

Chapter 179 - MORTGAGE FORECLOSURE REGISTRATION

Sec. 179.101. - Purpose and intent.

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

(Ord. 2010-327-E, § 2)

Sec. 179.102. - Definitions.

The following words, terms and phrases, when used in this Chapter, 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.

Abandoned real property means any real property that is under a public notice of default, notice of mortgagee's sale, pending tax assessor's lien sale, or is pending a mortgage foreclosure, and/or properties that have been the subject of a mortgage foreclosure sale where title is retained by the mortgagee, and/or any properties transferred under a deed-in-lieu of foreclosure sale, a short sale or any other legal means.

Annual registration shall mean 12 months from the date of the first action that required registration, as determined by the City of Jacksonville's Housing and Community Development Division, or its designee, and every subsequent 12 months. The date of the initial registration may be different than the date of the first action that required registration.

Default means a claim by a mortgagee, or other lien holder, that the mortgagor has not complied with the terms of the mortgage on the property or other evidence of the debt referred to in the mortgage.

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

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; stagnant swimming pool; or statements by neighbors, passers-by, delivery agents or government agents.

Foreclosure means the legal process by which a mortgagee, or other lien holder, terminates or attempts to terminate a property owner's equitable right of redemption to obtain legal and equitable title to the real property subject to the lien held by that mortgagee or other lien holder. This definition shall include, but is not limited to, public notice of default, deed-in-lieu of foreclosure, sale to the mortgagee or lien holder prior to certificate of title, certificate of title and all other processes, activities and actions, by whatever name, associated with the described process. The process is not concluded until title to the property is transferred to a third party either before or after certificate of title or until the legal process is dismissed.

Local means within the boundaries of the City of Jacksonville, Florida.

Local Agent means the property manager or agent designated by the mortgagee upon registration as required under this Chapter. The Local Agent's office must be located within 20 miles of the City of Jacksonville.

Mortgagee means the creditor, including but not limited to, trustees; servicing companies; lenders; any agent, servant or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement.

Owner means every person, entity, or service company, who alone or severally with others:

- (1) Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, residential building, residential structure, residential parcel of land, vacant or otherwise, including but not limited to, a mobile home park; or
- (2) Has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit, residential building, residential structure or residential parcel of land, vacant or otherwise, including a mobile home park, in any capacity, including but not limited to, agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
- (3) Is a mortgagee in possession of any such property, or is a mortgagee with actual control of access to the property by any means including, but not limited to, changing locks or putting on a lock box; or
- (4) Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property.

Vacant means any building or structure that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of "evidence of vacancy" above.

(Ord. 2010-327-E, § 2; Ord. [2015-340-E](#), § 2)

Sec. 179.103. - Applicability.

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

(Ord. 2010-327-E, § 2)

Sec. 179.104. - Inspection and registration of foreclosed real property by mortgagee holding mortgages in default.

- (a) Any mortgagee who holds a mortgage on real property located within the City of Jacksonville shall perform an inspection of the property upon default by the mortgagor or prior to the issuance of a notice of default.
- (b) Property inspected pursuant to subsection (a) above that remains in default, shall be inspected every 30 days by the mortgagee or mortgagee's designee.
- (c) Within ten days of the date any mortgagee declares its mortgage to be in default, the mortgagee shall register the real property with the City of Jacksonville's Housing & Community Development Division, or its designee, on forms promulgated by the Housing & Community Development Division, or other manner as directed, and, at the time of registration, indicate whether the property is vacant, shows evidence of vacancy or is occupied, and shall designate in writing a Local Agent to inspect, maintain and secure the real property subject to the mortgage in default. A separate registration is required for each property, whether it is found to be vacant or occupied.

- (d) 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 Local Agent and said person's address, e-mail address, and telephone number. The Local Agent shall be responsible to inspect, secure and maintain the property. The Local Agent named in the registration shall be located within 20 miles of the City of Jacksonville and available to be contacted by the City, Monday through Friday between 9:00 a.m. and 5:00 p.m., legal holidays excepted.
- (e) At the time of registration each registrant shall pay a non-refundable annual registration fee of \$250 for each registration. Subsequent annual registrations and fees in the amount of \$250 are due within 30 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 blighted and deteriorating foreclosed properties that were owner-occupied, (3) post-closing counseling and foreclosure intervention limited to owner-occupied persons in default, which may include cash and mortgage modification assistance, and (4) may be used for any related purposes as may be adopted in the policy set forth in Section 179.110 below. Said fees shall be deposited to a special account in the Housing & Community Development Division dedicated to the cost of implementation and enforcement of this ordinance, combatting blight in affected neighborhoods consistent with the policy adopted by the Housing & Community Development Division in Section 179.110, and any registries so required. None of the funds provided for in this section shall be utilized for the legal defense of foreclosure actions.
- (f) Beginning on July 1, 2015, each individual property on the registry that has been registered for 12 months or more prior to that date shall have 30 days to renew the registration and pay the \$250 annual renewal fee. The anniversary date for annual renewal of registration for these properties shall be deemed to be July 1 each subsequent year. Properties registered less than 12 months prior to July 1, 2015 shall use the date of initial registration as their annual renewal date and shall pay the \$250 annual renewal date on the anniversary of the initial registration each subsequent year.
- (g) If the defaulted mortgage and/or servicing on a property is sold or transferred, the new mortgagee is subject to all the terms of this Chapter. Within ten days of the transfer, the new mortgagee shall register the property or update the existing registration and pay a registration update fee of \$50. Any and all previous unpaid fees, regardless of who the mortgagee was at the time of registration was required, including but not limited to unregistered periods during the foreclosure process shall be the responsibility of the new mortgagee and are due and payable with the updated registration.
- (h) If the mortgagee of a foreclosed real property sells or transfers the 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, and within ten days of the transfer the transferee shall register the property or update the existing registration and pay a registration update fee of \$50. Any and all previous unpaid fees, 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 new owner of the foreclosed property and are due and payable with the updated registration.
- (i) If the property is not registered and the registration fee is not paid within 30 days of when the registration is required pursuant to this section, a late fee of \$50 per property shall be charged and shall be due and payable with the registration. This section shall apply to the initial registration and registrations required by subsequent owners of the defaulted mortgage and/or foreclosed property. Each period where the registration fee is late shall be assessed a late charge of \$50. Registrations delinquent greater than 30 days are subject to additional fines as described by Section 179.106(g) herein.
- (j) This section 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 or by any other legal means.
- (k) Properties subject to this section shall remain subject to the annual registration requirement, and the inspection, security, and maintenance standards of this section as long as the mortgage is under foreclosure or in default.

- (l) Failure of the mortgagee and/or property owner of record to properly register or to modify the registration from time to time to reflect a change of circumstances as required by this ordinance is a violation of this chapter and shall be subject to enforcement by any of the enforcement means available to the City of Jacksonville.
- (m) Pursuant to any judicial finding and determination that any property is in violation of this chapter the City may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and to bring it into compliance.

(Ord. 2010-327-E, § 2; Ord. 2011-371-E, § 6; Ord. 2013-209-E, § 40; Ord. [2015-340-E](#), § 2)

Sec. 179.105. - Maintenance requirements.

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

(Ord. 2010-327-E, § 2)

Sec. 179.106. - 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 or adult to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or boarding.
- (c) If a mortgage on a property is in default, and the property has become vacant or abandoned, a Local Agent shall be designated by the mortgagee to perform the work necessary to bring the property into compliance with the Code of Ordinances and the Local Agent must perform regular inspections to verify compliance with the requirements of this section, and any other applicable laws or ordinances of the City of Jacksonville.
- (d) When a property subject to this Chapter becomes vacant or abandoned, it shall be posted with the name and 24-hour contact telephone number of the Local Agent. The sign shall be placed in a window facing the street and shall be visible from the street. The posting shall be no less than 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet. The posting shall contain the following language with supporting information:

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

- (e) The posting required in subsection (d) above shall be placed on the interior of a window facing the street to the 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 but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.
- (f) Failure of the mortgagee and/or property owner of record to properly inspect and secure a property subject to this Chapter, and post and maintain the signage noted in this section, is unlawful and a Class C violation and shall be subject to enforcement by any of the enforcement means available to the City of Jacksonville. Pursuant to a finding and determination, the City of Jacksonville may take

the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.

- (g) Failure of the mortgagee to register a property pursuant to this Chapter shall authorize the City to impose a civil penalty in the amount of \$500 against the mortgagee for each offense. Upon written notice of noncompliance from the City or its designee, the mortgagee shall have 20 days from the date of the notice of noncompliance to pay the registration fee and any additional fees (such as any late fee or update fee noted within the letter of noncompliance). If the mortgagee fails to timely make these payments within the time allotted above, the \$500 civil penalty shall be imposed upon mortgagee and shall be payable to the City of Jacksonville within 15 days of receipt of notice of delinquent payment, along with any other registration fees which have not been paid by that date. The provisions of this section are cumulative with and in addition to other available remedies. Moreover, the Housing and Community Development Division Staff of the Planning and Development Department is authorized and empowered to refer the Notice of Noncompliance to the City Code Enforcement Special Magistrate for disposition.

(Ord. 2010-327-E, § 2; Ord. [2015-340-E](#), § 2)

Sec. 179.107. - Additional authority.

- (a) If an appropriate City Code Enforcement Administrator has reason to believe that a property subject to the provisions of this Chapter is posing a serious threat to the public health safety and welfare, the Code Enforcement Administrator may bring the violations before the City's Code Enforcement Board or Code Enforcement Special Magistrate, or a court of competent jurisdiction as soon as possible to address the conditions of the property.
- (b) If there is a finding that the condition of the property is posing a serious threat to the public health safety and welfare, then the Code Enforcement Board or Code Enforcement Special Magistrate or a court of competent jurisdiction may direct the City to abate the violations and charge the mortgagee with the cost of abatement.
- (c) If the mortgagee does not reimburse the City for the cost of abatement within 30 days of the City sending the mortgagee the invoice, then the City may lien the property with the cost of abatement, along with an administrative fee of \$500 to recover the administrative personnel services.

(Ord. 2010-327-E, § 2)

Sec. 179.108. - Provisions Supplemental.

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

(Ord. 2010-327-E, § 2)

Sec. 179.109. - Criminal Penalties.

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

(Ord. 2010-327-E, § 2)

Sec. 179.110. - Adoption of policy and rules and regulations; declaration of municipal purpose.

Subject to the review and approval of City Council, the Housing and Community Development Division of the Planning and Development Department is authorized and empowered to adopt any policies, rules and regulations necessary, and expend funds as may be reasonably necessary and available to carry out the terms of this Chapter, the expenditure of such funds having been declared a proper public purpose herein.

(Ord. [2015-340-E](#), § 2)

Sec. 179.111. - Expenditure of funds; monitoring and compliance.

The City fee collected for Foreclosed Land Registry shall be deposited in sub fund 1N1. Council shall authorize all appropriations from the sub fund. The Planning and Development Department, where Housing and Community Development operates, shall commit to tracking expenses through a tiered strategy system policy, adopted by City Council, and shall concurrently submit annual reports to the Council Auditor's Office and the Finance Committee. The expenditures from the Foreclosed Land Registry shall be tracked allocating those funds to show how the funds were requested, issued, and used in relation to the tiered strategy policy and personnel. Such detail shall be in accordance with instructions provided by the Council Auditor's Office. The annual reporting of activity will provide the ability to substantiate the appropriate use of the Foreclosed Land Registry fees in all years going forward as of October 1, 2015 with the first report made available sixty days after fiscal year end.

(Ord. [2015-340-E](#), § 2)

Sec. 179.112. - Auditing Rights; Inspection of Books and Records; Monthly and Annual Reports.

If the City selects a vendor to administer the provisions of this Chapter through a contractual arrangement, the following auditing provisions shall apply to the selected vendor and shall be included in the contract with the vendor. The Planning and Development Department, where Housing and Community Development operates, and the City Council Auditors, shall have the right, during normal business hours, to enter the vendor's business property, upon reasonable prior notice, to inspect the operations and facilities of the vendor and to audit, inspect and examine the vendor's books and records and state and federal tax returns, insofar as they relate to compliance with the contractual provisions, this Chapter and any rules adopted by the Planning and Development Department pursuant hereto. This information shall include, but not be limited to, the following: billing rates, billing amounts, accounts receivable and list of accounts. Additionally, the City Council Auditors may communicate directly with customers (mortgagees in this case) for the purpose of confirming compliance with this Section. To the extent authorized by F.S. § 119.165, or other applicable law, this information shall remain confidential. Refusal to permit inspection shall be cause for suspension or revocation of the vendor contract. The vendor shall deliver to the Planning and Development Department a true and correct monthly report of gross receipts generated during the previous month for all registrations, fees, and penalties within the City on or before the last day of each month. The vendor shall, on or before 90 days following the close of the City's fiscal year, deliver to the Planning and Development Department a statement of its annual gross receipts generated from accounts within the City reflecting gross receipts within the City for the preceding City fiscal year. The statement shall be audited by an independent certified public accountant licensed to do business in the state, and shall be accompanied by the certified public accountant's opinion of its accuracy without qualifications or reservations.

(Ord. [2015-340-E](#), § 2)