

PROPOSED ORDINANCE NO. 2010-01

ORDINANCE NO. 1660

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCE OF THE CITY OF PEMBROKE PINES, FLORIDA, ENTITLED "ABANDONED PROPERTY AND VEHICLES" BY SPECIFICALLY AMENDING SECTION 90.01, ENTITLED "ABANDONMENT OF PROPERTY PROHIBITED; NOTICE AND REMOVAL"; CREATING, SECTION 90.20, ENTITLED "ABANDONED REAL PROPERTY", PROVIDING FOR A MECHANISM WHEREBY THE CITY MAY BETTER ADDRESS ABANDONED REAL PROPERTY MATTERS LOCATED WITHIN THE CITY; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR NOTIFICATION PROCEDURES; PROVIDING FOR REGISTRATION OF ABANDONED REAL PROPERTY; PROVIDING FOR MAINTENANCE REQUIREMENTS; PROVIDING FOR SECURITY REQUIREMENTS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, it is the important for the City of Pembroke Pines (hereinafter referred to as "the City") to establish a process to address the increasing amount of abandoned real property within the City; and

**WHEREAS**, the City Commission recognizes an increase in the number of vacant and abandoned properties located throughout the City; and

**WHEREAS**, the presence of vacant and abandoned properties can lead

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to decline in property value, create attractive nuisances and lead to general decrease in neighborhood and community aesthetic; and

**WHEREAS**, the current conditions of vacant and abandoned properties present a serious threat to the public health and safety of the community; and

**WHEREAS**, the presence of vacant and abandoned properties may discourage buyers from purchasing property within the City; and

**WHEREAS**, many vacant and abandoned properties are the responsibility of out-of-state lenders and trustees who fail to adequately secure and maintain such properties; and

**WHEREAS**, the City Commission of the City of Pembroke Pines has deemed it to be in the best interest of the citizens and residents of the City to amend Chapter 90 entitled "Abandoned Property and Vehicles" to better protect the City against the decay caused by vacant and abandoned properties and to impose registration requirements on such properties located within the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA:**

**SECTION 1:** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a

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specific part of the Ordinance upon adoption hereof.

**SECTION 2:** Chapter 90, entitled “Abandoned Property and Vehicles”, is hereby amended by creating Section 90.20 to read as follows:

Chapter 90 “Abandoned Property and Vehicles”

§90.01 Abandonment of Property Prohibited; Notice and Removal

(A) Unless otherwise provided for herein, for the purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. Definitions and regulations pertaining to abandoned real property are as set forth in Section 90.20.

...

§90.20 Abandoned Real Property

(a) Purpose and intent. It is the purpose and intent of this section to establish a process to address the amount of abandoned real property located within the city. This section is further intended to specifically establish an abandoned residential property program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

(b) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them herein, except where the context clearly indicates a different meaning:

(1) Abandoned real property means any property that is vacant, under a current notice of default and/or notice of

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mortgagee's sale by the lender or a pending tax assessors lien sale, and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

(3) Accessible property means a property that is accessible through a compromised/breached gate, fence, wall, etc.

(4) Accessible structure means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

(5) Enforcement officer means any full-time law enforcement officer, building official, code enforcement officer, fire inspector or building inspector employed within the city.

(6) 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 not be limited to, overgrown and/or dead vegetation, accumulation of abandoned personal property, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

(7) Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.

(8) Nominal salvage value means the value of an article of abandoned or derelict property which a reasonably prudent person would believe is the fair market value of the property, taking into consideration its useful life,

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earning capacity or replacement cost, less depreciation and items of general or special depreciation, would be nominally greater than the costs of salvage including the removal, transportation, storage and sale of same.

(9) Private property means all lands and improvements other than public lands and improvements.

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

(11) Public property means canals, all waterways, lands and improvements owned by governmental body or any governmental agency including but not limited to easements and rights-of-way, but excluding the campus of any institution of the state university system.

(12) Residential building means any improved real property, or portion thereof, situated in the city, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property.

(13) Vacant means any building/structure that is not legally occupied.

(c) Applicability. This section shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the city above and beyond any other state, county and/or local provisions for same.

(d) Penalties. Any person who shall violate the provisions of this section shall, upon conviction, be punished as provided in Section 90-99 of the Code of Ordinances as applicable.

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(e) Public nuisance. All abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the city.

(f) For the purpose of this Section, real estate brokers and agents, solely marketing and/or selling real property on behalf of a mortgagee, shall not be considered an agent, servant, or employee of the mortgagee.

(g) Registration of abandoned real property.

(1) Any mortgagee who holds a mortgage on real property located within the city shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, prior to the issuance of a notice of default. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the mortgagee shall, within ten (10) days of the inspection, register the property with city manager, or his or her designee, on forms provided by the city. A registration is required for each vacant property.

(2) If the property is occupied but remains in default, it shall be inspected by the mortgagee or his designee monthly until (1) the mortgagor or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of that inspection, register the property with the City Clerk, or his or her designee, on forms provided by the city.

(3) Registration pursuant to this section shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of mortgagee facsimile number and e-mail address and, in

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the case of a corporation or out-of-area mortgagee, the local property management company or realtor responsible for the security and maintenance of the property.

(4) An annual registration fee in the amount of one hundred fifty dollars and 00/100 (\$150.00), per property, shall accompany the registration form(s).

(5) This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

(6) Properties subject to this section shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.

(7) Any person or corporation that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.

(h) 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 included, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

(2) The property shall be maintained free of graffiti or

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similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.

(3) Front, side, and rear yard landscaping shall be maintained in accordance with the city's standard at the time registration was required.

(4) Landscape shall include, but not be limited to, grass, ground covers, bushes, trees, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.

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

(6) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the City Code of Ordinances and Florida Building Code, as amended from time to time.

(7) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of the City Code and issuance of a citation or notice of violation/notice of hearing by a city's code enforcement officer. Pursuant to a finding and determination by the city's special magistrate or Code Enforcement Board, the city may take the necessary action to ensure compliance with this section.

(i) Security requirements.

(1) Properties subject to this section shall be maintained in

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a secure manner so as not to be accessible to unauthorized persons.

(2) 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 and/or structure. Broken windows shall be secured by reglazing, shuttering or boarding of the windows so as to meet all applicable laws, codes and regulations.

(3) If the property is owned by a corporation and/or out-of-area mortgagee, a local property management company shall be contracted to perform bi-weekly inspections to verify compliance with the requirements of this section, and any other applicable laws.

(4) The property shall be posted with the name and twenty-four (24) hour contact phone number of the local property management company. The posting shall be no less than an eight-inch by ten-inch sign. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY:

(Name of property management company)

TO REPORT PROBLEMS OR CONCERNS CALL:

(Telephone number of property management company)

The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible or, if no

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such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. Exterior posting shall be constructed of and printed with weather-resistant materials.

(5) The local property management company shall inspect the property on a bi-weekly basis to ensure that the property is in compliance with this section. The local property management company shall provide a copy of the inspection reports to the code enforcement division. Inspection reports rendered pursuant to this section may be transmitted electronically.

(6) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of the City Code and issuance of a citation or notice of violation/notice of hearing by a city's code enforcement officer. Pursuant to a finding and determination by the city's special magistrate or Code Enforcement Board, the city may take the necessary action to ensure compliance with this section.

(j) Opposing, obstructing enforcement officer; penalty. Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this section, upon conviction shall be punished as provided in herein.

(k) Immunity of enforcement officer. Any enforcement officer or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this section.

(l) Additional authority. The Director of Code Compliance, or his or her designee, shall have authority to require the mortgagee

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and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably required to help prevent further decline of the property.

(m) Adoption of rules; expenditure of funds; declaration of city purpose. The city manager, consistent with his/her duties and authorities under the City Charter, including those duties and authorities relating to emergency situations, is authorized and empowered to adopt rules and regulations and expend city funds as may be reasonably necessary and available to carry out the terms of this section, the expenditure of such funds being declared a proper city purpose.

**SECTION 3:** It is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Pembroke Pines, Florida, and that the Sections of this Ordinance may be renumbered, relettered and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

**SECTION 4:** All Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not

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affect other provisions or applications of this Ordinance that can be given affect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 6:** This Ordinance shall become effective immediately upon its passage and adoption.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, ON THE FIRST READING, THIS 17 DAY OF FEBRUARY, 2010.**

**PASSED ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, ON THE SECOND AND FINAL READING, THIS 17 DAY OF MARCH, 2010.**

CITY OF PEMBROKE PINES, FLORIDA

By:

  
MAYOR FRANK C. ORTIS

ATTEST:

  
JUDITH A. NEUGENT, CITY CLERK

ORTIS AYE

CASTILLO AYE

McCLUSKEY AYE

SHECHTER AYE

SIPLE AYE

APPROVED AS TO FORM:

  
OFFICE OF THE CITY ATTORNEY

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