



CITY OF LAKE WORTH

7 North Dixie Highway · Lake Worth, Florida 33460 · Phone: 561-586-1600· Fax: 561-586-1750

AGENDA DATE: April 15, 2014, Regular Meeting

DEPARTMENT: Community Sustainability

EXECUTIVE BRIEF

TITLE:

Ordinance No. 2014-16 – First Reading – amend the foreclosure registry program and schedule the public hearing date for May 6, 2014

SUMMARY:

The Ordinance will require vacant and unimproved properties, not in foreclosure, to be registered; amends and adds definitions; and allows for the boarding up of properties as a means of security.

BACKGROUND AND JUSTIFICATION:

As the Code Compliance Division continues its endeavor to address blighted conditions in the City, additional changes to the Foreclosure Registry Program Ordinance have been identified as beneficial. Originally, the City adopted a Foreclosure Registry Ordinance to deal with the many vacant properties in the City that were in some stage of the foreclosure process. Since its inception, it has become evident that there are many neglected properties not in foreclosure requiring maintenance as well. One category of properties, especially in need of attention, is the ones that are both vacant and unimproved. It has been determined that properties in this condition create an equal number of calls for service and need to be addressed. The proposed changes should assist the Code Compliance Division with identifying responsible parties, enforcing code compliance and improving the established community standards.

MOTION:

I move to approve/not approve Ordinance No. 2014-16 on first reading and schedule the second reading and public hearing date for May 6, 2014.

ATTACHMENT(S):

Fiscal Impact Analysis – not applicable
Ordinance

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3 ORDINANCE NO. 2014-16 OF THE CITY OF LAKE WORTH, FLORIDA,
4 AMENDING CHAPTER 2 "ADMINISTRATION", ARTICLE VII "ABATEMENT
5 OF NUISANCE, SECTION 2-75.11 "FORECLOSURE REGISTRATION
6 PROGRAM" TO REQUIRE THE REGISTRATION OF VACANT AND
7 UNIMPROVED PROPERTIES NOT IN FORECLOSURE; TO AMEND AND
8 ADD DEFINITIONS; TO PROVIDE THAT THE FEE FOR REGISTRATION
9 SHALL BE ADOPTED BY RESOLUTION; TO ALLOW BOARDING UP OF
10 VACANT PROPERTIES AS A MEANS OF SECURITY; AND FOR OTHER
11 PURPOSES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE
12 REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND
13 PROVIDING FOR AN EFFECTIVE DATE

14
15 WHEREAS, the City of Lake Worth, Florida (the "City") is a duly
16 constituted municipality having such power and authority conferred upon it by
17 the Florida Constitution and Chapter 166, Florida Statutes; and

18
19 WHEREAS, the City's Code of Ordinances provides, at Chapter 2, Article
20 VII "Abatement of Nuisance", for the registration of Foreclosed Properties; and

21
22 WHEREAS, the existing ordinance calls for the registration of properties
23 in or being foreclosed upon; and

24
25 WHEREAS, many vacant properties are neglected that are not in
26 foreclosure and therefore are not required to be registered under the existing
27 ordinance; and

28
29 WHEREAS, it has been determined that vacant and abandoned
30 properties not in foreclosure create as many code enforcement calls as those in
31 foreclosure; and

32
33 WHEREAS, requiring non foreclosure properties to register and provide
34 contact information can assist code enforcement to better enforce the codes
35 and achieve compliance; and

36
37 WHEREAS, the City Commission has reviewed the recommended
38 amendments and has determined that it is in the best interest of the public
39 health, safety and general welfare of the City to adopt the same.

40
41 NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION
42 OF THE CITY OF LAKE WORTH, FLORIDA, that:

43
44 Section 1. The foregoing "WHEREAS" clauses are true and correct and are
45 hereby ratified and confirmed by the City Commission.

46
47 Section 2. Chapter 2 "Administration", Article VII "Abatement of Nuisance",
48 Foreclosure Registration Program Section 2-75.11" is hereby amended to read
49 as follows:

Sec. 2-75.11. Foreclosed, Vacant and Unimproved property registration program.

(a) *Purpose and intent.* It is the purpose and intent of this section to establish a process to monitor and address the conditions of vacant, abandoned and distressed real property located within the city. This Section is further intended to monitor, and reduce the amount of deteriorating property located within the city, ~~property~~ on which a public notice of default has been filed or which is in foreclosure or where ownership has been transferred to a lender or mortgagee by any legal method. It is further intended to establish ~~such~~ a registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of ~~inadequate~~ maintenance of abandoned or vacated properties which may or may not be subject to a mortgage or properties subject to mortgages that are in default.

(b) *Definitions.* The following words, terms and phrases, when used in this Section 2-75.11, 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 indicate the meaning.

(1) *Abandoned ~~real~~ property* means any real property that is vacant or distressed. ~~And/or, is under a public notice of default, notice of mortgagee's sale or pending tax assessor's lien sale, properties that have been the subject of a foreclosure sale and/or 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.~~

(2) *Default* means that the mortgagee has filed 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 in writing, by recording a lis pendens, by its actions or by commencing foreclosure proceedings or by any other actions demonstrating a breach of a security covenant on a property.

(3) *Disposition* means the foreclosure status and/or the mortgagee/servicer's intent if the mortgage remains in default. If the mortgagee enters into a permanent modification agreement with the owner/mortgagor, the mortgage is considered to be no longer in default unless there is further notification by the mortgagee/servicer.

(4) *Distressed* means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that a property is neglected, abandoned or otherwise not being regularly maintained. Such conditions include, but are not limited to; a repeat violation of any provision of this Code, as defined in F.S. §162,04(5) or violations which have not been complied; overgrown and/or dead vegetation; the accumulation of trash, junk and/or debris; unsecured doors, windows or other openings; the presence of an unsanitary, stagnant swimming pool, the presence of boards over doors, windows or other openings in violation of the city code; deterioration of the structure or structures on the property.

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- (5) *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, ~~electricity, water or other utilities turned off,~~ past due utility notices and/or disconnected utilities; stagnant swimming pool, accumulation of trash, junk or debris; the absence of furnishings and/or personal items consistent with habitation or occupancy; an unsanitary or stagnant swimming pool; or statements by neighbors, passers-by, delivery agents or government agents, among other evidence of such conditions.

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

- (7) *Enforcement officer* means any fulltime law ~~enforcement~~ compliance officer, building official, fire inspector or code enforcement officer employed by the City of Lake Worth.

- (8) *Owner means* any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds the legal or beneficial title to any building, facilities, equipment or property subject to the provisions of this chapter. The term shall include the owner's duly authorized agent, a purchaser, devisee, fiduciary, or any other person, firm, corporation or legal entity having a vested or contingent interest or, in the case of a leased premises, the legal holder of the lease or his legal representative. It is intended that this term shall be construed as applicable to the person, firm, corporation or legal entity responsible for the construction, maintenance and operation of the building, facilities or property involved whether vacant or occupied.

- (9) *Property management company* means a local property manager, property maintenance company or similar entity responsible for the maintenance of the abandoned real property.

- (10) *Vacant commercial* - means any building or structure which has been, but is not currently being utilized for a commercial purpose and which contains windows on the ground floor which front upon a public street, sidewalk or right-of-way.

- (11) *Secure manner shall include,* but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property and/or structure. In the case of broken windows, such windows shall be secured by re-glazing or if the structure is vacant it may be boarded up in accordance with code requirements.

- (12) *Unimproved property* means any parcel within the city that does not contain a principal or accessory buildings or structure.

- 153 (13) Vacant property means parcel of land that contains any building or
154 structure that is not lawfully occupied or inhabited by human beings as
155 evidenced by the conditions set forth in the definition of "evidence of
156 vacancy". Vacant property does not mean property that is unoccupied
157 while the occupants are temporarily away or is not intended by the owner
158 to be left vacant so long as the period does not exceed six months.
159
- 160 ~~(13) Vacant lot means any parcel within the city that does not contain a~~
161 ~~principal or accessory buildings.~~
162
- 163 (c) Applicability. This section relates to abandoned and vacant properties,
164 unimproved property and to property subject to a mortgage that has been
165 determined by the mortgagee to be in default, is in foreclosure, or to
166 properties that have been the subject of a foreclosure sale where title is
167 transferred to the mortgagee or lender as well as any properties transferred to
168 the mortgagee or lender under a deed in lieu of foreclosure by any legal
169 method. All such properties shall comply the with registration, security and
170 maintenance requirements of this Section.
171
- 172 (d) Penalties. Violations of this section shall be subject to enforcement by a
173 Special Magistrate of the City of Lake Worth.
174
- 175 (e) Registration of unimproved property or vacant property
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- 177 (1) Registration by owner. Every owner of a vacant and/or unimproved
178 property or property containing a vacant building or structure that is
179 located within the city shall register with the city by filing a registration
180 application prescribed by the city within ten (10) days of vacancy.
- 181 (2) A registration application shall contain at least the following information:
182 (A) The address and parcel control number of the vacant property;
183 (B) For purposes of notice, the name, telephone number, mailing
184 address, and e-mail address of the owner;
185 (C) For purposes of notice, the name, telephone number, mailing
186 address, and e-mail address of an individual or entity designated by
187 the owner who has the authority to make decisions concerning the
188 conditions at the vacant property, as well as any expenditure in
189 connection therewith;
190 (D) The city reserves the right to require such other information as
191 needed to carry out the public purpose and intent of this article.
- 192 (3) An annual registration fee, per property, for the vacant property
193 registration, shall be established by resolution of the city commission
194 Such fee shall accompany the registration form and shall be for the costs
195 of registration and enforcement of this Section. Said fees shall be
196 deposited to a special revenue account dedicated to the cost of the
197 community sustainability department's implementation and enforcement
198 of this article and any registries so required.
- 199 (4) Registration pursuant to this section shall be required annually for as
200 long as the property is unimproved, or vacant. A case initiated pursuant
201 to this section may be presented to the special magistrate even if, prior
202 to a hearing, the property is no longer unimproved, vacant or no longer
203 distressed.

- 204 (5) Properties subject to this section shall remain under the registration
205 requirement, and the inspection, security, and maintenance standards
206 set forth in this section as long as they remain vacant.
207 (6) Any person or other legal entity that has registered a property under this
208 section must report any change of information contained in the
209 registration within ten (10) days of the change. There shall be no fee to
210 update the current owner's information.
211 (7) Failure of the property owner of record to properly register or to modify
212 the registration from time to time to reflect a change of circumstances as
213 required by this Section is a violation and shall be subject to enforcement
214 by any of the enforcement means available to the city.
215 (8) Pursuant to a finding by the special magistrate that any property is in
216 violation of this Section, the city may take the necessary action to ensure
217 compliance with and place a lien on the property for the cost of the work
218 performed to benefit the property and to bring it into compliance.
219
220 (f) *Registration of real property: mortgagee holding mortgage in default.*
221 *,foreclosure, or where ownership of property has been transferred to a lender*
222 *or mortgagee*
223
224 (1) All property, located within the city, which property is in or has been
225 declared to be in default, mortgage foreclosure, or to properties that
226 have been the subject of a foreclosure sale where title is transferred to
227 the mortgagee as well as any properties transferred to the mortgagee or
228 lender under a deed in lieu of foreclosure by any legal method shall be
229 registered under this section
230
231 (2) Any mortgagee who holds a mortgage on vacant or abandoned real
232 property located within the city shall perform an inspection of the
233 property upon default by the mortgagor or prior to the issuance of a
234 notice of default.
235
236 If the property is found to be vacant or shows evidence of vacancy, it
237 shall be deemed vacant or abandoned, and the mortgagee shall, within
238 two (2) days of the inspection, register the property with the City's Code
239 Compliance Division on forms provided by the Code Compliance
240 Division, even though the real property may not be vacant.
241
242 ~~If the mortgage on the property is in default, no later than ten (10) days~~
243 ~~after the date that a default is declared, the mortgagee shall register the~~
244 ~~property with the Code Compliance Division electronically via the internet~~
245 ~~and further located at http://www.lakeworth.org/vacant_registry.~~
246
247 (3) If the property is occupied ~~but remains in default~~, it should be inspected
248 monthly by the mortgagee or mortgagee's designee.
249
250 (4) Within ten (10) days of the date the mortgagee declares its mortgage to
251 be in default, the mortgagee shall register the real property with the city's
252 designee and, at the time of registration, and, if vacant, shall also
253 designate in writing a local property manager to inspect, maintain and
254 secure the real property subject to the mortgage in default.
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- (5) Registration: Registration pursuant to this section shall contain at a minimum: the name, the mailing address, the e-mail address, and the telephone number for the mortgagee, trustee and/or servicer along with the disposition and occupancy status of the real property.

If the property is vacant or deemed vacant by the Code Compliance Division of the city, then the name of the local property manager and said person's address, e-mail address, and telephone number shall also be provided for all new registrations. If the occupancy status of a registered property changes to vacant then the registration must be modified.

The local property manager shall be responsible to inspect, secure and maintain the property. The local property manager shall be available to be contacted by the city twenty-four (24) hours a day. The city shall charge a fee of one hundred and fifty dollars ~~(\$150.00 as established in the city fee resolution~~ for any registration or modification of registration, and it may assign and delegate the collection of such fee to an independent contractor. The registration fee must be paid by the mortgagee, trustee or mortgage servicer and cannot be assigned for payment or remitted by a third party for payment.

- (6) This section 2-75.11 shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the mortgagee, as well as any properties transferred to the mortgagee under a deed in lieu of foreclosure.

- (7) Properties subject to this section 2-75.11 shall remain under the annual registration requirement, inspection, security, and maintenance standards of this section as long as they remain abandoned, vacant or subject to having been declared by a mortgagee to be in default.

- (8) Any person or other legal entity that has registered a property under this section 2-75.11 must report any change of information contained in the registration within ten (10) days of the change.

- (9) Failure of the mortgagee and/or property owner of record to properly register or to revise the registration to reflect a change of circumstances as required by this section 2-75.11 is a violation of the ordinances of the city. ~~Pursuant to a finding and determination by a Special Magistrate of the City of Lake Worth that any property is in violation of city's ordinances, the city may take the necessary action to ensure compliance with its ordinance, and/or place a lien or liens on the property for the cost of the work performed to benefit the property and to bring it into compliance.~~

(g) *Maintenance requirements.*

- (1) Properties subject to this section shall be kept free of weeds, overgrown 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 including, but not limited to, furniture, clothing, large and small

307 appliances, or any other items that give the appearance that the property
308 is abandoned or not being properly maintained. ~~Weeds, overgrown brush~~
309 ~~or dead vegetation~~ Grass over twelve (12) inches tall are is prohibited.
310

311 (2) The property shall be maintained free of graffiti or similar markings by
312 removal or painting over such graffiti or markings with an exterior grade
313 paint that matches the color of the exterior structure.
314

315 (3) Yards shall be landscaped and maintained pursuant to the standards set
316 forth in the ordinances of the City of Lake Worth. Landscaping shall
317 include, but shall not be limited to, grass, ground cover, bushes, shrubs,
318 hedges or similar plantings, decorative rock or bark, artificial turf or sod
319 designed specifically for residential, commercial or industrial installation,
320 as applicable. Landscaping shall not include weeds, gravel, broken
321 concrete, asphalt or similar material. Maintenance shall include, but shall
322 not be limited to, watering, irrigation, cutting and mowing of required
323 landscape and removal of all trimmings and weeds.
324

325 (4) Pools and spas shall be kept in a safe and sanitary order so that pool
326 and spa water remains free and clear of pollutants and debris. Pools and
327 spas shall comply with the enclosure requirements of the city's
328 ordinances and the Florida Building Code.
329

330 (5) In the event that the National Weather Service, National Hurricane
331 Center, or other appropriate weather agency declares a hurricane
332 warning for any portion of the city, all materials, furnishings, and
333 equipment at the property shall be secured, stored, or removed so as to
334 not create a safety hazard due to hurricane force winds.
335

336 (6) Failure of the mortgagee and/or property owner of record to properly
337 maintain the property is a violation of the Code of Ordinances of the City
338 of Lake Worth. Pursuant to a finding and determination by a special
339 magistrate, the city may take the necessary action to ensure compliance
340 with its ordinances and place a lien or liens and a special assessment
341 on the property and assign it as provided herein.
342

343 (h) *Security requirements.*
344

345 (1) Properties subject to this section shall be maintained in a secure manner
346 so as not to be accessible to unauthorized persons.
347

348 (2) A "secure manner" shall include, but shall not be limited to, the closure
349 and locking of windows, doors, gates and other openings of such size
350 that may allow a child or adult to access the interior of the property
351 and/or structure. Broken windows shall be secured by re-glazing or
352 boarding. All means of access shall be secured by replacing, reglazing
353 or boarding of the openings so as to meet all applicable laws, codes
354 and regulations including the issuance of a boarding certificate..
355

356 (i) Property Management
357

- 358 (1) If a mortgage on the property is in default and the property has become
359 vacant or abandoned, a local property manager shall be designated by
360 the mortgagee to perform the work necessary to bring the property into
361 compliance with the Code of Ordinances and the local property manager
362 must perform weekly inspections to verify compliance with the
363 requirements of this section 2-75.11 and any other applicable laws or
364 ordinances of the City of Lake Worth.
365
- 366 (2) Upon request of the city or its authorized representative, the local
367 property manager shall provide a copy of the inspection reports to the
368 code compliance department.
369
- 370 (3) When a property becomes vacant ~~or abandoned~~, it shall be posted with
371 the name and twenty-four-hour contact telephone number of the local
372 property manager. The posting shall be no less than 18 inches x 24
373 inches, and no larger than 36 inches times 48 inches in size, and shall
374 be of a font that is legible from a distance of forty-five (45) feet. The
375 posting shall contain the following language: THIS PROPERTY IS
376 MANAGED BY [*name of local property manager*], who may be contacted
377 at any time by calling () [*the 24-hour contact telephone number*].
378
- 379 (4) All written information thereupon shall be clear, legible and updated as
380 required. The posting shall be placed on the interior of a window facing
381 the street to the front of the property so that it is visible from the street, or
382 secured to the exterior of the building/structure facing the street to the
383 front of the property so that it is visible from the street or if no such area
384 exists, on a stake of sufficient size to support the posing in a location that
385 is at all times visual from the street to the front of the property but not
386 readily accessible to vandals. Exterior posting shall be constructed of
387 and printed with weather-resistant materials.
388
- 389 (5) Failure of the mortgagee or property owner of record to properly inspect
390 and secure the property and post and maintain the signage required by
391 this section 2-75.11 is a violation of this section. Pursuant to a finding and
392 determination by a Special Magistrate of the City of Lake Worth, the city
393 may take the necessary action to ensure compliance with this section 2-
394 75.11, and place a lien or liens on the property to recover costs and
395 expenses in support thereof.
396
- 397 (j) *Opposing, obstructing enforcement officer; penalty.* Whoever opposes,
398 obstructs or resists any enforcement officer or any person authorized by the
399 city in the discharge of duties as provided in this section, upon conviction,
400 may be sanctioned as provided in the Code of Ordinances of the City of Lake
401 Worth or Chapter 162, Florida Statutes.
402
- 403 (k) *Immunity of enforcement officer.* Any enforcement officer or any person
404 authorized by the city to enforce this section shall be immune from
405 prosecution, civil or criminal, for reasonable, good faith entry or trespass upon
406 real property while in the discharge of duties imposed by this section.
407
- 408 (l) *Additional authority.* The code compliance administrator shall have authority
409 to require the mortgagee and/or owner of record of any property affected by

410 this section to implement additional maintenance and/or security measures,
411 including but not limited to having an on-site security guard. Failure to comply
412 with the terms of this Section 2-75.11 shall constitute a continuing public
413 nuisance. The city shall have the authority to promptly abate the public
414 nuisance, in whole or in part, at the expense of the mortgagee or other
415 responsible party.
416

417 (m) *Supplemental provisions.* Nothing contained in this Section 2-75.11 shall
418 prohibit the city from enforcing its codes by any other means, including, but
419 not limited to, injunction, abatement or as otherwise provided by code.
420

421 Section 3. Effective Date. This ordinance shall take effect ten (10) days after
422 adoption.
423

424 The passage of this Ordinance on first reading was moved by
425 _____, seconded by _____, and
426 upon being put to a vote, the vote was as follows:
427

- 428 Mayor Pam Triolo
- 429 Vice Mayor Scott Maxwell
- 430 Commissioner Christopher McVoy
- 431 Commissioner Andy Amoroso
- 432 Commissioner John Szerdi
- 433

434 The Mayor thereupon declared this Ordinance duly passed on first
435 reading on the 15th day of April, 2014.
436

437 The passage of this Ordinance on second reading was moved by
438 _____, seconded by _____, and upon being put to
439 a vote, the vote was as follows:
440

- 441 Mayor Pam Triolo
- 442 Vice Mayor Scott Maxwell
- 443 Commissioner Christopher McVoy
- 444 Commissioner Andy Amoroso
- 445 Commissioner John Szerdi
- 446

447 The Mayor thereupon declared this Ordinance duly passed and enacted
448 on the 6th day of May, 2014.
449

LAKE WORTH CITY COMMISSION

By: _____
Pam Triolo, Mayor

454 ATTEST:
455 _____
456 Pamela J. Lopez, City Clerk
457