

ORDINANCE NO. C – _____

AN ORDINANCE relating to the establishment of an abandoned property registration program; adopting new sections 8.02.0675 to chapter 8.02 and 17F.070.520 to chapter 17F.070 of the Spokane Municipal Code.

WHEREAS, pursuant to the powers conferred in the Chapter 35.80 RCW, the City of Spokane seeks to reduce the number of vacant, abandoned or foreclosed buildings, homes or properties, and, through collection of a registration fee which would finance the monitoring of these properties, to proactively deter vandalism and detect decay, thereby protecting the quality/value of the building, home or property, and the integrity of the area in which it is located; and

WHEREAS, the City Council believes properties which are, or are soon to be, vacant, foreclosed, or subject to foreclosure proceeding, 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 under RCW 35.80.010; and

WHEREAS, the City Council is aware of a significant number of these properties within the City of Spokane, which are owned and/or controlled by entities and /or individuals who are reluctant to voluntarily incur the cost and expense of adequately maintaining these properties to the standard found in the areas surrounding the property; and

WHEREAS, consistent monitoring of these properties would act as a deterrent to vandalism, and provide timely notice of decay, thereby protecting the value of the property and the area in which it is located; and

WHEREAS, the City Council believes it necessary that certain registration and maintenance requirements be imposed on the owners of these properties in order to minimize, if not eliminate, some of the adverse effects those properties have on the City and its residents; and

WHEREAS, under SMC 8.02.067, owners of buildings, homes or properties which are identified as substandard, unfit, abandoned or otherwise nuisances are assessed for charges incurred by the City in the enforcement of this code, separate from and in addition to an annual hearing processing fee, assessed until the building, home or property is no longer substandard, unfit, abandoned or otherwise a nuisance; --
Now, Therefore,

The City of Spokane does ordain:

Section 1. That there is adopted a new section 17F.070.520 to chapter 17F.070 of the Spokane Municipal Code to read as follows:

17F.070.520 Abandoned Property Registration Program

A. Purpose

It is the purpose and intent of this section to establish an abandoned property registration program in order to protect the community from becoming blighted as a result of abandoned properties that are not properly secured and maintained. This section requires the lender or other responsible parties of properties that have been abandoned to register those properties with the City as set forth in this section.

B. Definitions

As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise:

1. "Abandoned Property" means a property that is vacant and (1) is under a current notice of default and/or notice of trustee's sale; (2) is the subject of a pending tax assessor's lien sale; (3) 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; (4) has been transferred under a deed in lieu of foreclosure/sale or (5) is subject to a contract forfeiture.
2. "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, but are not limited to, overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk, and/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, and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation.
3. "Lender" means any person who makes, extends, or holds a real estate loan agreement and includes, but is not limited to, mortgagees; beneficiaries under deeds of trust; underwriters under deeds of trust; vendors under conditional land sales contracts; trustees and a successor in interest to any mortgagee, beneficiary, vendor or trustee and any other lien holder on the property. The term also includes any mortgagee, beneficiary or trustee that accepts a deed in lieu of foreclosure.
4. "Owner" means any natural person, partnership, association, corporation or other entity having legal title in real property including any borrower.

5. "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.
6. "Responsible party" means any person, partnership, association, corporation, or fiduciary having legal or equitable title to or any interest in any real property, including but not limited to an owner, borrower, and lender as defined in this section.

C. Registration of Abandoned Properties.

The lenders or other responsible parties of real property which has been abandoned shall register that property with the City of Spokane Department of Building Services within thirty (30) day of the property becoming abandoned or of receiving notice from the City of the requirements of this section. The content of the registration shall include:

1. Proof of ownership, or financial interest, such as a lien or loan,
2. The name and contact information of the owner, lender or responsible party or the agent of the respective entity;
3. The name and contact information for the local property manager responsible for maintaining the property; and
4. Documentation which demonstrates the property is vacant, foreclosed, pending foreclosure, or subject to foreclosure, trustee's sale, tax assessor's lien sale or other legal proceedings.

D. Minimum Property Maintenance Requirements.

The lender or responsible party shall be required to:

1. maintain and keep properties free of conditions including, but not limited to:
 - a. weeds, dry brush, dead vegetation, trash, junk, debris, building materials and junk vehicles,
 - b. accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law), and discarded personal items including, but not limited to, furniture, clothing, or large and small appliances, and
 - c. graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches and/or coordinates with the color of the exterior of the structure,
2. secure ponds, pools and hot tubs and ensure that they do not become a public nuisance,
3. secure the property to prevent access by unauthorized persons, including, but not limited to, 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(s). Securing also includes boarding as applicable. Material used for boarding shall be painted with an exterior grade paint that matches and/or coordinates with the color of the exterior of the structure,

4. take any other action necessary to prevent giving the appearance that the property is abandoned, and
5. monitor property as necessary to prevent the creation of a nuisance.

E. City Monitoring of Property.

Upon registration, the City will provide regular monitoring of the property including, but not limited to, periodic site visitation, which will not exceed the City's rights of access as well as notification to lender or responsible party if the property begins to exhibit characteristics established in RCW 35.80.010. The City's monitoring of the property does not relieve the lender or other responsible party from monitoring the property under subsection D.

F. Waiver for City to Abatement – Trespass of Unauthorized Individuals.

As part of the property registration, the lender or responsible party may waive any objection to the City to enter onto the property for purposes of abating a condition that would constitute an unfit or substandard building as established in RCW 35.80.010. The cost of the abatement shall be charged against the property pursuant to SMC 8.02.067. The City shall notify the owner, lender or responsible party five days prior to the City taking abatement action in order to allow the owner, lender or responsible party to abate the condition first unless such abatement constitutes an emergency and must be abated immediately.

The lender or responsible party shall provide written authorization to the police department to issue a trespass order against any unauthorized individual from the property.

G. Local Property Manager/Agent

The lender or responsible party shall provide the City with the name and contact information of the local property manager or agent who has the authority to act to respond to complaints regarding the property and to remedy any substandard or unfit conditions found on the property.

H. Annual Abandoned Property Registration Fee.

The lender or responsible party shall pay the annual abandoned property registration fee as set forth in SMC.8.02.069.

I. Building Official's Substandard or Unfit Building Declaration

If an abandoned property that has been properly registered with the Director of Building Services pursuant to this section is subsequently determined to be a substandard or unfit building by the Building Official pursuant to SMC 17F.070.400-.450, the abandoned property registration fee will not be imposed if the property is subject to the other fees set forth in SMC 8.02.067. If the property is removed from the Building Official's review agenda and the property is not occupied, the abandoned property registration shall be imposed.

J. Policies and Procedures

The City may develop policies to implement the procedure set forth above, which are consistent with and do not conflict with the provisions of this section, the Spokane Municipal Code, or the Revised Code of Washington.

K. Violation

Any person, firm or entity who fails to register an abandoned property pursuant to this section shall be subject to a class 1 civil infraction. Each day shall constitute a separate violation. Failure to maintain the property may result in the issuance of a criminal misdemeanor violation under SMC 10.08.030 for maintaining a nuisance property.

Section 2. That there is adopted a new section 8.02.0675 to chapter 8.02 of the Spokane Municipal Code to read as follows:

8.02.0675 Abandoned Property Registration Fee

There shall be a fee for an abandoned property registration under SMC 17F.070.520 in the amount of \$200.00.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date