

ORDINANCE NO. 10-614

An ordinance of the City of Port Richey, Florida regulating the maintenance of vacant and residential properties that are the subject of foreclosure actions or proceedings; providing for definitions; providing for registration of vacant residential properties or residential properties that are subject to foreclosure actions or proceedings and providing for written notice; providing for maintenance requirements; providing for inspections; providing for appeals; providing for enforcement and penalties; providing for implementing administrative actions; providing for appeals; providing for conflicts; providing for a savings provision; providing for severability; and providing for an effective date.

Whereas, recent events in the housing market have led to a drastic rise in the number of foreclosed houses in that in cities all over the nation, homes are being left empty as families are forced to move out and these homes are frequently retaken by banks, financial institutions and large real estate conglomerates that have little or no connection with the municipality in which they own property; and

Whereas, many of these homes are frequently vacant prior to the conclusion of the foreclosure process and these homes sit empty for months or years at a time awaiting foreclosure sale; often creating an unattractive public nuisance; and

Whereas, some homes are in violation of multiple aspects of State law and local ordinances while the mortgagees are large financial institutions located out of state which are oftentimes represented by legal counsel from outside of Pasco County and its environs, making enforcement of the City's codes and ordinances very difficult; and

Whereas, these code violations include, among multiple other violations, unoccupied buildings susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unlocked houses, overgrown grass and bushes, and unsecured swimming pools that are not only a threat to children, but become breeding grounds for infectious insects such as mosquitoes, vermin and rodents; and

Whereas, this problem exists nationwide as banks and other financial institutions are refusing to maintain properties, are overwhelmed with the volume of properties to be maintained or the complexities of such maintenance from remote locales, and code compliance officers have turned into investigators and property managers as they try to find out who the owners are and how to contact them to correct code violations; and

Whereas, the City Council of the City of Port Richey desires to protect the public health, safety and welfare of the citizens of the City and maintain a high quality of life for the citizens of the City; and

Whereas, this Ordinance is enacted pursuant to the home rule powers of the City of Port Richey as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*; and other applicable controlling law.

Now, therefore, be it enacted by the People of the City of Port Richey, Florida:

Section 1. Legislative findings, intent and purpose. A new section of the City Code of the City of Port Richey is created to read as follows:

(a). The City Council of the City of Port Richey hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance.

(b). The City of Port Richey has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(c). Although not a land development regulation, this Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Port Richey*.

(d). It is the intent of this Ordinance to protect and preserve public safety, security, and quiet enjoyment of occupants, abutters, and neighborhoods by requiring all residential property owners including, but not limited to, lenders, trustees, and service companies, to properly maintain residential properties that are the subject of foreclosure actions or proceedings; and regulating the maintenance of vacant residential properties or residential properties that are the subject of foreclosure actions or proceedings in order to prevent blighted and unsecured residences.

Section 2. Definitions. A new section of the *City Code of the City of Port Richey* is created to read as follows:

For the purpose of this Ordinance the following definitions shall apply.

(a). Days means consecutive calendar days.

(b). Foreclosing, foreclosure proceedings, foreclosure process, "short" sales" or "deed in lieu" means the legal process by which a parcel, tract, lot or other defined area of real property, placed as security for a real estate loan, is prepared for sale by the lender/mortgagee to satisfy the debt if the borrower/mortgagor defaults. This definition shall include all processes, activities and actions, by whatever name, associated with the described process.

(c). Initiation of the foreclosure process means taking any of the following actions:

(1). taking possession of a residential property;

(2). delivering the mortgagee's notice of intention to foreclose to the borrower;

or

(3). commencing a foreclosure action on a property in Pasco County Circuit Court.

(d). *Local* means within twenty (20) driving miles distance of the property in question.

(e). *Mortgagee* means the creditor including, but not limited to, service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interest or obligations under the mortgage agreement.

(f). *Owner* means every person, entity, service company, property manager or real estate broker, who alone or severally with others;

(1). has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or

(2). has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, personal representative, 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

(4). is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or

(5). is an officer or trustee of the association of unit owners of a condominium; or

(6). is a trustee who holds, owns or controls mortgage loans for mortgagee backed securities transactions and has initiated the foreclosure process.

Owner also means every person who operates a rooming or boarding house.

Each such person is bound to comply with the provisions of these minimum standards as if he or she were the owner; provided, however, that this Ordinance shall not apply to a either condominium association created pursuant to Chapter 718, *Florida Statutes*; a cooperative association created pursuant to Chapter 719,

Florida Statutes; or a homeowner's association created pursuant to Chapter 720, *Florida Statutes*, to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due to owing to the association.

(g). *Property* means any real, residential property, or portion thereof located in the City of Port Richey including, but not limited to, building or structures situated on the property. For purposes of the Ordinance only, property does not include property owned or subject to the control of the City or any of its governmental bodies.

(h). *Residential property* means any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

(i). *Securing* means measures that assist in making the property inaccessible to unauthorized persons.

(J). *Vacant* means any property not legally occupied and not properly maintained or secured from access by unauthorized persons.

Section 3. Registration of vacant residential properties or residential properties that are subject to foreclosure actions or proceedings; duty to provide written notice. A new section of the *City Code of the City of Port Richey* is created to read as follows:

(a). All owners shall register vacant and/or foreclosing residential properties with the City on forms provided by the City Manager, or designee. All registrations shall state the individual owner's or agent's phone number and the residential and business mailing addresses located within the State. The mailing addresses may not be a post office box. This registration shall also certify that the property was inspected and identify whether the property is vacant at the time of filing. If the property is vacant, the owner and/or registrant shall designate and retain a local individual or local property management company responsible for the security and maintenance of the property. This designation shall state the individual or company's name, phone, and local business mailing address. The mailing address may not be a post office box. If the property is in the process of foreclosure, then the registration must be received within ten (10) days of the initiation of the foreclosure process. If the City Manager, or designee, determines that the property is vacant and that foreclosure proceedings have not been initiated, the registration must be received within fourteen (14) days of the City first citation for improper maintenance.

(b). All property registrations are valid for one (1) calendar year. An annual registration fee of \$125.00 or such other amount established by the City council by adoption of a resolution, shall accompany each registration form. Subsequent annual registrations and fees are due within thirty (30) days of the expiration. Of the

previous registration and shall certify whether the foreclosing and/or foreclosed property remains vacant.

(c). Once the property is no longer vacant or is sold, the owner shall provide proof of sale or written notice and proof of occupancy to the City.

Section 4. Maintenance requirements. A new section of the *City Code of the City of Port Richey* is created to read as follows:

(a). Properties subject to the provisions of this Ordinance shall be maintained in accordance with the relevant nuisance, maintenance, sanitary and building codes and ordinance of the City as well as the City's regulations concerning external and visible maintenance. The owner, local individual or local property management company shall inspect and maintain the property on a monthly basis for the duration of the vacancy.

(b). The property shall contain a posting with the name and twenty-four (24)-hour contact telephone number of the local individual or property management company responsible for the maintenance. This sign shall be posted on the front of the property so it is clearly visible from the street.

(c). Adherence to the requirements of this Ordinance does not relieve the owner of any applicable obligations set forth elsewhere in the codes and ordinances of the City or within any covenant, conditions or restrictions relating to the property or condominium/homeowners association rules and regulations, if any.

Section 5. Inspections. A new section of the *City Code of the City of Port Richey* is created to read as follows:

City code enforcement personnel shall have the authority and the duty to inspect properties subject to this Ordinance for compliance and to issue citations for any violations of this Ordinance in accordance with the processes and procedures available to the City. The City's code enforcement personnel shall have the reasonable discretion to determine when and how such inspections are to be made, provided that its policies are reasonable calculated to ensure that this Ordinance is enforced.

Section 6. Appeals. A new section of the *City Code of the City of Port Richey* is created to read as follows:

Any person aggrieved by the requirements of this Ordinance may seek an administrative appeal to the City Manager, or designee, within ten (10) days of the action which is sought to be appealed. An additional appeal may be filed to seek review of the decision of the City Manager to the City Commission within ten (10) days of the action which is sought to be appealed. Such appeals must be in writing and state, with specificity, the basis for the appeal.

Section 7. Enforcement and Penalties. A new section of the City code of the City of Port Richey is created to read as follows:

(a). It is prohibited and unlawful for an owner to fail to comply with the requirements of this Ordinance.

(b). The City may enforce the provisions of this Ordinance by any means available to the City under the *City Code of the City of Port Richey* or as may be available under the controlling provisions of State law.

(c). The penalties for violation of this Ordinance shall be as set forth in the code enforcement method asserted by the City under the City Code of the City of Port Richey or as may be available under the controlling provisions of State law; provided, however, that incarceration shall not be an applicable punishment relative to the violation of this Ordinance.

Section 8. Implementing Administrative Actions. A new section of the City Code of the City of Port Richey is created to read as follows:

The City Manager, or designee, is hereby authorized and directed to implement the provision of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative rules.

Section 9. Conflicts.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

Section 10. Savings.

The prior actions of the City of Port Richey in terms of the assessment of penalties to include, but not limited to, matters relating to the code enforcement activities of the City are hereby ratified and affirmed.

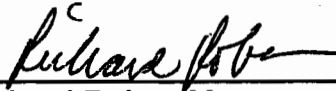
Section 11. Severability.

If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

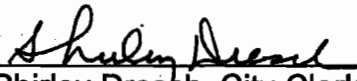
Section 12. Effective Date.

This Ordinance shall become immediately upon adoption at second and final reading. .

The above and foregoing Ordinance was read by title only and passed by a majority vote upon its first reading at a Regular Meeting of the City Council of the City of Port Richey, Florida, held on the 26th day of January, 2009.

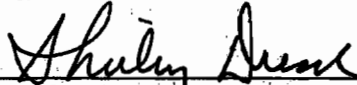

Richard Rober, Mayor

ATTEST:

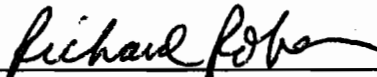

Shirley Dresch, City Clerk

The above and foregoing Ordinance was read by title only and was passed by majority vote of the City Council of the City of Port Richey, upon its second and final reading at a Regular Meeting of the City Council of the City of Port Richey, Florida on the 9th day of February, 2009.


Attest:


Shirley Dresch, City Clerk

CITY OF PORT RICHEY


Richard Rober, Mayor

Approved as to form and content


Michael Brannigan., City Attorney