

RECORD OF ORDINANCES

Ordinance No. 2012-7

Passed August 13, 2012

CITY OF BELLBROOK, OHIO

ORDINANCE NO. 2012-7

AN ORDINANCE AMENDING PART FOURTEEN, TITLE FOUR, BUILDING AND HOUSING CODE, OF THE BELLBROOK MUNICIPAL CODE TO ADD CHAPTER 1454 ABANDONED PROPERTIES REGISTRATION.

WHEREAS, properties within the City of Bellbrook that are abandoned may be deteriorating thereby resulting in a neighborhood blighting effect; and

WHEREAS, the stated purpose of the City's Existing Structures Code includes the establishment of minimum standards to govern the condition, maintenance and rehabilitation of all existing structures; and

WHEREAS, the City's Existing Structures Code also fixes certain responsibilities and duties of owners and occupants of structures; and

WHEREAS, requiring registration of abandoned properties within the City will allow the City to better monitor and address said properties and assist in enforcement of the City's Existing Structures Code.

NOW, THEREFORE, THE CITY OF BELLBROOK HEREBY ORDAINS:

Section 1. That Chapter 1454 of the Codified Ordinances of the City of Bellbrook, Ohio is hereby enacted as follows:

Chapter 1454 Registration of Abandoned Properties

§1454.01 PURPOSE.

The purpose of this chapter is to establish an abandoned properties program as a tool to protect and preserve our neighborhoods from becoming blighted through the lack of adequate maintenance and security concerns at abandoned structures. The City of Bellbrook believes the presence of abandoned properties can lead to neighborhood decline, create public nuisances, contribute to lower property values, and discourage potential buyers from purchasing a home in neighborhoods with abandoned properties.

§1454.02 DEFINITIONS.

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

(a) "Abandoned" means a property that is vacant and is under a current notice of default with any foreclosing entity and/or notice of trustee's sale, is subject to a current foreclosing action, a finding of foreclosure has been issued relative to the property, properties that have been subject of a foreclosure where the title was retained by the beneficiary of a deed of trust involved in the foreclosure, is pending

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tax assessor's lien sale, has been sold at a sheriff sale, is owned by a foreclosing entity, or has been transferred via a deed in lieu of foreclosure.

(b) "Accessible property" means a property that is accessible through a compromised or breached gate, fence, wall, or other opening providing access.

(c) "Accessible structure" means a house, building or other structure that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.

(d) "Boarding" means a method of securing an opening to prevent entry.

(e) "Buyer" means any person, partnership, co-partnership, association, corporation, fiduciary or other entity that agrees to transfer anything of value in consideration for property.

(f) "Deed in lieu of foreclosure" means a recorded document that transfers ownership of a property from the mortgagor to the mortgagee.

(g) "Default" means the failure to fulfill a contractual obligation, whether monetary or conditional.

(h) "Distressed" means a property that is the subject of a pending foreclosure suit, has been foreclosed upon by the foreclosing entity, is set for sheriff's sale, has been sold at a sheriff's sale or has been conveyed to the mortgagee via a deed in lieu of foreclosure.

(i) "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 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 furnishing or personal items, statements based on observations by neighbors, passersby, delivery agents or government employees that the property is vacant.

(j) "Foreclosing entity" means 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.

(k) "Foreclosure" means the process by which a foreclosing entity seeks a decree of foreclosure from the Greene County Common Pleas Court.

(l) "Mortgage" means an agreement between a mortgagor and a mortgagee by which a mortgagee retains an interest in real estate title as collateral for a loan. This definition applies to any and all subsequent mortgages, i.e., second mortgage, third mortgage, etc.

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(m) "Mortgagee" means the person, partnership, co-partnership, association, corporation, lender, fiduciary or any other entity holding a mortgage on a property.

(n) "Mortgagor" means a borrower under a mortgage.

(o) "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.

(p) "Property" means any unimproved or improved real property or portion thereof, situated in the City including any house, building or other structures that may be located on the property regardless of condition.

(q) "Securing" means such measures as may be directed by the City Building Inspection Division that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, the repair or replacement of doors, windows, or other openings.

(r) "Vacant" means a house, building or other structure shall be deemed to be vacant if no person or persons actually or currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupant(s), or tenant(s).

§1454.03 REGISTRATION REQUIREMENTS.

For any abandoned real property located within the City of Bellbrook, 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 result of a government insured mortgage or loan, within ten days after property becoming vacant, the foreclosing entity shall register the abandoned property with the City of Bellbrook Code Official.

(a) The foreclosing entity shall pay a registration fee of one hundred dollars (\$100.00). If the foreclosing entity is a government agency, the registration fee shall be waived.

(b) It is the responsibility of the foreclosing entity making the initial application for registration and any subsequent applications for registration to provide the following required information;

- (1) The name of the foreclosing entity.
- (2) The direct mailing address of the foreclosing entity, excluding P.O. boxes.
- (3) The statutory agent, address, telephone number and email address for the foreclosing entity.

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(4) The name and mailing address of a local property management company as well as the direct contact name, mailing address of the property management company (excluding P.O. boxes), telephone number and email address of the person responsible for the security, maintenance and marketing of the said property.

(c) 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 days of the change.

(d) If an abandoned property is identified and found not to be registered with the City of Bellbrook, orders will be issued to the foreclosing entity giving ten days to register with the City.

(e) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant building. A lien may be placed on the property to collect delinquent fees.

§1454.04 INSPECTION REQUIREMENTS.

At the time of registration an exterior property maintenance inspection shall be scheduled with a Code Official to be conducted within twenty business days from date of registration. Orders to correct shall be issued for any found property maintenance violations.

§1454.05 MAINTENANCE REQUIREMENTS FOR FORECLOSING ENTITIES.

While abandoned properties are required to be registered with the City of Bellbrook pursuant to this chapter, such properties are required to be maintained in accordance with the City of Bellbrook Codified Ordinances including but not limited to:

(a) Being kept free of grass and weeds in excess of eight inches in height, trash, junk, debris, building materials, any accumulation of newspapers, discarded personal items, indoor furniture, appliances or any other items that give the appearance that the property is abandoned.

(b) Maintained free of graffiti, tagging or similar markings by removing or painting over.

(c) Pools, spas and decorative ponds shall be maintained in a sanitary condition.

§1454.06 SECURITY REQUIREMENTS FOR FORECLOSING ENTITIES.

While abandoned properties are required to be registered with the City of Bellbrook pursuant to this Chapter, such properties are required to be maintained in a secure manner 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 access to the interior of the property and/or structure(s).

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(b) In the case of damaged or broken windows, doors and other openings, they must be repaired or properly boarded to meet the boarding specifications of this Chapter, to prevent entry by unauthorized persons.

§1454.07 APPEALS.

Any person directly affected by a decision of the Code Official, notice or order issued under this code shall have the right to appeal to the Property Review Commission, provided that a written application for appeal is filed within twenty (20) days after the notice or orders issued to the Code Official.

§1454.08 VIOLATION PENALTIES.

(a) Each and every day a violation of this Code continues shall constitute a separate offense. Whoever violates any provision of this Code shall be guilty of a misdemeanor and shall be fined not more than or less than:

- (1) First offense: Not more than five hundred dollars (\$500.00) or less than fifty dollars (\$50.00).
- (2) Second or subsequent similar offenses within one calendar year: Not more than five hundred dollars or less than two hundred dollars (\$200.00) and imprisoned not more than ninety days, or both.

(b) No person shall be imprisoned under this section for the first offense, and the prosecution shall always be as if for a first offense unless the affidavit upon which the prosecution is initiated contains the allegation the offense is a second or repeated offense.

Section 2. This ordinance shall take effect and be in force from and after the earliest period provided by law.

Passed this 13th of August, 2012.

Effective September 12, 2012

Original signature in Clerk of Council Office

ROBERT L. BAIRD, MAYOR

Original signature in Clerk of Council Office

JILL D. ROSNER, CLERK OF COUNCIL

APPROVED AS TO FORM: Original signature in Clerk of Council Office
Richard A. Freudenberger
Law Director