

ORDINANCE NO. C-_____.

An ordinance relating to amendments to the abandoned property registration program in the city of Spokane; amending sections 08.02.0675 and 17F.07.520 of the Spokane Municipal Code.

Comment [BM1]: Title changed

WHEREAS, residential properties in various stages of the foreclosure process exist in several neighborhoods throughout the City of Spokane; and

WHEREAS, many of these properties are not adequately maintained by the owner or by the lender or loan servicer who is responsible for the property; and

WHEREAS, the City of Spokane's Comprehensive Plan emphasizes the importance of neighborhoods to the character, integrity, functionality, vibrancy, and resilience of our City and its people; and

WHEREAS, non-resident lenders and mortgagees may have little, if any, interest in preventing properties which are in a stage of mortgage default or the foreclosure process from becoming a focal point for crime, graffiti, deterioration, or from becoming a factor in the reduced property values of the adjacent properties; and

WHEREAS, to address this issue, the City Council in 2014 created an abandoned property registration program; and

WHEREAS, nationwide, cities are addressing the same issue, and in doing so, best practices have evolved; and

WHEREAS, The City Council now finds it necessary to the general welfare of the residents of the City to amend and strengthen the existing abandoned property registration program, to ensure that it keeps pace with nationally-evolving best practices.

NOW, THEREFORE, the City of Spokane does ordain:

Section 1. That section 17F.070.520 of the Spokane Municipal Code is amended to read as follows:

Section 17F.070.520 ((Abandoned Property)) Foreclosure Registration Program

Comment [BM2]: Title change throughout.

A. Purpose

Comment [BM3]: Stronger statement of purpose of registry.

It is the purpose and intent of this section to establish ((an)) a ((abandoned)) Foreclosure ((property)) 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)) the deterioration, crime, and decline in value in Spokane's neighborhoods caused by properties in various stages of the foreclosure process, and

to identify, regulate, limit, and reduce the number of those properties within the City of Spokane. ~~((This section requires))~~ It is the policy and intent of the City to establish a requirement that the lender or other responsible ((parties)) party(ies) of properties that ((have been abandoned)) are in the foreclosure process to register those properties with the City as set forth in this section in order to protect the neighborhoods from the negative impacts of absentee ownership and lack of adequate maintenance and security for properties in the foreclosure process.

B. Definitions

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

1. "Abatement Order" means an appealable order, supported by specific factual findings, issued by the Office of Neighborhood Services and Code Enforcement which directs the Owner of a Foreclosure Property to take certain specific steps, within a specific period of time, to ensure that the relevant property is in compliance with this section.
2. ~~((("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. Property acquired by Spokane County at a tax foreclosure sale under chapter 84.64 RCW is not to be included within the definition of "Abandoned Property".))~~
3. "Enforcement Officer" means the Director of the Office of Neighborhood Services and Code Enforcement or its designee.
4. "Evidence of ((Vacancy)) Foreclosure Status" 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)) a Foreclosure Property. 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)) in foreclosure; the presence of boards over doors, windows or other openings in violation of applicable building code; 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.
5. "Foreclosure" means the legal processes described in Title 61, Revised Code of Washington, in which a mortgagee or other lien holder terminates a property owner's equitable right of redemption to obtain

Comment [BM4]: Clarifies enforcement officer.

Comment [BM5]: Vacancy no longer an element of registrability.

legal and equitable title to the real property pledged as security for a debt or the real property subject to the lien. For purposes of this section, the foreclosure process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title or other means, is sold to a non-related, bona fide purchaser in an arms'-length transaction to satisfy the debt or lien.

6. "Foreclosure Property" means a property that is (1) under a current notice of default and/or notice of trustee's sale; (2) the subject of a pending tax assessor's lien sale; (3) the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; (4) a property title to which has been transferred under a deed in lieu of foreclosure/sale, or (5) subject to a contract forfeiture. Property acquired by Spokane County at a tax foreclosure sale under chapter 84.64 RCW is not "Foreclosure Property" within the meaning of this section. For purposes of this section, a property remains a Foreclosure Property until it is sold at an arms'-length transaction to a non-related bona fide purchaser or until the foreclosure action has been dismissed and any default has been cured.
7. "Lender" means any person who makes, extends, ((or)) holds, or services 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.
8. "Local Agent" means an individual property manager, property management company, or similar person or entity, located in Spokane County and responsible for, having the authority to make decisions and required expenditures concerning, the maintenance and security of a Foreclosure Property and the abatement of nuisance conditions at the property.
9. "Owner" means any individual or group of natural ((person)) persons, partnership, association, corporation or other entity having legal or beneficial title in real property including any borrower.
10. "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.
11. "Responsible ((party)) 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.

Comment [BM6]: More specific definition of registrable properties.

Comment [BM7]: Includes loan servicers.

Comment [BM8]: Local responsible person added.

C. Establishment of a Registry

Comment [BM9]: Establishes registry.

The Office of Neighborhood Services and Code Enforcement shall establish and maintain a Foreclosure Property Registry to implement the terms of this section.

D. Registration of ~~((Abandoned))~~ Foreclosure Properties.

1. Any Lender which holds or services a mortgage on real property located in the City of Spokane shall inspect the property upon mortgage default.
2. The Enforcement Officer can also initiate the registration process.
3. ~~((The))~~ Any ~~((lenders))~~ Lender or other ~~((responsible parties))~~ Responsible Party(ies) of ~~((real property which has been abandoned))~~ a Foreclosure Property as defined in this section shall register that property with the City of Spokane ~~((Department of Building Services))~~ Office of Neighborhood Services and Code Enforcement within ~~((thirty (30)))~~ ten (10) ~~((day))~~ days of the property becoming ~~((abandoned))~~ a Foreclosure Property within the meaning of this section and initial inspection or of receiving notice from the City of the requirements of this section, and every 12 months thereafter until the property is no longer a Foreclosure Property within the meaning of this section. A separate registration is required for each property.
4. The content of the registration shall include:
 - a. Proof of ownership, or financial interest, such as a lien or loan,
 - b. The name, address, phone number, and email address for ~~((and contact information of))~~ the ~~((owner))~~ Owner, ~~((lender))~~ Lender, ~~((or))~~ ~~((responsible party))~~ and Responsible Party ~~((or the))~~ and twenty-four hour contact phone number of the Local ~~((agent))~~ Agent of the respective entity; and
 - c. ~~((The name and contact information for the local property manager responsible for maintaining the property; and))~~
 - d. 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.
5. The Lender, Owner, or Responsible Party shall notify the Enforcement Officer within ten (10) days of the date of any change in the information contained in the registration.
6. Mortgagees who have existing Foreclosure Properties on the effective date of this ordinance have 30 calendar days from the effective date to register the property with City of Spokane Office of Neighborhood Services and Code Enforcement. A separate registration is required for each property.
7. All property registrations are valid for one year from the date of entry of registration as recorded by Office of Neighborhood Services and Code Enforcement. Subsequent registrations are due every twelve (12) months thereafter for renewal and must certify required registration data is current and correct.

Comment [BM10]: Inspection required upon mortgage default.

Comment [BM11]: City can also start registration process.

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Comment [BM12]: Clarifies that properties stay on the registry until they meet requirements for coming off.

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E. Minimum Property Maintenance Requirements.

While a Foreclosure Property is registered, ~~((The lender))~~ the Lender or ~~((responsible party))~~ Responsible Party shall be required to:

1. maintain and keep Foreclosure ~~((properties))~~ Property 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 Foreclosure ~~((property))~~ 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. Preferred ~~((Material-used))~~ material for boarding shall be painted with an exterior grade paint that matches and/or coordinates with the color of the exterior of the structure, or is of a material that mimics glazed windows and intact doors.
4. Post the property with no trespassing signs and current emergency contact information for the local agent.
5. take any other action necessary to prevent giving the appearance that the property is abandoned, and
6. monitor the Foreclosure ~~((property))~~ Property monthly or more frequently as necessary to prevent the creation of a nuisance.

Comment [BM13]: Public posting of the property required.

F. ~~((City))~~ Monitoring of Foreclosure Property.

1. Upon registration, the City will provide regular monitoring of ~~((the))~~ Foreclosure ~~((property))~~ Properties including, but not limited to, periodic site visitation, which will not exceed the City's rights of access as well as notification to ~~((lender))~~ Lender or ~~((responsible party))~~ Responsible Party if the property begins to exhibit characteristics established in RCW 35.80.010. The City's monitoring of ~~((the))~~ Foreclosure ~~((property))~~ Properties does not relieve the ~~((lender))~~ Lender or other ~~((responsible party))~~ Responsible Party from monitoring and maintaining the property ~~((under subsection D))~~ as required by this section.

2. At least monthly while a Foreclosure Property is registered, the Lender or Responsible Party shall inspect the Foreclosure Property.

Comment [BM14]: Monthly inspection of property required.

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

1. As part of the Foreclosure ((property)) Property registration, the Owner((lender)), Lender, Local Agent,((or responsible party)), Responsible Party, or other person having the legal authority to do so ((may)) shall waive any objection to the City to enter onto the property for purposes of abating ((a)) any condition that would constitute an unfit or substandard building as established in RCW 35.80.010, nuisance condition under SMC 10.08.010 Litter, SMC 10.08.030 Nuisance, SMC 10.10 Graffiti, 10.16 Junk Vehicle, and to issue a trespass order against any unauthorized individual from the Foreclosure Property.
2. The City shall notify the ((owner)) Owner, ((lender)) Lender, ((or responsible party)), Responsible Party, or Local Agent ((five)) ten (10) days prior to the City taking abatement action in order to allow the ((owner)) Owner, ((lender)) Lender, ((or responsible party)), Responsible Party, or Local Agent to abate the condition first unless such abatement constitutes an emergency ((and)), in which case, the City may abate the emergency ((must be abated)) immediately.
3. The cost of the abatement of any of the illustrative conditions contained in paragraph E above shall be charged against the Foreclosure ((property)) Property pursuant to SMC 08.02.067 and shall be lienable pursuant to SMC 17F.070.500 and other applicable sections of the municipal code pursuant to state law.

Comment [BM15]: Better list of unlawful conditions and ensures abatement costs can become a lien on the property.

~~((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.))~~

H. Local ((Property Manager/))Agent

The ~~((lender)) Lender or ((responsible party)) Responsible Party~~ shall provide the City with the name, address, telephone number, email address and 24-hour contact information ~~((and contact information))~~ of ~~((the)) a Local ((local property manager or agent)) Agent~~ who has the authority to act to respond to complaints regarding the Foreclosure ~~((property)) Property~~ and to remedy any nuisance, substandard or unfit conditions found on the property.

I. Annual ((Abandoned)) Foreclosure Property Registration Fee.

The ~~((lender)) Lender or ((responsible party)) Responsible Party~~ shall pay the annual non-refundable~~((abandoned)) Foreclosure ((property)) Property~~ registration fee as set forth in SMC ~~((8.02.069))08.02.0675~~.

J. ~~((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))Office of Neighborhood Services and Code Enforcement shall ((may)) develop ((policies)) procedures to implement ((the procedure set forth above,)) this section which are consistent with and do not conflict with ((the provisions of-))this section, the Spokane Municipal Code, or ((the Revised Code of-))Washington law.

K. Violation

2. Any person, firm or entity who fails to register ((an abandoned property)) a Foreclosure Property pursuant to the requirements of this section shall be subject to a class 1 civil infraction. Each day in which a Foreclosure Property which is subject to this section is not registered shall constitute a separate violation.
3. Failure to maintain ((the)) a Foreclosure Property ((property)) as required by this section is ((result in the issuance of)) a criminal misdemeanor violation under SMC 10.08.030 for maintaining a nuisance property in addition to applicable penalties for nuisance conditions in the municipal code or state law.
4. Failure to provide notification of changes in ownership of a Foreclosure Property under this section is a class 1 civil infraction.

L. Removal of properties from the registry

1. A property may only be removed from the Foreclosure Property registry upon the Lender's, Owner's, or Responsible Party's written certification that (1) the mortgage or lien on the property has been satisfied or legally discharged, (2) the property is no longer in mortgage default, or (3) the Foreclosure Property has been sold to a non-related party in a bona-fide, arms' length transaction.
2. A Lender's statement that it no longer desires to pursue foreclosure, has filed a dismissal of lis pendens and/or summary of final judgment and/or certificate of title or otherwise, such as deed in lieu of foreclosure shall not be the basis for removal of a Foreclosure Property from the registry under this section.
3. For purposes of this section, a transfer to another entity which is under common ownership with the Lender, as determined in the sole discretion of the Office of Neighborhood Services and Code Enforcement, is not an arms' length transaction.

Comment [BM16]: Specific removal conditions.

M. Transfer of Ownership

1. If the mortgage on a registered Foreclosure Property is transferred, the transferee shall be subject to the requirements of this section and shall, within five (5) days of the transfer of the mortgage, register the property as a new registration in accordance with this section. Any previously unpaid registration fees are the responsibility of the transferee and are due and payable upon the new registration.
2. If the mortgagee sells a Foreclosure Property in an arms'-length transaction to a non-related person or entity, the transferee is subject to the terms of this section and shall register the property as a new registration under this section within five (5) days of the sale. Any previously unpaid registration fees shall be the responsibility of the new owner.

Section 2. That section 08.02.0675 of the Spokane Municipal Code is amended to read as follows:

Section 08.02.0675 Annual Foreclosure ~~((Abandoned))~~ Property Registration Fee

There shall be ~~((an))~~ a non-refundable annual fee for ~~((an abandoned property))~~ registration of a Foreclosure Property registration under SMC 17F.070.520 in the amount of ~~((two hundred dollars (\$200.00)))~~ three hundred fifty dollars (\$350.00).

Comment [BM17]: Enhanced fee.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

DRAFT