

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, ESTABLISHING A VACANT PROPERTIES REGISTRATION PROGRAM AND RESPONSIBILITIES FOR PROPERTY MAINTENANCE, AND ADDING A NEW SECTION TO OLYMPIA MUNICIPAL CODE CHAPTER 16.06 - PROPERTY MAINTENANCE CODE

WHEREAS, the Olympia City Council has adopted the International Property Maintenance Code, as amended, in Chapter 16.06 of the Olympia Municipal Code as the City's property maintenance code; and

WHEREAS, the intent of the City's property maintenance code is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises; and

WHEREAS, the City's property maintenance code regulates and governs the conditions and maintenance of all property, buildings, and structures, and is enforced primarily by the City's appointed Code Enforcement Officers and Building Official; and

WHEREAS, the City Council finds that vacant properties, including those that are abandoned, uninhabited, or unimproved; those that have been foreclosed or are subject to foreclosure; and those that are otherwise under a notice of default, have an adverse and deleterious impact on the vitality and livability of the areas in which they are located and on the general well-being of the City and its residents; and

WHEREAS, significant numbers of vacant properties that have been foreclosed, are subject to foreclosure, or are otherwise under a notice of default, are owned and/or controlled by entities and/or individuals outside the Olympia area and/or whose identity is unclear due to legal proceedings regarding property ownership; and

WHEREAS, as a result, those entities and individuals may be difficult for City Code Enforcement Officers to identify or locate; and

WHEREAS, property owners, or others in control of property, outside the Olympia area may be less aware of City property maintenance codes and regulations, or reluctant to voluntarily incur the cost and expense of adequately maintaining those properties to the standard established in those codes and regulations; and

WHEREAS, the City Council finds it necessary that certain registration and maintenance requirements be imposed on the owners and others in control of abandoned and vacant real property in order to minimize, if not eliminate, adverse effects those properties have on the City and its residents, and on the public health, safety, and welfare;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 16.06. Olympia Municipal Code Chapter 16.06 is hereby amended to add a NEW SECTION 16.06.090, Vacant Property Registration, to read as follows:

Chapter 16.06

PROPERTY MAINTENANCE CODE

16.06.000 Chapter Contents

Sections:

- 16.06.010 International Property Maintenance Code adopted -- Purpose and Administration.
- 16.06.020 Definitions.
- 16.06.030 General Requirements.
- 16.06.040 Light, Ventilation and Occupancy Limitations.
- 16.06.050 Plumbing Facilities and Fixture Requirements.
- 16.06.060 Mechanical and Electrical Requirements.
- 16.06.070 Fire Safety Requirements.
- 16.06.080 Referenced Standards.
- 16.06.090 Vacant Property Registration.

NEW SECTION 16.06.090 Vacant Property Registration

A. GENERAL

901.1 Intent. It is the purpose and intent of the Olympia City Council to establish an vacant real property registration program to ensure that the owners of certain vacant properties are known by the City and other interested parties and can be reached if necessary; to ensure that owners of vacant properties are aware of the property maintenance codes and regulations; and to ensure that owners meet the minimum standards of maintenance of vacant properties.

901.2 Requirement to Register Certain Vacant Properties. An owner of, lender for, or other person responsible for a property that is vacant and uninhabited or vacant and in default (or both) shall register such property with the City of Olympia.

901.3 Definitions. For the purposes of this chapter, the following words and phrases are defined as follows:

1. "Accessible" means a property that is accessible through a compromised or breached gate, fence, wall, or similar condition or a structure or building that is unsecured or breached (or both) in such a way as to allow access to the interior space by unauthorized persons.
2. "Beneficiary" means a lender or holder of a note secured by a deed of trust.
3. "Borrower" means any owner as defined in this section who becomes obligated on a real estate loan agreement, either directly or indirectly, and includes mortgagors, vendees under conditional land sales contracts, and grantors under trust deeds.
4. "City" means City of Olympia.
5. "Days" means consecutive calendar days.
7. "Deed of trust" means an instrument by which title to real estate is transferred to a third-party trustee as security for a real estate loan and often used in Washington instead of a mortgage. This definition applies to any and all subsequent deeds of trust, i.e., second trust deed or third trust deed.

7. "Deed in lieu of foreclosure/sale" means a recorded document that transfers ownership of property from the borrower to the lender in lieu of foreclosure, including a trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

8. "Default" means the failure to fulfill a contractual obligation, monetary, or conditional.

9. "Director" means the Director of Community Planning and Development or the Director's designee.

10. "Downtown Core" means the Downtown Olympia Historic District and its vicinity that exhibits storefronts, building designs, and historic character consistent with the Historic District.

11. "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 and not occupied by authorized persons. Such conditions include, for example, overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past due utility notices or disconnected utilities; accumulation of trash, junk, or debris; statements by neighbors, passersby, delivery agents, or government employees that the property is vacant; and for residential properties, the absence of window coverings such as curtains, blinds, or shutters; the absence of furnishings or personal items consistent with residential habitation.

12. "Foreclosure" means the foreclosure process by which a property, placed as security for a real estate loan, is sold at auction and a deed of trust foreclosure or a judgment is obtained to satisfy the debt if the borrower defaults on the real estate loan.

13. "Lender" means any person who makes, extends, or holds a real estate loan agreement and includes a mortgagee; a beneficiary under a deed of trust; an underwriter under a deed of trust; a vendor under conditional land sales contracts; a trustee; and a successor in interest to any mortgagee, beneficiary, vendor, or trustee. The term also includes any mortgagee, beneficiary, or trustee that accepts a deed in lieu of foreclosure.

14. "Local" means within Thurston County.

15. "Notice of default" means a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.

16. "Out of area" means outside Thurston County.

17. "Owner" means any natural person, partnership, association, corporation, or other entity having legal title in real property, including any borrower as defined in this section.

18. "Property" means any unimproved or improved, residential or commercial real property, or portion thereof, situated in the City, and includes the buildings or structures located on the property regardless of condition.

19. "Responsible person" or "person responsible" means any person, partnership, association, corporation, or fiduciary having legal or equitable title to, or any interest in, any real property, including an owner, borrower, or lender as defined in this section, or a lessee of leased property, if the lessee is responsible for property maintenance.

20. "Securing" or "secure" means such measures as may be directed by the Director that assist in rendering the property inaccessible to unauthorized persons, including the repairing of fences and

walls, chaining or padlocking of gates, and the repair, replacement, or boarding of doors, windows, or other openings.

21. "Trustee" means the person, partnership, firm, corporation, or other entity holding a deed of trust to a property.

22. "Trustor" means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

23. "Vacant" means a property that is not legally occupied.

24. "Vacant and in default" means a property that has been vacant and any one or more of the following apply to property: (1) it is under a current notice of default or notice of trustee's sale (or both); (2) it is the subject of a pending tax assessor's lien sale; (3) it has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; or (4) it has been transferred under a deed in lieu of foreclosure or sale.

25. "Vacant and uninhabited" means a property that has been vacant with no water or sewer utilities provided to the property for six continuous months or more.

901.4 Administration.

The Director shall administer this chapter and shall promulgate procedures to administer the registration, maintenance, security, and related provisions as authorized in this chapter. The Director may establish reasonable fees for services provided under the program. Fines and penalties for violations are set by the City Council and are set forth in OMC 16.06.010(G).

901.5 Maintenance.

The owner of, lender for, or other person responsible for any vacant property shall properly maintain, secure, and post such property as required by this chapter. This obligation is in addition to any other applicable requirement of this code or other law.

901.6 Responsible Party – Local Property Manager.

a. Responsible Party. When any act as required under this chapter applies to more than one of an owner, lender, or other responsible person, one or more or all are responsible for performing such act and may be charged with a violation of this chapter for failure to act. If information is required to be provided, then all must provide such information. However, it is sufficient if the performance of the act or the providing of information is accomplished by anyone.

b. Local Property Manager. If the owner, lender, or other person responsible for a property subject to the registration requirement of subsection 901.2, above, is a corporation or resides or has a principal place of business out of area, the owner, lender, or other person responsible shall retain a local property manager authorized to act to comply with this chapter.

901.7 Registration Contents. Each registration must contain the following:

a. Information for both the beneficiary and trustee: name (corporation or individual);

b. The street or office address (not a post office box) and, if different, the mailing address;

c. A direct contact name (a person representing a corporation or an individual);

d. Contact information for the person handling the foreclosure or vacant property registration (email and phone number); and

e. In the case of a corporation or out of area owner, lender, or other responsible person, the telephone number and other contact information of the local property manager authorized to act to comply with this chapter.

901.8 Registration Outlines.

a. A registration is valid for one calendar year following the date on which registration is initially submitted to the City. Subsequent registrations are required and due each year thereafter on the anniversary of the submittal date of the initial registration until such time as the property is transferred or becomes legally occupied.

b. An owner, lender, or other responsible person who is required to register a property pursuant to this chapter shall keep such property registered and shall comply with all the maintenance, security, and posting requirements of this chapter for the entire time such property remains vacant and in default or vacant and uninhabited.

c. When a property subject to the registration requirement of subsection 901.2, above, becomes occupied or title is transferred, the prior owner, lender, or other responsible person shall notify the Director in writing within 14 days of the occupancy or transfer.

d. Any owner, lender, or other responsible person required to register a property pursuant to this chapter shall report any change of information contained in the registration within 14 days of the change.

901.9 Property Inspection.

a. An owner of, lender for, or other person responsible for a property subject to the registration requirement of subsection 901.2, above, shall conduct, or cause to be conducted, an inspection of such property on a monthly basis. Such inspection is to verify that the property is still vacant and in default or vacant and uninhabited and whether the maintenance, security, posting and other requirements of this chapter, and any other applicable laws, are being met.

b. If a property is not vacant, but is in default, the lender shall inspect, or cause to be inspected, the property monthly to determine whether the property has become vacant and in default until (1) the borrower or other party remedies the default; or (2) the foreclosure is completed and ownership is transferred to a new owner who is not the former beneficiary or another lender; or (3) it is found to be vacant or shows evidence of vacancy, at which time it is deemed vacant and in default, and the lender shall, within 14 days of that inspection, register the property with the Director on forms or in the manner provided by the City.

c. The lender shall continue to inspect, or cause to be inspected, the property after a foreclosure sale where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure, or the underwriter of the deed of trust, or any other person or entity who held a security interest in the property, and any property transferred under a deed in lieu of foreclosure/sale. If upon inspection the property is found to be vacant, it is automatically deemed vacant and in default and must be registered within 14 days as required in this chapter.

d. The owner, lender, or other responsible person shall report the result each of these inspections to the City as required by the Director.

e. Inspections conducted pursuant to this chapter are intended only for the purposes set forth in this chapter and not for purposes of triggering disclosure obligations to potential real property purchasers

901.10 Maintenance Requirements.

a. An owner of, lender for, or other person responsible for any vacant property shall maintain and keep such property free of nuisance conditions including:

1. Weeds, overgrown vegetation, trash, junk, debris, building materials, and junk vehicles.
2. Accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law), and discarded personal items including, furniture, clothing, and appliances.
3. Graffiti, tagging, or similar markings, which must be removed or painted over with an exterior grade paint that matches or coordinates with the color of the exterior of the structure.
4. In the downtown core, conditions that do not maintain and preserve the historic aesthetics and character (windows free of obstruction, graffiti, etc.).

b. An owner of, lender for, or person responsible for any vacant property shall:

1. Maintain the property's yard in accordance with City requirements and standards;
2. Secure any pond, pool, or hot tub and ensure that it does not become a nuisance or a danger to the public;
3. Take any other action necessary to prevent giving the appearance that the property is abandoned; and
4. Register the property with the City of Olympia Police Department trespass program.

901.11 Securing and Posting Requirements.

a. Securing. An owner of, lender for, or other person responsible for any vacant property shall secure such property to prevent access by unauthorized persons, including the following: the closure and locking of windows, doors (walk-through, sliding, and garage), gates, and any other opening of such size that it may allow a child or any other person to access the interior of the property and or structure. Securing also includes boarding up as applicable. Material used for boarding up must be painted with an exterior grade paint that matches or coordinates with the color of the exterior of the structure.

b. Posting. An owner of, lender for, or other person responsible for any vacant property shall post the name and 24-hour contact phone number of the local property manager. The posting must be no less than 18 inches by 24 inches, and must be of a font that is legible from a distance of 45 feet, and must contain, along with the name and a 24-hour contact number, the words:

"THIS PROPERTY MANAGED BY [insert name]" and

"TO REPORT PROBLEMS OR CONCERNS CALL [insert local telephone number]."

The posting must be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building or structure

facing the street to the front of the property so 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 visible from the street to the front of the property but not readily accessible to vandals. Exterior posting must be constructed of, and printed with, weather resistant materials.

901.12 Enforcement.

a. In the event the Director finds an owner of, lender for, or other person responsible for a property subject to the registration requirement of subsection 901.2, above, has failed to meet the maintenance, securing, or posting requirements of this chapter, the Director shall send notice of said failure to the owner, lender, or other responsible person at the address listed on the tax rolls of the County or at such other address as may be known to the Director. The notice must set out the nature of the failure(s) to be corrected and must give the owner, lender, or other responsible person no more than 14 days from the date of the notice to correct the failure, unless an imminent danger exists in which case the Director may require the owner, lender, or other responsible person to take immediate action to cure the condition creating the imminent danger. In the event the owner, lender, or other responsible person fails to remedy the matters within the time set out in the notice (or make, in the view of the Director, adequate arrangements otherwise) the City may seek enforcement pursuant to OMC 4.44.06, and any other applicable City code or state law.

b. Violations of this chapter constitute a public nuisance and in addition to the provisions of this chapter, may be enforced pursuant to chapter 4.44 OMC - Uniform Civil Enforcement, chapter 16.10 OMC - City Building Code, chapter 16.32 OMC - City Fire Code, chapter 16.06 OMC - Property Maintenance/Nuisance Properties, and any other applicable City code or state law.

901.13 Vacant properties subject to City code enforcement action.

The owner of, lender for, or other person responsible for a vacant property that has been boarded up or otherwise secured by the City or its contractor as a result of City code enforcement action is not as a result of such action relieved of the obligation to comply with all applicable requirements of this code, including the maintenance requirements of subsection 901.10, above, and the securing and posting requirements of subsection 901.11, above.

901.14 Additional maintenance and security.

In addition to the enforcement remedies established in this chapter and applicable City code, the Director may require the owner of, lender for, or other person responsible for a property subject to the registration requirement of subsection 901.2, above, to implement additional maintenance or security measures, including securing all doors, windows, or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard, disconnecting utilities, or any other measures as may be reasonably calculated to arrest the decline of the property, prevent unauthorized entry, or ensure maintenance of the property in accordance with this code.

901.15 Abatement of nuisance on property that is abandoned and in mid-foreclosure.

When the City sends notice to a mortgage servicer that a property has been determined to be abandoned, in mid-foreclosure, and a nuisance pursuant to chapter 7.100 RCW, the mortgage servicer must abate the nuisance identified in such notice within 14 days of the mortgage servicer's receipt of the notice. If the mortgage servicer has not abated the nuisance within 14 days, the City may enter and abate the nuisance and the City may recover the costs of such abatement pursuant to RCW 7.100.070, or as otherwise provided by this Code or by other law.

901.16 Penalty.

The City of Olympia has designated certain violations of the Olympia Municipal Code to be civil infractions and pursuant to authority from chapter 7.80 RCW. The purpose of civil infractions, as set forth in chapter 4.50 OMC, is remedial. Use of the civil infraction procedure in chapter 4.50 OMC will better protect the public from the harmful effects of certain violations of the Olympia Municipal Code, aid and streamline enforcement, and partially reimburse the City for the expenses of enforcement and the related judicial process. Unless stated otherwise, a civil infraction is an additional and concurrent penalty and may be imposed with other penalties.

901.17 Retroactive application.

The provisions of this section can be applied retroactively. Vacant properties and structures existing on the date of adoption of this section are not vested.

Section 2. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances remains unaffected.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This Ordinance is effective 30 days after passage and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Michael M. Young

DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: