

ARTICLE VI. - ABANDONED PROPERTIES

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Sec. 11-221. - Intent and purpose.

It is the intent and purpose of this article to adopt provisions controlling the excessive growth or accumulation of weeds and similar plant material, or the accumulation of debris or other noxious material upon property situated in the unincorporated area of the county that creates a haven or breeding place for snakes, rats, rodents and other vermin of like or similar character, creates a fire hazard to adjacent properties, and creates a traffic hazard at road intersections within the county. It is the county's further intent to specifically establish an abandoned real property program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties. It is hereby declared, due to the character and population density of the county, that the excessive growth or accumulation of weeds and similar plant material, or the accumulation of debris or other noxious material upon abandoned property situated in the unincorporated area of the county is contrary to the public health, safety and that such excessive growth and accumulations be prohibited in accordance with this article.

(Ord. No. 10-19, § 1, 8-17-2010)

Sec. 11-222. - Definitions.

For the purpose of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

Abandoned real property means any property that is vacant and is under a current notice of default or notice of mortgagee's sale by the lender or the subject of a tax lien certificate sale 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 or sale.

Accessible property means a property that is accessible through a comprised or breached gate, fence, wall or similar barrier.

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

Agricultural uses means those uses of land which involve the science and art of production of plants and animals useful to man including to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise and shall include horticulture, floriculture, viticulture, aquaculture, forestry, dairy, livestock, including the breeding and training of horses, poultry, bees, ratites, and any and all forms of farm products and farm production.

Code inspector shall mean any authorized agent or employee of the county, whose duty it is to assure compliance with the codes and ordinances of the county.

Director means the Marion County Growth Management Director.

Division means the Marion County Growth Management, Code Enforcement Division.

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 may include, but are not limited to, overgrown or dead vegetation, accumulation of abandoned personal property, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.

General agriculture means those uses of land which involve the science and art of production of plants and animals useful to man including to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise and shall include horticulture, floriculture, viticulture, aquaculture, forestry, dairy, livestock, including the breeding and training of horses, poultry, bees, ratites, and any and all forms of farm products and farm production.

Improved lot means any lot as defined which contains a principal structure as defined in Marion County Land Development Code, or that has been cleared of existing vegetation for the purposes of constructing a principal structure in the future.

Inspection means a close viewing of the property and the exterior of any structures located thereon placed as security for a real estate loan and includes a viewing of any interior portions of the structure which are visible from the outside of the structure. However, an inspection does not require an entry into any structure for purpose of viewing the interior.

Lot means a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon.

Manager means the code enforcement division manager.

Non-intensive agriculture means the milking, feeding or sheltering of farm animals or growing of supplemental food supplies for the domestic, non-commercial use of the families living on the land.

Nuisance means the keeping, maintaining, propagation, existence, or permission of anything by any person or entity, by which the health or lives of individuals, may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused.

Nuisance weeds means the accumulation or untended growth of weeds, grass, undergrowth or other dead or living plant life to the extent that abandon property is, or may reasonable become, inhabited by rats, mice, other rodents, snakes, vermin, or pests, or may furnish a breeding or harboring place for flies, mosquitoes or other harmful insects, or impairs the economic welfare of adjacent property.

Owner. The word owner applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Property management company means a property manager, property maintenance company or similar entity responsible for the maintenance of abandoned real property.

Unimproved lot shall mean any lot in its natural state.

Vacant means any building or structure that is not legally occupied.

(Ord. No. 10-19, § 2, 8-17-2010)

Sec. 11-223. - Applicability.

This article shall be considered cumulative and not superseding or subject to any other law or provision, but shall rather be an additional remedy available to the county above and beyond any other state, county or local provisions. This article shall be effective in the unincorporated areas of Marion County.

(Ord. No. 10-19, § 3, 8-17-2010)

Sec. 11-224. - Declaration of nuisance and prohibited conditions.

The existence of abandoned real property or nuisance weeds on abandoned real property is hereby declared to be a public nuisance and a violation of this article, the abatement of which is necessary to protect the health, safety and welfare of the residents of Marion County.

(Ord. No. 10-19, § 4, 8-17-2010)

Sec. 11-225. - Registration of abandoned real property.

(a)

Any mortgagee who holds a mortgage on real property located within the county shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, prior to the issuance of a notice of default. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the mortgagee shall, within ten (10) days of the inspection, register the property with the director of growth management, or the director's designee, on forms provided by the county. A separate registration is required for each vacant property.

- (b) If the property is occupied but remains in default, it shall be inspected by the mortgagee or the mortgagee's designee monthly until (1) the mortgagor 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 mortgagee shall, within ten (10) days of that inspection, register the property with the director of growth management, or the director's designee, on forms provided by the county.
- (c) Registration pursuant to this section shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of mortgagee's contact, a facsimile number and e-mail address and, in the case of a corporation or out-of-area mortgagee, the property management company responsible for the security and maintenance of the property.
- (d) An annual registration fee established by resolution by the board of county commissioners shall accompany the registration form.
- (e) This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the mortgagee/beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.
- (f) Properties subject to this section shall remain under the registration requirement, security and maintenance standards of this section as long as they remain vacant.
- (g) Any person or corporation that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.
- (h) Any mortgagee who holds a mortgage on real property located within the county which is in default and the subject of an outstanding notice of default as of October 1, 2010, shall perform an inspection of the property by December 1, 2010. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the mortgagee shall, within ten (10) days of the inspection, register the property with the director of growth management, or the director's designee, on forms provided by the county. If the property is occupied but remains in default, it shall thereafter be subject to the re-inspection requirements as set forth in subsection (b) above.

(Ord. No. 10-19, § 5, 8-17-2010)

Sec. 11-226. - Maintenance requirements.

- (a) The exteriors of the properties subject to this chapter shall be kept free of nuisance weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except 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.
- (b) The exteriors of the property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- (c) Front, side, and rear yard landscaping shall be maintained.
- (d) Landscaping shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings.
- (e) Maintenance shall include, but not be limited to, watering, cutting, and mowing of required landscape and removal of yard waste.
- (f) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall be enclosed as required by law.

(Ord. No. 10-19, § 6, 8-17-2010)

Sec. 11-227. - Additional authority.

The director of growth management, or the director's designee, shall have authority to require the mortgagee or owner of record of any property subject to this article, to implement additional maintenance or security measures including, but not limited to, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably required to prevent a violation of this article.

(Ord. No. 10-19, § 7, 8-17-2010)

Sec. 11-228. - Exemptions.

Notwithstanding any other provisions to the contrary, this article shall not apply to:

- (1) Any property within the unincorporated areas of Marion County used for general agricultural or non-intensive agriculture uses.
- (2) Any rights-of-way of municipal, county, state or federal roads or highways.
- (3) Any property owned or under the control of any municipality, county, state or federal government or agencies thereof.
- (4) Any unimproved lot as defined herein.

(Ord. No. 10-19, § 8, 8-17-2010)

Sec. 11-229. - Designation of investigating and enforcing authority.

The division is hereby designated as the investigating and enforcing authority pursuant to the provisions of this article. The code enforcement division manager and code inspectors are hereby directed and empowered to inspect land on which a nuisance or other prohibited conditions are suspected to exist and to receive all complaints for violation of this article. The code enforcement division manager and code inspectors shall be responsible for providing all notices to affected property owners as required by this article, and to take such other action as is necessary to accomplish the purpose of this article.

(Ord. No. 10-19, § 9, 8-17-2010)

Sec. 11-230. - Enforcement.

- (a) If the manager or an officer determines that a nuisance or other prohibited condition or conditions exist on a lot during an inspection, then the division shall notify the record owner or owners of the lot by regular United States mail, by hand delivery or posting of notice on the property of such nuisance or prohibited condition or conditions. Said notice shall advise the owner or owners that a nuisance or other prohibited condition exists on said lot or lots and that said nuisance or prohibited condition shall be abated by the owner or owners. The notice shall specify what corrective action shall be taken by the owner or owners to abate the nuisance or to correct the prohibited condition, and that failure to abate said nuisance or to correct said condition shall result in the issuance of a notice of violation and notice of hearing to said owner or owners to appear before the code enforcement board. The notice shall provide a reasonable time, in light of the nature of the nuisance or prohibited condition, to abate the nuisance or to correct the prohibited condition.
- (b) If the nuisance is not abated or the prohibited condition corrected by the time specified in the notice, the division shall schedule a hearing before the code enforcement board and issue a notice of violation and notice of hearing to the record owner or owners of the lot to appear before the code enforcement board.
- (c) If a violation of this article is found by the code enforcement board, the code enforcement board may issue all orders and written findings as permitted pursuant to Chapter 162, Florida Statutes and this code.

(Ord. No. 10-19, § 10, 8-17-2010)