

ORDINANCE NO. 655

AN ORDINANCE ADDING CHAPTER 95, REGISTRATION OF VACANT PROPERTY, TO TITLE IX OF THE WILLAMINA MUNICIPAL CODE; AND DECLARING AN EMERGENCY

WHEREAS, the City of Willamina has adopted a Code of Ordinances (hereinafter called "Code"); and

WHEREAS, the City Council wishes to add procedures for registration of vacant properties and assign certain responsibilities for maintenance and security of them to current owners/lenders as permitted by Oregon statutes;

NOW THEREFORE THE CITY OF WILLAMINA ORDAINS AS FOLLOWS:

Section 1. THAT Exhibit A, attached hereto and made a part hereof) is hereby adopted and shall be added to Title IX of the Willamina Municipal Code as new Chapter 95, "Vacant Property Registration;" and

Section 2. THAT It being necessary for the peace, health and safety of the citizens of Willamina that the ordinance be in effect immediately because of the condition of the houses and properties affected by these procedures, therefore an emergency is declared to exist and this ordinance shall be in full force and effect upon its passage by the Council.

First Reading: 04/10/14 Second Reading: 04/10/14

PASSED AND ADOPTED ON SECOND READING BY THE CITY COUNCIL OF THE CITY OF WILLAMINA this 10th day of April, 2014, by the following vote and effective immediately upon adoption.

YEAS	<u>BALLER, BRAMALL, HILL, ST ONGE, VINSON</u>
NAYS	<u>NONE</u>
ABSTAIN	<u>NONE</u>
ABSENT	<u>NONE</u>


Corey L Adams, Mayor

ATTEST:

Sue C Hollis, City Recorder



Attachment - EXHIBIT A

CHAPTER 95: REGISTRATION OF VACANT PROPERTY

Section

95.01 Definitions
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95.01 Definitions

The following terms as used in this chapter shall mean:

- (A) **Abandoned Residential Property.** Means either:
 - (1) Residential property that is both vacant and subject to either a pending judicial execution sale under ORS 18.901 et seq., or to nonjudicial foreclosure pursuant to ORS 86.740 to 86.755; or
 - (2) Residential property that is both vacant and was the subject of either a judicial execution sale under ORS 18.901 et seq., or nonjudicial foreclosure pursuant to ORS 86.740 to 86.755 where legal title is retained by the beneficiary(ies) of a foreclosed trust deed or was otherwise transferred to beneficiary(ies) pursuant to a deed in-lieu of foreclosure.
- (B) **Foreclosed Residential Property.** Means residential property an owner obtains as a result of:
 - (1) Foreclosing a trust deed on the residential property;
 - (2) Obtaining a judgment foreclosing a lien on the residential property;
 - (3) Purchasing the residential property at a trustee’s sale or a sheriff’s sale; or
 - (4) Accepting a deed in lieu of foreclosure.
- (C) **Local.** Means having a principal place of business in Polk or Yamhill County.
- (D) **Owner.** Means any natural person, partnership, association, corporation or other entity identified as having or claiming a lien interest either as a mortgagee under a mortgage or as a trustee or beneficiary under a trust deed in abandoned residential property or vacant foreclosed residential property.
- (E) **Residential property.** Means property as defined in ORS 18.901.

- (F) **Vacant.** Means condition(s) indicative of residential property being uninhabited, vacant or abandoned, including but not limited to:
- (1) Overgrown and/or dead vegetation at the property;
 - (2) Accumulation of newspapers, circulars, flyers and/or mail;
 - (3) Accumulation of trash, junk and/or debris;
 - (4) Absence of typical household furnishing consistent with active residential habitation; and/or
 - (5) Statements by neighbors, delivery agents, government employees or others reasonably familiar with the property that the property is uninhabited or vacant.

95.02 Owner's Obligation All owners of abandoned residential property and vacant foreclosed residential property are obligated to continuously comply with the registration, security, maintenance and inspection requirements imposed by this chapter.

95.03 Registration Requirements

- (A) **When Registration is Required.** An owner will register residential property with the Willamina Code Enforcement Officer or his/her designee in the event:
- (1) Of an anticipated judicial foreclosure of the property, no earlier than the commencement of any of the actions described by ORS 18.904, 18.906, 18.908 and not later than the date first set for the execution sale described in ORS 18.930;
 - (2) Of an anticipated nonjudicial foreclosure of the property done pursuant to ORS 86.740 to 86.755 not later than the date of service or mailing of the notice of sale described in ORS 86.740; or
 - (3) An owner receives written notice from the Code Enforcement Officer or designee that he/she believes the residential property is vacant.
- (B) **Registration Form.** Each registration shall be on a form approved by the City Recorder and shall be available at Willamina City Hall during normal business hours (typically 8 am to 5 pm weekdays) or online at the City's website (www.willaminaoregon.gov). The form shall contain, at a minimum, the following:

- (1) The name of the trustee or mortgagee;
 - (2) The name of the beneficiary (if different under the trust deed);
 - (3) The street/office mailing address(es) of the trustee/mortgagee and, if there is one, the beneficiary under the deed. Post office boxes may be included, but may not be used in lieu of a street/office address;
 - (4) The name, mailing address and contact information of a local individual or local entity charged with responsibility by the trustee, mortgagee and/or beneficiary for ensuring compliance with the obligations of this chapter, including security, maintenance and marketing of the property, if applicable; and
 - (5) The physical address for the trustee or mortgagee's agent authorized to receive service of process, if applicable.
- (C) **Registration Fee.** No registration fee shall be imposed.
- (D) **Posting of Information Required.** Properties subject to this chapter shall be continuously posted with a notice measuring 18" x 24" listing the name and 24 hour contact information of the local individual or entity identified in the city registration form along with the following phrases completed with the appropriate identification and contact information:

This property managed by: _____

To report problems or concerns call: _____

The notice must be placed on the interior of a window facing the street to the front of the property so that it is visible from the street. If no such area exists then the notice must be placed on the exterior of the property in a location visible from the street to the front of the property. An exterior posting shall be constructed of, and printed with, weather resistant materials.

- (E) **Notice of Changes.** An owner that has registered a property under this chapter must report any change of information contained in the registration to the Code Enforcement Officer within ten (10) business days of the change, including but not limited to any change in ownership.

95.04 Maintenance Requirements. An owner shall maintain properties subject to this section.

Maintenance includes, at a minimum, the following:

- (A) **Compliance with Willamina Code Sections 93.06 and 93.07.** Ensuring that the condition of the subject property does not, in the opinion of the Code Enforcement Officer or his/her designee, constitute a public nuisance or a chronic public nuisance as described in Willamina Code sections 93.06 and 93.07.
- (B) **Property Required to be Maintained in General Kempt Condition.** The owner of the property determined to be registered as abandoned or vacant foreclosed property shall cause the property to be maintained in a general kempt condition typically found on the surrounding property, and free of weeds, dead vegetation, graffiti, trash, accumulated newspapers, circulars, flyers, discarded personal items and other items/conditions that (with the exception of the information required to be posted pursuant to section 95.03(D) of this chapter) give the appearance of the property is vacant or removal of all trimmings, as applicable, to the property.
- (C) **Maintenance of Pools and Spas.** Pools and spas shall be kept in working order, so that water remains clear and free of pollutants and debris, or drained and kept covered. In either case, subject properties with pools or spas shall comply with the City's minimum security fencing requirements set forth in Appendix G, Oregon Residential Specialty Code.
- (D) **Requirements for Non-Local Lenders.** If the property is owned by a non-local owner, the owner will contract with a local property management company to perform at least monthly inspections to verify the requirements of this section and any other applicable laws, are being met. The property management company shall post a sign in accordance with Section 95.03(C).
- (E) **Deed Covenants, Conditions and Restrictions.** Adherence to this chapter does not relieve a person subject to it from any obligations set forth in any covenants, conditions and restrictions that may also apply to the subject property.

95.05 Security Requirements. The owner shall maintain a property subject to this chapter in a secure manner so as not to be accessible to unauthorized persons, including but not limited to the securing of windows, doors, gates, and any other opening of such size that may allow a person to access the interior of the property. Broken windows shall be boarded or reglazed. If the property is owned by a non-local owner, a local property management

company shall be contracted to perform at least monthly inspections to verify the requirements of this section in accordance with section 95.04(D).

95.06 Authority to Require Additional Maintenance and/or Security. The Code Enforcement Officer or designee shall have the authority to require the owner to implement any additional maintenance and/or security measures including, but not limited to:

- (1) Installation of additional lighting;
- (2) Increasing on-site inspection frequency;
- (3) Employment of an on-site security guard; and 4) Any other measures as may be reasonably required to prevent the decline of the property.

95.07 Appeal of Additional Maintenance or Security Requirements.

- (A) An owner that is required to implement additional maintenance or security measures as provided for in Section 95.06 shall have the right to appeal to the City Council by filing with the City Recorder a written statement which shall specify the basis for the appeal within ten (10) business days after receiving notice from the Code Enforcement Officer or his/her designee requiring additional maintenance or security measures.
- (B) The statement shall be referred to the Council as a part of the Council's regular agenda at its next succeeding meeting. At the time set for the consideration of the appeal, the person may appear and be heard by the Council, and the Council shall thereupon determine whether to uphold or deny the appeal and the determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a timely written statement has been filed as provided herein.
- (C) Upon Council determination to deny an appeal, the person in charge of the property shall, within ten (10) business days, comply with the request of the Code Enforcement Officer or his/her designee for additional maintenance or security of the subject property.

95.08 Violation/Penalty.

- (A)** Violations of this chapter of the Municipal Code may be punishable by a fine not to exceed \$300 for each offense, and not less than \$300 for each subsequent cited violation.
- (B)** Each day's violation of a provision of this section shall constitute a separate offense.
- (C)** Citations for violation of any provisions of this section of the Municipal Code may be mailed by first class mail to the lender or lender's registered agent.
- (D)** Fines assessed by the Willamina Municipal Court on Citations for violations of this Chapter of the Municipal Code that are not paid within thirty (30) days may result in a lien being placed on the property.