



Town of Camden

P.O. DRAWER 1002
CAMDEN, DELAWARE 19934

Mayor Robert A. Mooney
Town Manager Donald H. Mulrine, Jr.

Ordinance #2008-O-18

ORDINANCE OF THE TOWN OF CAMDEN REQUIRING THE REGISTRATION OF ABANDONED RESIDENTIAL PROPERTIES

1. RECITALS

WHEREAS, the presence of vacant, abandoned residences can lead to neighborhood decline; and

WHEREAS, the presence of vacant, abandoned residences can create an unattractive public nuisance; and

WHEREAS, the presence of vacant, abandoned residences can contribute to lower property values; and

WHEREAS, the presence of vacant, abandoned residences can discourage potential buyers from purchasing a home adjacent to or in neighborhoods with vacant abandoned residences; and

WHEREAS, many vacant abandoned residences are the responsibility of out of area, out of state lenders and trustees; and

WHEREAS, in many instances the lenders and trustees fail to adequately maintain and secure these vacant residences; and

WHEREAS, the Town of Camden has an obligation to protect its residential neighborhoods from decline and devaluation; and

NOW, THEREFORE, THE MAYOR AND COUNCIL of the Town of Camden does hereby ordain as follows:

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The proposed Vacant Abandoned Residential Property Registration Ordinance be enacted as follows:

MAINTENANCE RESPONSIBILITY FOR ABANDONED RESIDENTIAL PROPERTY

SECTION 1 PURPOSE/SCOPE

It is the purpose and intent of the Town of Camden Mayor and Council, through the adoption of this ordinance, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

SECTION 2 DEFINITIONS

For the purposes of this section, certain words and phrases used in this section are defined as follows:

"Abandoned" means a property that is vacant and is under a current "Notice of Default and/or Notice of Trustee's Sale", pending Tax Assessors Lien Sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

"Accessible property" means a property that is accessible through a compromised/breached gate, fence, wall etc.

"Accessible structure" means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

"Agreement" means any agreement or written instrument, which provides that title to residential property, shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.

"Assignment of Rents" means an instrument that transfers the beneficial interest under a mortgage from one lender/entity to another.

"Beneficiary" means a lender under a note secured by a mortgage.

"Buyer" means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

"Dangerous building" means any building/structure that is violation of any condition referenced in Ordinances #88, #2008-O-08 and #2008-O-16.

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"Days" means consecutive calendar days.

"Deed in lieu of foreclosure/sale" means a recorded document that transfers ownership of a property from the trustor to the holder of a mortgage upon consent of the beneficiary of the mortgage.

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

"Distressed" means a property that is under a current Notice of Default and/or Notice of Trustee's Sale and/or pending Tax Assessor's Lien Sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a Deed in lieu of Foreclosure/sale.

"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. 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, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

"Foreclosure" means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.

"Local" means within forty (40) road/driving miles distance of the *subject property*.

"Mortgage" means an instrument by which title to real estate is encumbered in favor of a third party as security for a real estate loan.

"Neighborhood standard" means those conditions that are present on a simple majority of properties within a three hundred (300) foot radius of an individual property. A property that is the *subject of* a neighborhood standard comparison, or any other abandoned property within the three hundred (300) foot radius, shall not be counted toward the simple majority.

"Notice of Default" means a recorded notice that a default has occurred under a mortgage and that the beneficiary intends to proceed with a trustee's sale.

"Out of area" means in excess of forty (40) road/driving miles distance of the subject property.

"Owner" means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

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"Owner of record" means the person having recorded title to the property at any given point in time the record is provided by the Kent County Recorder's Office.

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

"Residential building" means any improved real property, or portion thereof, situated in the Town of Camden, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as "residential" whether or not it is legally permitted and/or zoned for such use.

"Securing" means such measures as may be directed by the Land Use Administrator and/or Code Enforcement Officer or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/pad locking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

"Trustee" means the person, firm or corporation holding a Mortgage on a property.

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

"Vacant" means a building/structure that is not legally occupied.

SECTION 3 REGISTRATION

Any beneficiary/trustee, who holds a mortgage on a property located within the Town of Camden shall perform an inspection of the property that is the security for the mortgage, upon default by the trustor, prior to recording a Notice of Default with the Town of Camden. If the property is found to be vacant or shows evidence of vacancy, it is, by this ordinance, deemed abandoned and the beneficiary/trustee shall, within ten (10) days of the inspection, register the property with the Land Use Administrator and/or Code Enforcement Officer or his or her designee on forms provided by the Town of Camden.

If the property is occupied but remains in default it shall be inspected by the beneficiary/trustee, or his designee, monthly until 1) The trustor or other party remedies the default or 2) It is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within ten (10) days of that inspection, register the property with the Land Use Administrator and/or Code Enforcement Officer or his/her designee on forms provided by the Town of Camden.

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In either case the registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/ trustee (no P. O. Boxes), a direct contact name and phone number for the beneficiary/trustee and, in the case of a corporation or out of area beneficiary/trustee, the local property management company responsible for the security, maintenance and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31 of the year due. The registration fee is \$250.00 per year and a business license is required of all contractors.

This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.

Any person, firm or corporation that has registered a property under this chapter must report any change of information contained in the registration within ten (10) days of the change.

SECTION 4 MAINTENANCE REQUIREMENTS

Properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, accept those required by federal, state or local law, discarded personal items including but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required.

Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation.

Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.

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Maintenance includes, but is not limited to regular watering, irrigation, cutting, pruning and mowing of required landscaped and removal of all trimmings.

Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the Town of Camden and Kent County, Delaware as well as all amended State of Delaware Code.

Adherence to this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any Covenants Conditions and Restrictions and/or Home Owner's Association rules and regulations which may apply to the property.

SECTION 5 SECURITY REQUIREMENTS

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes but is not limited to the closure and locking of windows, doors (walkthrough, sliding and garage) gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s). In the case of broken windows securing means the reglazing or boarding of the window.

If the property is owned by a corporation and/or out of area beneficiary/trustee/ owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

The property shall be posted with name and 24-hour contact phone number of the local property management company. The posting shall be no less than 18" X 24" and shall be of a font that is legible from a distance of forty-five (45) feet and shall contain along with the name and 24-hour contact number, the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL". The posting shall 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/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 visual 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.

The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter.

SECTION 6 CIVIL PENALTIES.

- (a) Except in cases where it is otherwise provided by law or by the Town of Camden charter, other provisions of this ordinance, any owner of a property who fails to comply with any of the provisions of this Ordinance or the rules and regulations of the Land Use Administrator and Code Enforcement officer, or who is the owner of the property on which such non-compliance exists, or who shall oppose or impede an officer or authorized agent or employee of the Land Use

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Administrator and Code Enforcement officer or the Department of Public Works in the execution of his duties under this Ordinance, shall be any citation issued for failure to comply with any provision of this Ordinance shall be mailed to the owner of the property that is the subject of the citation.

- (b) Pursuant to Title 25, Chapter 29 of the Delaware Code, any civil penalty imposed pursuant to this Ordinance shall give rise to a lien. Any unpaid amounts of such civil penalty shall be added to the Town of Camden property tax billings for the property which was the subject of the citation. Each 24-hour period that the condition giving rise to the initial citation continues will be subject to a separate citation and an additional civil penalty in the amount of \$50.00.
- (c) *Enforcement.* This Ordinance shall be enforced by the Land Use Administrator and Code Enforcement officer and the Department of Public Works, whose authorized agents and employees shall have the power to issue citations for failure to comply therewith.

SECTION 7 ADDITIONAL AUTHORITY

In addition to the enforcement remedies established in ordinance #88, #2008-O-08 and #2008-O-16, Land Use Administrator and/or Code Enforcement Officer or his or her designee shall have the authority to require the beneficiary/trustee/owner and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including but not limited to, securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

SECTION 8 FEES

The fee for registering an Abandoned Residential Property shall be set by this ordinance of the Town of Camden Mayor and Council.

SECTION 9 ENFORCEMENT

Violations of this ordinance may be enforced in any combination as allowed in ordinance #88, #2008-O-08 and #2008-O-16.

The following fees are on a property being foreclosed by an institute outlined in Section 2:

- \$300.00 First offense
- \$500.00 Second offense
- \$1,000.00 Third or subsequent offenses

SECTION 10 APPEALS

Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is allowed under Town of Camden Charter.

SECTION 11 VIOLATION/PENALTY

Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this section shall be subject to prosecution and/or administrative enforcement under ordinance #88, #2008-O-08 and #2008-O-16.

SECTION 12 SEVERABILITY

Should any provision, section, paragraph, sentence or word of this section be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

ENACTED AND ORDAINED THIS 6th DAY OF OCTOBER 2008.

APPROVED AS TO FORM:

Town Solicitor

Mayor Robert A. Mooney

Vice-Mayor James O. Plumley, III

Councilman Kenneth Fuchs

Councilman Richard Snyder

Councilman Mark Babbitt

ATTEST:

Town Manager

1st reading 9/8/08

2nd reading 10/6/08

Public Hearing 10/6/08

Adopted 10/6/08