

1 Introduced by Council Members Hyde and Lee and amended by the
2 Finance Committee:

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5 **ORDINANCE 2010-327-E**

6 AN ORDINANCE RELATING TO MORTGAGED REAL
7 PROPERTY; CREATING A NEW CHAPTER 179 (MORTGAGE
8 FORECLOSURE REGULATION), *ORDINANCE CODE*;
9 PROVIDING THE PURPOSE, INTENT, DEFINITIONS,
10 AND APPLICABILITY OF THE ORDINANCE; REQUIRING
11 MORTGAGEE REGISTRATION RELATING TO REAL
12 PROPERTY MORTGAGES IN DEFAULT; PROVIDING FOR
13 REGISTRATION, FEES, AND THE APPROPRIATION OF
14 THOSE FEES INTO A SPECIAL ACCOUNT DEDICATED TO
15 IMPLEMENTATION OF THE ORDINANCE; REQUIRING
16 MAINTENANCE OF CERTAIN REAL PROPERTY BY
17 MORTGAGEES; PROVIDING SUPPLEMENTAL AUTHORITY;
18 PROVIDING FOR PENALTIES AND ENFORCEMENT
19 PROVIDING FOR SEVERABILITY; PROVIDING AN
20 EFFECTIVE DATE.

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22 **BE IT ORDAINED** by the Council of the City of Jacksonville:

23 **WHEREAS**, the present mortgage foreclosure crisis has serious
24 negative implications for all communities trying to manage the
25 resulting property vacancies, increases in crime and homelessness,
26 and other problems that stem from the financial crisis; and

27 **WHEREAS**, foreclosed homes quickly succumb to the forces of
28 nature and the elements, grass and weeds grow long, swimming pools
29 become stagnant public health hazards, landscaping dies from lack
30 of attention or grows out of control, windows break, exteriors
31 suffer damage from normal wear-and-tear and vandalism, communities

1 suffer, and these consequences have a negative impact first on
2 neighboring residences and then on entire neighborhoods; and

3 **WHEREAS**, the conditions identified above negatively impact the
4 City of Jacksonville and blight neighborhoods; and

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

9 **WHEREAS**, the City of Jacksonville finds that neighborhoods
10 should be protected from becoming blighted through the lack of
11 adequate maintenance and security of abandoned and vacant
12 properties subject to mortgages that are in default; and

13 **WHEREAS**, the City of Jacksonville has already adopted property
14 maintenance codes to regulate community standards for the interior
15 and exterior of structures and the condition of property as a
16 whole; and

17 **WHEREAS**, a foreclosed property registration process is
18 necessary for the City of Jacksonville to address safety and
19 aesthetic concerns, as well as to correct the negative impacts and
20 blighting conditions, that occur as a result of the foreclosure
21 crisis; and

22 **WHEREAS**, the City of Jacksonville finds that the registration
23 process would include properties that have already been foreclosed
24 upon, are currently in the foreclosure process, or will be in the
25 foreclosure process in the future; and

26 **WHEREAS**, the City Council of the City of Jacksonville has
27 determined that the following additions to the City's ordinance
28 code will serve and contribute to promoting and protecting the
29 general health, safety and welfare of the residents of the City of
30 Jacksonville; and,

1 **WHEREAS**, upon passage, duly noticed public hearings as
2 required by law will have been held by the City Council of the City
3 of Jacksonville, at which public hearings all residents and
4 interested persons were given an opportunity to be heard; now
5 therefore

6 **BE IT ORDAINED** by the Council of the City of Jacksonville:

7 **Section 1. Recitals Incorporated.** The above recitals are
8 true and correct and by this reference are incorporated herein
9 and made an integral part hereof.

10 **Section 2. New Chapter 179 (Mortgage Foreclosure**
11 **Regulation) enacted.** Title VI (Businesses, Trades and Occupations)
12 is amended to add a new Chapter 179 (Mortgage Foreclosure
13 Regulation) to read as follows:

14 **TITLE VI. BUSINESSES, TRADES AND OCCUPATIONS**

15 * * *

16 **CHAPTER 179. MORTGAGE FORECLOSURE REGISTRATION**

17 **Sec. 179.101 Purpose and intent.**

18 It is the purpose and intent of this Chapter to establish a
19 process to limit and reduce the deterioration of property located
20 within the City of Jacksonville, which property is in mortgage
21 foreclosure, or where ownership has been transferred to a lender or
22 mortgagee by any legal method. It is further intended to establish
23 a registration program as a mechanism to protect neighborhoods from
24 becoming blighted through the lack of adequate maintenance of
25 abandoned and vacated properties which are subject to mortgages
26 that may or may not be in default.

27 **Sec. 179.102 Definitions.**

28 The following words, terms and phrases, when used in this
29 Chapter, shall have the meanings ascribed to them, except where the
30 context clearly indicates a different meaning. Where the context

1 will permit and no definitions are provided herein, the definitions
2 provided in the Florida Building Code shall apply.

3 *Abandoned real property* means any real property that is
4 vacant, and is under a public notice of default, or is pending a
5 mortgage foreclosure, or notice of mortgagee's sale, or lien sale
6 and/or properties that have been the subject of a mortgage
7 foreclosure sale where title is retained by the mortgagee, and/or
8 any properties transferred under a deed-in-lieu of foreclosure
9 sale, a short sale or any other legal means.

10 *Default* means that the mortgagee has filed a foreclosure
11 action or public notice of default on the mortgage. A mortgage
12 shall be considered in default at such time as the mortgagee
13 declares said mortgage to be in default either in writing, by
14 recording a lis pendens, by commencing foreclosure proceedings; or
15 by any other actions demonstrating a breach of a security covenant
16 on a property.

17 *Enforcement officer* means any fulltime law enforcement
18 officer, building official, fire inspector or code enforcement
19 officer employed by the City of Jacksonville.

20 *Evidence of vacancy* means any condition that on its own, or
21 combined with other conditions present, would lead a reasonable
22 person to believe that the property is vacant. Such conditions may
23 include, but are not limited to: overgrown and/or dead vegetation;
24 electricity, water or other utilities turned off; stagnant swimming
25 pool; or statements by neighbors, passers-by, delivery agents or
26 government agents.

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

1 Vacant means any building or structure that is not lawfully
2 occupied or inhabited by human beings as evidenced by the
3 conditions set forth in the definition of "Evidence of Vacancy"
4 above.

5 **Sec. 179.103. Applicability.**

6 This chapter applies to abandoned and vacant property located
7 within the City of Jacksonville, which property is in or has been
8 in mortgage foreclosure, or where ownership has been transferred to
9 a lender or mortgagee by any legal method.

10 **Sec. 179.104. Inspection and registration of vacant real property**
11 **by mortgagee holding mortgages in default.**

12 (a) Any mortgagee who holds a mortgage on real property
13 located within the City of Jacksonville shall perform an inspection
14 of the property upon default by the mortgagor or prior to the
15 issuance of a notice of default. If the property is found to be
16 vacant or shows evidence of vacancy, it shall be deemed vacant or
17 abandoned and the mortgagee shall, within ten (10) days of the
18 inspection, register the property with the City of Jacksonville's
19 Housing & Neighborhood Department on forms promulgated by the
20 Housing & Neighborhood Department.

21 (b) Property inspected pursuant to subsection (a) above that
22 is occupied but remains in default, shall be inspected on a regular
23 basis by the mortgagee or mortgagee's designee.

24 (c) Within ten (10) days of the date any mortgagee declares
25 its mortgage to be in default, the mortgagee shall register the
26 real property with the City of Jacksonville's Housing &
27 Neighborhood Department on forms promulgated by the Housing &
28 Neighborhood Department and, at the time of registration, shall
29 designate in writing a local property manager to inspect, maintain
30 and secure the real property subject to the mortgage in default.

1 (d) Registration pursuant to this section shall contain at a
2 minimum the name of the mortgagee, the mailing address of the
3 mortgagee, e-mail address, and telephone number and name of the
4 local property manager and said person's address, e-mail address,
5 and telephone number. The local property manager shall be
6 responsible to inspect, secure and maintain the property. The
7 property manager named in the registration shall be located within
8 twenty (20) miles of the City of Jacksonville and available to be
9 contacted by the City, Monday through Friday between 9:00 a.m. and
10 5:00 p.m., holidays and lunch hours excepted.

11 (e) Each registrant shall pay a fee of \$150.00 for each
12 registration, as and for the costs of registration and enforcement
13 and the protection against and removal of blight and real property
14 deterioration. Said fees shall be deposited to a special account
15 in the Housing & Neighborhood Department dedicated to the cost of
16 implementation and enforcement of this ordinance and any registries
17 so required.

18 (f) This section shall also apply to properties that have
19 been the subject of a foreclosure sale where title is transferred
20 to the mortgagee as well as any properties transferred to the
21 mortgagee under a deed in lieu of foreclosure.

22 (g) Properties subject to this section shall remain under the
23 registration requirement, and the inspection, security, and
24 maintenance standards of this section as long as they remain vacant
25 or subject to having been declared by a mortgagee to be in default.

26 (h) Any person or other legal entity that has registered a
27 property under this ordinance must report any change of information
28 contained in the registration within ten (10) days of the change.

29 (i) Failure of the mortgagee and/or property owner of record
30 to properly register or to modify the registration from time to
31 time to reflect a change of circumstances as required by this

1 ordinance is a violation of this chapter and shall be subject to
2 enforcement by any of the enforcement means available to the City
3 of Jacksonville.

4 (j) Pursuant to any judicial finding and determination that
5 any property is in violation of this chapter the City may take the
6 necessary action to ensure compliance with and place a lien on the
7 property for the cost of the work performed to benefit the property
8 and to bring it into compliance.

9 **Sec. 179.105. Maintenance requirements.**

10 Properties subject to this chapter shall be maintained in
11 accordance with the City's property safety standards found in
12 Chapter 518, *Ordinance Code*.

13 **Sec. 179.106. Security requirements.**

14 (a) Properties subject to this Chapter shall be maintained in
15 a secure manner so as not to be accessible to unauthorized persons.

16 (b) A "secure manner" shall include, but not be limited to,
17 the closure and locking of windows, doors, gates and other openings
18 of such size that may allow a child or adult to access the interior
19 of the property and/or structure. Broken windows shall be secured
20 by reglazing or boarding.

21 (c) If a mortgage on a property is in default, and the
22 property has become vacant or abandoned, a local property manager
23 shall be designated by the mortgagee to perform the work necessary
24 to bring the property into compliance with the code of ordinances
25 and the local property manager must perform regular inspections to
26 verify compliance with the requirements of this section, and any
27 other applicable laws or ordinances of the City of Jacksonville.

28 (d) When a property subject to this Chapter becomes vacant or
29 abandoned, it shall be posted with the name and twenty four (24)
30 hour contact telephone number of the local property manager. The
31 sign shall be placed in a window facing the street and shall be

1 visible from the street. The posting shall be no less than 18
2 inches x 24 inches. and shall be of a font that is legible from a
3 distance of 45 feet. The posting shall contain the following
4 language with supporting information:

5 THIS PROPERTY IS MANAGED BY
6 AND IS INSPECTED ON A REGULAR BASIS.
7 THE PROPERTY MANAGER CAN BE CONTACTED
8 BY TELEPHONE AT
9 OR BY EMAIL AT

10 (e) The posting required in subsection (d) above shall be
11 placed on the interior of a window facing the street to the front
12 of the property so that it is visible from the street, or secured
13 to the exterior of the building/structure facing the street to the
14 front of the property so that it is visible from the street or if
15 no such area exists, on a stake of sufficient size to support the
16 posting in a location that is at all times visible from the street
17 to the front of the property but not readily accessible to vandals.
18 Exterior posting shall be constructed of and printed with weather-
19 resistant materials.

20 (f) Failure of the mortgagee and/or property owner of record
21 to properly inspect and secure a property subject to this Chapter,
22 and post and maintain the signage noted in this section, is
23 unlawful and a Class C violation and shall be subject to
24 enforcement by any of the enforcement means available to the City
25 of Jacksonville. Pursuant to a finding and determination, the City
26 of Jacksonville may take the necessary action to ensure compliance
27 with this section, and recover costs and expenses in support
28 thereof.

29 **Sec. 179.107. Additional authority.**

30 (a) If an appropriate City code enforcement administrator has
31 reason to believe that a property subject to the provisions of this

1 chapter is posing a serious threat to the public health safety and
2 welfare, the code enforcement administrator may bring the
3 violations before the City's code enforcement board or code
4 enforcement special magistrate, or a court of competent
5 jurisdiction as soon as possible to address the conditions of the
6 property.

7 (b) If there is a finding that the condition of the property
8 is posing a serious threat to the public health safety and welfare,
9 then the code enforcement board or code enforcement special
10 magistrate or a court of competent jurisdiction may direct the City
11 to abate the violations and charge the mortgagee with the cost of
12 abatement.

13 (c) If the mortgagee does not reimburse the City for the cost
14 of abatement within thirty (30) days of the City sending the
15 mortgagee the invoice, then the City may lien the property with the
16 cost of abatement, along with an administrative fee of \$500.00 to
17 recover the administrative personnel services.

18 **Sec. 179.108. Provisions Supplemental.**

19 Nothing contained in this Chapter shall prohibit the City of
20 Jacksonville from enforcing its codes by any other means,
21 including, but not limited to, injunction, abatement or as
22 otherwise provided by law or ordinance.

23 **Sec. 179.109 Criminal Penalties.**

24 Unless otherwise provided for in this Chapter, a violation of
25 this Chapter is declared unlawful and shall be a Class B offense.

26 **Section 3. Severability.** It is hereby declared to be the
27 intention of the City Council of the City of Jacksonville that the
28 sections, paragraphs, sentences, clauses and phrases of this
29 ordinance are severable, and if any phrase, clause, sentence,
30 paragraph or section of this ordinance shall be declared
31 unconstitutional by the valid judgment or decree of a court of

1 competent jurisdiction, such unconstitutionality shall not affect
2 any of the remaining phrases, clauses, sentences, paragraphs and
3 sections of this Ordinance.

4 **Section 4. Effective Date.** This ordinance shall become
5 effective upon signature by the Mayor or upon becoming effective
6 without the Mayor's signature.

7 Form Approved:

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9 /s/ Margaret M. Sidman

10 Office of General Counsel

11 Legislation prepared by: Steven E. Rohan

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