improved real
17 property.

18 Semi-Annual Registration means six (6) months from the
19 date of the first action that requires registration, as
20 determined by the City, or its designee, and every subsequent
21 six (6) months the property is Registrable. The date of the

1 initial registration may be different than the date of the
2 first action that required registration.

3 Vacant means any building/structure that is not legally
4 occupied.

5
6 (3) *Applicability.* This article shall be considered cumulative
7 and not superseding or subject to any other law or
8 provision for same, but shall rather be an additional
9 remedy available to the city above and beyond any other
10 state, county and/or local provisions for same.

11 (4) *Penalties.* Any person who shall violate the provisions of
12 this article shall, upon conviction, be punished as
13 provided in section 1-8.

14 (5) *Placement of abandoned personal property prohibited.*

15 (a) It shall be unlawful for any person to abandon
16 personal property upon private property:

17 (1) Without receiving the property owner's consent; or

18 (2) In violation of this or any other applicable law,
19 ordinance or regulation.

20 (b) Nothing in this section shall be deemed to apply to
21 abandoned personal property authorized to be left on

1 private business property properly operated,
2 licensed and zoned in the city for the purpose of
3 accepting abandoned property.

4 (6) *Public nuisance.* All abandoned personal property and
5 ~~abandoned~~ foreclosure real property is hereby declared to
6 be a public nuisance, the abatement of which ~~pursuant to~~
7 ~~the police power~~ is hereby declared to be necessary for
8 the health, welfare and safety of the residents of the
9 city.

10 (7) *Notification procedure.* When an enforcement officer
11 ascertains that an article of personal property having
12 nominal salvage value lies abandoned or derelict upon
13 private property, that officer shall:

14 (a) Cause a notice to be placed upon such abandoned
15 property in the substantially following form:

16 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE
17 ATTACHED PROPERTY THIS PROPERTY, TO WIT:

18 (setting forth brief description)

19 LOCATED AT:

20 (setting forth brief description of location) is:

1 IMPROPERLY STORED AND IS IN VIOLATION OF
2 (setting forth ordinance or violation violated)
3 AND MUST BE REMOVED WITHIN TEN (10) DAYS FROM THE DATE
4 OF THIS NOTICE; OTHERWISE IT SHALL BE PRESUMED TO BE
5 ABANDONED PROPERTY AND WILL BE REMOVED AND SOLD OR
6 DESTROYED BY ORDER OF THE GOVERNING BODY OF THE CITY
7 OF MARGATE, FLORIDA, DATED THIS:
8 (setting forth the date of posting of notice);
9 SIGNED (setting forth name, title, address and
10 telephone number of enforcement officer.)

11 Such notice shall be not less than eight (8) inches by ten
12 (10) inches and be sufficiently weatherproof to withstand
13 normal exposure to the elements.

14 (b) The enforcement officer shall also make reasonable
15 effort to ascertain the name and address of the
16 owner of the abandoned property and, if such address
17 is reasonably available, the officer shall mail by
18 certified mail a copy of the notice to the owner on
19 or before the date of posting the above-described
20 notice on the abandoned personal property.

1 (c) The enforcement officer shall mail, by certified
2 mail, a copy of the above-described notice to the
3 owner of the real property upon which the abandoned
4 personal property is located, as shown by the real
5 estate tax records used by the county, on or before
6 the date of posting such notice.

7 (8) *Removal of abandoned personal property.*

8 (a) If at the end of ten (10) days after posting notice
9 under this article, the owner or any person
10 interested in such abandoned personal property
11 described in the notice has not removed same, the
12 enforcement officer may cause the article of
13 abandoned personal property to be removed and
14 destroyed or sold, and the salvage value, if any, of
15 such article shall be retained by the local
16 government to be applied against the cost of removal
17 and destruction thereof.

18 (b) Before sale or destruction, as determined by the
19 City of Margate, any owner or lienholder of the
20 abandoned personal property shall be permitted to
21 regain possession thereof upon proof of ownership or

1 lien rights entitling the lienholder to possession,
2 upon payment of storage charges and all expenses
3 incurred by the enforcement officer and/or the city.

4 (9) *Registration of ~~abandoned~~ foreclosure real property.*

5 (a) Any mortgagee who holds a mortgage on real property
6 located within the city shall perform an inspection
7 of the property that is the security for the
8 mortgage, ~~upon default by the mortgagor, prior to~~
9 ~~the issuance of a notice of default. If the property~~
10 ~~is found to be vacant or shows evidence of vacancy,~~
11 ~~it shall be deemed abandoned and the~~ The mortgagee
12 shall, within ten (10) days of the inspection,
13 register the property with the code compliance unit
14 ~~of the police department~~ of the City of Margate, or
15 ~~his or her designee., on forms provided by the City.~~

16 (b) ~~If the property is occupied but remains in default,~~
17 ~~it~~ Properties shall be inspected by the mortgagee or
18 designee monthly until (1) the mortgagor or other
19 party remedies the default, or (2) it is found to be
20 vacant or shows evidence of vacancy at which time it
21 is deemed abandoned, and the mortgagee shall, within

1 ten (10) days of that inspection, ~~register~~ update
2 the property with the code compliance unit ~~of the~~
3 ~~police department~~ of the City of Margate, or his or
4 her designee, ~~on forms provided by the City.~~

5 (c) Registration pursuant to this section shall contain
6 the name of the mortgagee, the direct mailing
7 address of the mortgagee, a direct contact name and
8 telephone number of mortgagee and, in the case of a
9 corporation or out-of-area mortgagee, the local
10 property management company responsible for the
11 security and maintenance of the property.

12 (d) ~~An annual registration~~ A non-refundable semi-annual
13 fee in the amount of ~~fifty dollars (\$50.00)~~ three
14 hundred dollars (\$300.00) shall accompany the
15 registration form. Fees shall be tendered in U.S.
16 dollars.

17 (e) Each individual property on the Registry that has
18 been registered for twelve (12) months or
19 more prior to the Effective Date shall have thirty
20 (30) days to renew the registration and pay the non-
21 refundable three hundred dollars (\$300.00) Semi-

1 Annual Registration fee. Properties registered less
2 than twelve (12) months prior to the Effective Date
3 shall renew the registration every six (6) months
4 from the expiration of the original registration
5 renewal date and shall pay the non-refundable three
6 hundred dollars (\$300.00) Semi-Annual Registration
7 fee.

8 (f) If the mortgage and/or servicing on a property is
9 sold or transferred, the new Mortgagee is subject to
10 all the terms of this Section. Within ten (10) days
11 of the transfer, the new Mortgagee shall register
12 the property or update the existing registration.
13 The previous Mortgagee(s) will not be released from
14 the responsibility of paying all previous unpaid
15 fees, fines, and penalties accrued during that
16 Mortgagee's involvement with the Registrable
17 Property.

18 (g) If the Mortgagee sells or transfers the Registrable
19 Property in a non-arm's length transaction to a
20 related entity or person, the transferee is subject
21 to all the terms of this Chapter. Within ten (10)
22 days of the transfer, the transferee shall register

1 the property or update the existing registration.
2 Any and all previous unpaid fees, fines, and
3 penalties, regardless of who the Mortgagee was at
4 the time registration was required, including but
5 not limited to unregistered periods during the
6 Foreclosure process, are the responsibility of the
7 transferee and are due and payable with the updated
8 registration. The previous Mortgagee will not be
9 released from the responsibility of paying all
10 previous unpaid fees, fines, and penalties accrued
11 during that Mortgagee's involvement with the
12 Registrable Property.

13
14 (he) This section shall also apply to properties that
15 have been the subject to a foreclosure sale where
16 the title was transferred to the beneficiary of a
17 mortgage involved in the foreclosure and any
18 properties transferred under a deed in lieu of
19 foreclosure/sale.

20 (i) If the Foreclosure Property is not registered, or
21 the registration fee is not paid within thirty (30)
22 days of when the registration or renewal is required

1 pursuant to this section, a late fee equivalent to
2 ten percent (10%) of the Semi-Annual Registration
3 fee shall be charged for every thirty-day period
4 (30), or portion thereof, the property is not
5 registered and shall be due and payable with the
6 registration.

7 (j~~f~~) Properties subject to this section shall
8 remain under the semi-annual registration
9 requirement, security and maintenance standards of
10 this section as long as they remain Registrable
11 Property vacant.

12 (k~~g~~) Any person or corporation that has registered
13 a property under this section must report any change
14 of information contained in the registration within
15 ten (10) days of the change. ~~Changes shall be~~
16 ~~reported in writing to the code compliance unit of~~
17 ~~the police department of the City of Margate.~~

18 (10) *Maintenance requirements.*

19 (a) Properties subject to this article shall be kept
20 free of weeds, overgrown brush, dead vegetation,
21 trash, junk, debris, building materials, any

1 accumulation of newspapers, circulars, flyers,
2 notices, except those required by federal, state, or
3 local law, discarded personal items including, but
4 not limited to, furniture, clothing, large and small
5 appliances, printed material or any other items that
6 give the appearance that the property is abandoned.

7 (b) The property shall be maintained free of graffiti
8 or similar markings by removal or painting over with
9 an exterior grade paint that matches the color of
10 the exterior structure.

11 (c) Visible front, side and rear yards shall be
12 landscaped and maintained to the neighborhood
13 standard at the time registration was required. All
14 rear yards shall be maintained such that they do not
15 attract wildlife such as rats, raccoons, stray cats,
16 etc.

17 (d) Landscape shall include, but not be limited to,
18 grass, ground covers, bushes, shrubs, hedges or
19 similar plantings, decorative rock or bark or
20 artificial turf/sod designed specifically for
21 residential installation. Landscape shall not

1 include weeds, gravel, broken concrete, asphalt or
2 similar material.

3 (e) Maintenance shall include, but not be limited to,
4 watering, irrigation, cutting, and mowing of
5 required landscape and removal of all trimmings.

6 (f) Pools and spas shall be kept in working order so
7 the water remains free and clear of pollutants and
8 debris. Pools and spas shall comply with the
9 enclosure requirements of the City Code of
10 Ordinances and Florida Building Code, as amended
11 from time to time.

12 (g) Failure of the mortgagee and/or property owner of
13 record to properly maintain the property may result
14 in a violation of the City Code and citation by the
15 City's ~~police department~~ and/or code compliance
16 unit. Pursuant to a finding and determination by the
17 special magistrate, the City may take the necessary
18 action to ensure compliance with this section.

19 (11) *Security requirements.*

1 (a) Properties subject to this section shall be
2 maintained in a secure manner so as not to be
3 accessible to unauthorized persons.

4 (b) A "secure manner" shall include, but not be limited
5 to, the closure and locking of windows, doors, gates
6 and other openings of such size that may allow a
7 child to access the interior of the property and/or
8 structure. Broken windows shall be secured by
9 reglazing.

10 (c) If the property is owned by a corporation and/or
11 out-of-area mortgagee, a local property manager or
12 management company shall be contracted to perform
13 monthly inspections to verify compliance with the
14 requirements of this section, and any other
15 applicable laws.

16 (d) The local property management company shall inspect
17 the property on a monthly basis to ensure that the
18 property is in compliance with this chapter and keep
19 a log of same. Said log shall be produced to the
20 City of Margate upon request.

1 (e) Failure of the mortgagee and/or property owner of
2 record to properly maintain the property may result
3 in a violation of the City Code and citation by the
4 City's ~~police department and/or~~ code compliance unit
5 pursuant to a finding and determination by the
6 special magistrate, the City may take the necessary
7 action to ensure compliance with this section.

8 (12) *Opposing, obstructing enforcement officer; penalty.*

9 Whoever opposes, obstructs or resists any enforcement
10 officer or any person authorized by the enforcement office
11 in the discharge of duties as provided in this article,
12 upon conviction shall be punished as provided in section
13 1-8.

14 (13) *Immunity of enforcement officer.* Any enforcement officer
15 or any person authorized by the enforcement officer shall
16 be immune from prosecution, civil or criminal, for
17 reasonable, good-faith trespass upon real property while
18 in the discharge of duties imposed by this article.

19 (14) *Additional authority.* The City's ~~police department~~
20 ~~and/or the City of Margate~~ Code Compliance Unit shall have
21 authority to require the mortgagee and/or owner of record

1 of any property affected by this section, to implement
2 additional maintenance and/or security measures including,
3 but not limited to, securing any and all door, window or
4 other openings, employment of an on-site security guard,
5 or other measures as may be reasonably required to prevent
6 a decline of the property.

7 (15) *Adoption of rules; expenditure of funds; declaration of*
8 *city purpose.* The governing body is authorized and
9 empowered to adopt rules and regulations and expend City
10 funds as may be reasonably necessary and available to
11 carry out the terms of this article, the expenditure of
12 such funds being declared a proper city purpose.

13

14

15 **Section 3.** It is the intention of the City
16 Commission of the City of Margate, Florida that the
17 provisions of this ordinance shall become and be made a part
18 of the City of Margate Code of Ordinances. The sections of
19 this ordinance may be re-numbered or re-lettered and the word
20 "ordinance" may be changed to "section," "article," or such
21 other appropriate word or phrase in order to accomplish such
22 intentions.

1 **Section 4.** All Ordinances or parts of Ordinances,
2 Resolutions or parts of Resolutions in conflict herewith be,
3 and the same are hereby repealed to the extent of such
4 conflict.

5 **Section 5.** If any clause, section, or other part or
6 application of this Ordinance shall be held by any court of
7 competent jurisdiction to be unconstitutional or invalid, such
8 unconstitutional or invalid part or application shall be
9 considered as eliminated and so not affecting the validity of
10 the remaining portions or applications remaining in full force
11 and effect.

12 **Section 6.** This Ordinance shall become effective
13 immediately upon its passage and adoption.

14
15 PASSED ON FIRST READING THIS _____ day of _____ 2021.

16 PASSED ON SECOND READING THIS _____ day of _____ 2021.

17

18 ATTEST:

19

20 _____
21 JOSEPH KAVANAGH
 CITY CLERK

MAYOR ARLENE R. SCHWARTZ

1
2
3
4
5
6
7
8

RECORD OF VOTE - 1ST READING

RECORD OF VOTE - 2ND READING

Caggiano _____
Simone _____
Ruzzano _____
Arserio _____
Schwartz _____

Caggiano _____
Simone _____
Ruzzano _____
Arserio _____
Schwartz _____