

ORDINANCE NO. OR2021-4-26

AN ORDINANCE SUPPLEMENTING THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO BY ADDING THERETO A NEW CHAPTER WITHIN THE HEALTH CODE, CHAPTER 1707, FORECLOSED PROPERTY REGISTRATION AND NOTIFICATION PROGRAM.

WHEREAS, the City Council desires to protect the public health, safety, and welfare of the citizens of the incorporated area of the City of Hamilton and maintain a high quality of life for the citizens of the City through the maintenance of structures and properties in the City; and

WHEREAS, the Council recognizes properties subject to foreclosure action or foreclosed upon (hereinafter the "Foreclosed Properties") located throughout the City lead to a decline in community and property value; create nuisances; lead to a general decrease in neighborhood and community aesthetic; create conditions that invite criminal activity; and foster an unsafe and unhealthy environment; and

WHEREAS, the Council has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; and

WHEREAS, the Council recognizes in the best interest of the public health, safety, and welfare a more regulated method is needed to discourage Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Council has a vested interest in protecting neighborhoods against decay caused by Foreclosed Properties and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose notification requirements of Foreclosed Properties located within the City to discourage Foreclosed Property Owners and Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, to accomplish the aforesaid it is necessary to supplement the City's Codified Ordinances by adding thereto new Chapter 1707 "Foreclosed Property Registration and Notification Program"; and

WHEREAS, this Council desires that said Chapter 1707 be added to the Codified Ordinances;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That Part Seventeen – Health Code of the City of Hamilton Codified Ordinances be amended and supplemented by the adoption of Chapter 1707 "Foreclosed Property Registration and Notification Program" as set forth in Exhibit No. 1.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: April 28, 2021



Mayor

Effective Date: May 28, 2021

ATTEST: Daniel Tidyman
City Clerk

CERTIFICATE

I, Daniel Tidyman, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. OR2021-4-26 was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: May 4, 2021

1707.03 NOTIFICATION OF FORECLOSURE FILING AND REGISTRATION OF FORECLOSED PROPERTY.

- (a) Any Mortgagee who holds a mortgage on Real Property located within the City shall perform an inspection of the property upon default by the mortgagor as evidenced by the filing of a Foreclosure Action.
- (b) Property inspected pursuant to subsection (a) above that remains in Foreclosure shall be inspected every thirty (30) days by the Mortgagee or Mortgagee's designee. If an inspection shows a change in the property's occupancy status the Mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.
- (c) Within ten (10) days of the date any Mortgagee files a Foreclosure Action, the Mortgagee shall register the Real Property with the City and, at the time of registration, indicate whether the property is Vacant, and if so shall designate in writing a Authorized Agent To inspect, maintain, and secure the Real Property subject to the mortgage under a Foreclosure Action when legally possible. A separate registration is required for each property under a Foreclosure Action, regardless of whether it is occupied or vacant.
- (d) Initial registration pursuant to this section shall contain at a minimum the name of the Mortgagee, the mailing address of the Mortgagee, e-mail address, telephone number and name of the Property Manager and said person's address, e-mail address, and telephone number.
- (e) At the time of initial registration, each registrant shall pay a non-refundable Semi-Annual Registration fee of Two Hundred and 00/100 Dollars (\$200.00) for each property. Subsequent non-refundable Semi-Annual renewal registrations of properties and fees in the amount of Two Hundred and 00/100 Dollars (\$200.00) are due within ten (10) days of the expiration of the previous registration. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to Defaulted properties, (3) post-closing counseling and Foreclosure intervention limited to Owner-occupied persons in Default, which may not include cash and mortgage modification assistance, and (4) for any related purposes as may be adopted in the policy set forth in this Chapter. Said fees shall be deposited to a special account in the City's Finance Department dedicated to the cost of implementation and enforcement of this Ordinance and fulfilling the purpose and intent of this Chapter. None of the funds provided for in this section shall be utilized for the legal defense of Foreclosure Actions.
- (f) Each individual property on the Registry that has been registered for twelve (12) months or more prior to the Effective Date shall have thirty (30) days to renew the registration and pay the non-refundable \$200 Semi-Annual Registration fee. Properties registered less than twelve (12) months prior to the Effective Date shall renew the registration every six (6) months from the expiration of the original registration renewal date and shall pay the non-refundable Two Hundred and 00/100 Dollars (\$200.00) Semi-Annual Registration Fee.
- (g) If the mortgage and/or servicing on a Foreclosed Property is sold or transferred, the new Mortgagee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Mortgagee shall register the property or update the existing registration. The previous Mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Foreclosed Property.
- (h) If the Mortgagee sells or transfers the Foreclosed Property in a non-arm's length transaction to a related entity or person, the transferee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the Mortgagee was at the time registration was required, including, but not limited to, unregistered periods during the Foreclosure process, are the responsibility of the transferee and are due and payable with the

- (d) Front, side, and rear yards, including landscaping, of Foreclosed Property shall be maintained in accordance with the applicable code(s) at the time registration is required.
- (e) Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
- (f) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
- (g) Pools and spas shall be drained or maintained so the water remains free and clear of pollutants, insects, and debris and shall comply with the regulations set forth in the applicable code(s). Pools and spas shall be covered with a secure cover and/or surrounded by secure fencing, as required by applicable law.
- (h) Failure of the Mortgagee, Owner, and transferees to properly maintain the property as required by this Chapter may result in a violation of the applicable code(s) and issuance of a citation or notice of violation in accordance with the applicable code of the City. Pursuant to a finding and determination by the City Manager or his designee, the City may take the necessary action to ensure compliance with this section.
- (i) In addition to the above, the property is required to be maintained in accordance with all applicable federal, state and local laws.

1707.05 SECURITY REQUIREMENTS.

- (a) Properties subject to this Chapter shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- (b) A "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 or structure. Broken windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by re-glazing of the window.
- (c) If a property is registrable under this Chapter, and the property has become vacant or blighted, a Property Manager shall be designated by the Mortgagee and/or Owner to perform the work necessary to bring the property into compliance with the applicable code(s), and the Property Manager must perform regular inspections to verify compliance with the requirements of this Chapter, and any other applicable laws.
- (d) In addition to the above, the property is required to be secured in accordance with the applicable code(s) of the City.
- (e) Failure of the Mortgagee to properly inspect and secure a property subject to this Chapter is a violation and shall be subject to enforcement by any of the enforcement means available to the City. The City may take the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.

1707.06 PROVISIONS SUPPLEMENTAL.

The provisions of this Chapter are cumulative with and in addition to other available remedies. Nothing

Registration fees and penalties outlined in this Article Chapter may be modified by resolution, administrative order, or an amendment to this Article Chapter, passed and adopted by the Council.

1707.12 SEVERABILITY.

It is hereby declared to be the intention of the City that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

1707.13 REPEALER.

All ordinances or parts of ordinances in conflict herewith, are hereby repealed and replaced.

1707.14 CODIFICATION.

It is the intention of the Council, that the provisions of this Ordinance shall become and be made a part of the City Code of Ordinances;; and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention;; and the word "ordinance" may be changed to "section", "chapter", or such other appropriate word or phrase in order to accomplish such intentions.

1707.18 EFFECTIVE DATE.

This ordinance shall become effective immediately upon adoption.

1707.99 PENALTY.

- (a) Criminal Penalties. Any person, owner, operator, or occupant who violates or fails to comply with any of the provisions of the Housing Code or any chapter contained therein shall be guilty of an unclassified misdemeanor and, in addition to the imposition of court costs pursuant to Ohio Revised Code section 2947.23, shall be fined not more than One Thousand and 00/100 Dollars (\$1,000.00) or imprisoned not more than one hundred eighty (180) days, or both, and shall, in addition to any other penalties within these maximum amounts, be subject to imposition of the following minimum mandatory penalties, which shall not be suspended or held in abeyance:
 - (1) If, within two (2) years of the offense, a person, owner, operator, or occupant has not previously been convicted of or plead guilty to any violation of a section of the Housing Code, shall be fined not less than One Hundred and Fifty and 00/100 Dollars (\$150.00).
 - (2) If, within two (2) years of the offense a person, owner, operator, or occupant has previously been convicted of or plead guilty to one violation of a section of the Housing Code, shall be fined not less than Five Hundred and 00/100 Dollars (\$500.00).
 - (3) If, within two (2) years of the offense a person, owner, operator, or occupant has previously been convicted of or plead guilty to two (2) violations of a section of the Housing Code, shall be fined not less than Seven Hundred and 00/100 Dollars (\$750.00).
 - (4) If, within two (2) years of the offense a person, owner, operator, or occupant has previously been convicted of or plead guilty to three (3) or more violations of a section of the Housing Code, shall be fined not less than One Thousand and 00/100 Dollars (\$1,000.00).
- (b) Application of Prior Convictions. A conviction or convictions obtained on or after the effective date of this section shall constitute a conviction or convictions for purposes of enforcement of the minimum mandatory penalties required by this section. Each separate count of which a person has been convicted shall constitute a separate violation of a section of the Housing Code.
- (c) Continuing Violations. A separate offense shall be deemed committed each day during or on which