

**ORDINANCE NO. 16-09**

**CITY OF BEAVERCREEK**

SPONSORED BY COUNCIL MEMBER WALLACE ON THE 23<sup>RD</sup> DAY OF MAY, 2016.

**AN ORDINANCE ADOPTING NEW CHAPTER 98 “REGISTRATION OF ABANDONED FORECLOSURES AND VACANT PROPERTIES” OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES.**

**WHEREAS**, the City Council has determined that it would be in the best interest of the City to add a new Chapter to Title IX “General Regulations” to require the registration of abandoned foreclosures and vacant properties.

**NOW, THEREFORE, THE CITY OF BEAVERCREEK, HEREBY ORDAINS:**

SECTION I.

Chapter 98 entitled “Registration of Abandoned Foreclosures & Vacant Properties” is hereby enacted as shown in the document attached to this Ordinance as Exhibit “A”.

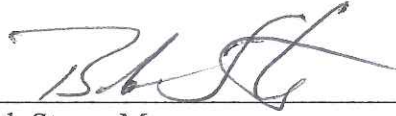
SECTION II.

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION III.

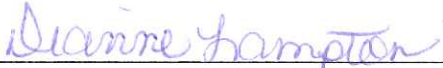
This Ordinance shall take effect at the earliest date allowed by law.

PASSED this 27<sup>th</sup> day of June, 2016.



Bob Stone, Mayor

ATTEST:



CLERK OF BEAVERCREEK COUNCIL

PREPARED BY: CITY ATTORNEY

**SUMMARY**

THIS ORDINANCE ADOPTS NEW CHAPTER 98 "REGISTRATION OF ABANDONED FORECLOSURES & VACANT PROPERTIES" OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES. THIS IS NOT AN EMERGENCY ORDINANCE AND WILL BECOME EFFECTIVE THIRTY (30) DAYS AFTER PASSAGE.

# REGISTRATION OF ABANDONED FORECLOSURES & VACANT PROPERTIES

## 98.01 PURPOSE.

The purpose of this chapter is to establish a registration program as a means to identify and regulate abandoned foreclosures and vacant properties within the City of Beavercreek. Furthermore, the intent of the registration program is to provide a mechanism to protect and preserve neighborhoods within the City from becoming unsightly and blighted due to the lack of adequate maintenance of abandoned foreclosures and vacant properties.

## 98.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:

**ABANDONED FORECLOSURE[S].** Any property that is vacant and meets one or more of the following criteria:

1. is under a current notice of default with any foreclosing entity and/or notice of trustee's sale;
2. is subject to a current foreclosure action;
3. a finding of foreclosure has been issued relative to the property;
4. has been the subject of a foreclosure where the title was retained by the beneficiary of a deed of trust involved in the foreclosure;
5. is owned by a foreclosing entity; or
6. has been transferred via a deed in lieu of foreclosure

**FORECLOSING ENTITY.** An entity holding a note secured by a mortgage, an entity holding a lien recorded with Greene County Recorder's Office, a non-government entity that holds an interest in delinquent property taxes, an entity that takes property via a deed in lieu of foreclosure, an entity that has purchased a property from a sheriff's sale, a government entity that accepts property as a result of a government insured mortgage or loan.

**OWNER.** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**PROPERTY[IES].** Any unimproved or improved real property or portion thereof, situated in the City including any house, building or other structure that may be located on the property regardless of condition.

**VACANT.** Any property, building or structure, or any part thereof, where no person actually and lawfully resides or where no business is being lawfully operated.

## 98.03 APPLICABILITY.

The requirements and penalties in this chapter are in addition to, and shall not be considered in conflict with any and all other requirements of the City of Beavercreek Codified Ordinances. Nothing within this chapter shall be construed to limit the foreclosing entity or the owner of vacant property to comply with and adhere to any and all building, housing, health, and zoning ordinances or any other local, state and federal laws.

#### **98.04 REGISTRATION REQUIREMENTS.**

(A) Abandoned Foreclosure. Any foreclosing entity that files a foreclosure action, accepts a deed in lieu of foreclosure, buys real property at a Sheriff Sale, or accepts property as a result of a government insured mortgage or loan shall, within ten (10) days after property becoming vacant, register the abandoned foreclosure with the City of Beavercreek Planning and Zoning Department.

(B) Vacant Property. Any owner of vacant property determined to be out of compliance with the City of Beavercreek Codified Ordinances and involved in an enforcement action by the City shall, within ten (10) days of the notice or order, register the vacant property with the City of Beavercreek Planning and Zoning Department. Registration shall not apply to abandoned foreclosure properties, except as required in part (A).

(C) Each property having a separate Parcel Identification Number, as designated in the official records of the Greene County Auditor, shall be registered separately on forms provided by the City of Beavercreek.

(D) It is the responsibility of the foreclosing entity or the owner of vacant property making the initial application for registration, and any subsequent applications for registration, to provide the following required information:

- (1) The direct name, mailing address, and telephone number of the foreclosing entity or owner of vacant property;
- (2) The name, address, telephone number and email address of an authorized agent for the foreclosing entity or owner of vacant property to receive notices of code violations, to receive process in any court and to receive notice of enforcement proceedings in connection with the enforcement of this chapter;
- (3) The name, address, email address and a twenty-four (24) hour contact telephone number of the local property maintenance company responsible for the security and maintenance of the property.

(E) The registration of the property shall remain valid for twelve (12) months. Upon the expiration of the registration period, the foreclosing entity or the owner of vacant property shall complete another application to renew the registration of the property and pay an additional registration fee. The property registration requirement shall remain until the property is legally occupied; the foreclosure action has been dismissed; the property is purchased and the deed transferred into the new owner's name; or, except for an abandoned foreclosure, the property has been maintained in compliance for two consecutive years.

(F) Any person, firm, partnership, co-partnership, association, fiduciary, beneficiary, lender, corporation or any legal entity that has registered a property under this chapter must report any change in registration information required by this chapter, within ten (10) days of the change.

(G) If an abandoned foreclosure or vacant property is identified and found not to be registered with the City as required by this chapter, orders will be issued requiring the property be registered.

#### **98.05 FEES.**

(A) All registration fees shall be paid as specified in the Planning and Zoning Department Fee Schedule for each property subject to the provisions of this chapter. Fees are non-refundable and shall not be prorated.

(B) All delinquent fees shall be paid by the foreclosing entity or owner of vacant property prior to any transfer of an ownership interest in the property.

**98.06 EVIDENCE OF VACANCY.**

A structure or property will be presumed vacant when 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 include, but are not limited to: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past due utility notices or disconnection of utilities; accumulation of trash, junk or debris; the absence of window coverings such as curtains, blinds or shutters; the absence of furnishings or personal items; statements based on observations by neighbors, passersby, delivery agents or government employees that the property is vacant.

**98.07 INSPECTION REQUIREMENTS.**

Upon registration, an exterior property maintenance inspection shall be scheduled with the Code Enforcement Officer. A notice of violation or orders to correct may be issued for any violations of the City of Beavercreek Codified Ordinances identified during an inspection. Additionally, express authorization shall be provided for City employees, and contractors designated by the City, to enter upon the property for the purpose of ensuring compliance with this chapter. Regular inspections of the property must be performed by the foreclosing entity or owner of vacant property, or designated agent, to ensure compliance with this chapter and other applicable laws.

**98.08 MAINTENANCE REQUIREMENTS.**

Properties subject to this chapter shall be maintained in a safe and sanitary manner, in accordance with the City of Beavercreek Codified Ordinances including, but not limited to:

- (a) Being kept free of overgrown vegetation, including grass and weeds exceeding ten inches in height;
- (b) Being kept free of any accumulation of newspapers, circulars, flyers, trash, junk, debris, building materials, discarded personal items, furniture, appliances or any other issue that gives the appearance of vacancy;
- (c) Being kept free of graffiti, tagging or similar markings; and
- (d) Swimming pools, spas and ponds maintained in a sanitary condition and in compliance with the City's barrier requirements.

**98.09 SECURITY REQUIREMENTS.**

Properties subject to this chapter shall be maintained in a secure manner, as required in the City of Beavercreek Property Maintenance Code, so as not to be accessible to any unauthorized persons. Secure manner includes, but not limited to;

- (a) Closure and locking of windows, doors, gates and any other opening that may allow unauthorized access to the interior of structure(s) and/or areas containing swimming pools; and
- (b) In the case of damaged or broken fences, gates, windows, doors and other openings, the unsecured opening must be repaired or properly boarded.

**98.10 ABATEMENT AND DEMOLITION**

Whenever a property is deemed abandoned or vacant pursuant to the terms of this chapter and is not maintained pursuant to the terms of this chapter and the City of Beavercreek Codified Ordinances, the Code Enforcement Officer may order the abatement of the violation or any other action that may be required including, but not limited to, demolition. Any abatement action shall be conducted in accordance with the City of Beavercreek Codified Ordinances. The cost of any action taken by the City shall be charged against the real estate upon which the structure or violation is located and shall be a lien upon such real estate.

**98.11 APPEALS.**

Any person directly affected by a decision, notice or order issued under this chapter shall have the right to appeal to the Board of Zoning Appeals, provided that a written application for appeal and fee is submitted within fifteen (15) days from the date of the notice or order. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply, or the requirements of this chapter are adequately satisfied by other means. Appeals heard by the Board of Zoning Appeals shall be submitted on forms provided by the City.

**98.12 JOINT AND SEVERAL LIABILITY.**

Any owner, person in control, foreclosing entity, or subsequent owner of property for which a notice of violation is issued to correct violations shall be jointly and severally liable for the costs incurred by the city for the abatement of violations on the property. Joint and several liability shall be attributed to each entity in the chain of title from the date of issuance of orders forward.

**98.13 SEVERABILITY.**

If a section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

**98.99 PENALTY.**

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor and the violation shall be deemed a strict liability offense. Each day that a violation continues shall constitute a separate offense.