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ARTICLE VI. - ABANDONED AND VACANT PROPERTY ORDINANCE

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Sec. 3-2-111. - Title.

The provisions of section 3-2-111 through section 3-2-123, inclusive, shall be known as the "Charlotte County Abandoned and Vacant Property Ordinance."

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-112. - Purpose.

It is the intent of the Charlotte County Board of County Commissioners, through the adoption of this article, to establish a mechanism to protect residential and commercial neighborhoods from becoming blighted through the lack of maintenance and security of abandoned properties; to establish an abandoned property registration program; to ensure properties are free of code violations and fees and fines prior to sale or occupation and to set forth guidelines for the maintenance of abandoned properties.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-113. - Definitions.

Certain words and phrases in sections 3-2-113 are defined, when used herein, as follows:

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 physically accessible through a compromised or breached gate, fence, wall or other barriers, intended to provide physical security to the property, or by the absence of such barrier.

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

Evidence of vacancy means any condition or circumstance that on its own, or combined with other conditions or circumstances present, would lead a reasonable person to believe that a property is vacant. Such

conditions may include, but not are limited to: overgrown or dead vegetation, including lawns, shrubbery and other plantings; accumulation of abandoned personal property, trash or waste; visible lack of maintenance of any building or structure on the property; graffiti on or other defacement of buildings or structures on the property; and any other condition or circumstance reasonably indicating that the property is not occupied.

Foreclosure means the process, either judicial or extra-judicial, invoked by the owner or holder of a mortgage, by which a property placed as security for a real estate loan is sold at public or private sale to satisfy the debt of the borrower in the event of a default by the borrower under the terms of the promissory note or mortgage.

Mortgagee means the person or entity that is the owner or holder of a mortgage, deed of trust or similar instrument encumbering real property as security for a promissory note or other debt.

Property manager means a property manager, property management or maintenance company, or similar person or entity responsible for the maintenance of real property as agent of an owner, mortgagee or other responsible party.

Owner means a person or entity that either holds record fee simple title to a parcel of real property, or holds record beneficial ownership of that parcel of real property under the terms of a trust or similar instrument of title.

Responsible party means either: (1) the owner of a vacant parcel of real property; or, (2) the holder or owner of the mortgage, deed of trust or similar instrument encumbering real property ("mortgagee") during any time when an owner of real property is in default under the terms of that mortgage, deed of trust or similar instrument; or (3) both the owner and the mortgagee.

Vacant property means any property, including any building or structure thereon, that is not legally occupied.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-114. - Parties responsible for compliance.

- (a) The responsible party, as defined in this article, shall comply with all provisions of this article, including but not limited to, maintenance of real property for which they are responsible in accordance with the provisions of this article, and in accordance with all other applicable provisions of the local, state and federal law.
- (b) In all instances, the responsibility of a mortgagee to comply with this article shall be and remain in effect from the date that the mortgagee gives the owner notice of a default under the terms of the mortgage, or files a Notice of Lis Pendens, whichever first occurs, until such time as the subject property is sold or transferred to a new owner, or until any foreclosure action is dismissed.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-115. - Registration of abandoned real properties or real property at risk of abandonment.

- (a) Any owner of property located within the county who has abandoned real property or who intends to abandon that real property shall immediately register the property with the county administrator or the county administrator's designee. Registration fees will be waived for single-family homeowners who resided in the home until the property was vacated for the first year of registration.
- (b) Upon the filing of a Notice of Lis Pendens or an action to foreclose upon a mortgage or other similar instrument of debt, which debt is secured by real property located within the county, the holder or owner of said mortgage or other debt instrument, or the party bringing the foreclosure action, shall immediately register the property with the county administrator or the county administrator's designee.
- (c) The registration of property required in the article shall be upon such forms as are designated by the county administrator or the county administrator's designee and shall be accompanied by the approved registration fee as established in this section 3-2-115. The county shall provide for electronic registration.
- (d) Registration by an owner shall contain the name of the owner, the address of the property, the owner's forwarding address and a telephone number at which the owner can be reached in the future. In addition, the registration shall contain the name, address and telephone number of any mortgagee. Any owner who registers a property under this article must report any change of information contained in the registration within ten (10) days of the change.
- (e) Registration by a mortgagee shall contain the name of the mortgagee, the direct mailing address of the

mortgagee, the name and direct telephone number of mortgagee's designated contact person, a facsimile number and e-mail address. In addition, the registration shall include the same contact information for any property manager or other party responsible for the security and maintenance of the property. Any mortgagee that has registered a property under this article must report any change of information contained in the registration within ten (10) days of the change.

- (f) A copy of the registration shall be posted by the responsible party upon the property in a prominent and conspicuous location in a weatherproof enclosure accessible to personnel of the county.
- (g) For so long as the property remains vacant, or subject to a Notice of Lis Pendens or a foreclosure action, a registration fee shall be due from the owner or other responsible party, as applicable under the circumstances, each year not later than the fifteenth day of the month following the month in which the original registration was made. The annual registration fee is hereby set at the initial amount of one hundred fifty dollars (\$150.00) per property, and shall be as set forth from time to time in the countywide fee schedule.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-116. - Inspection obligations of mortgagee.

- (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.
 - (i) If a property is found to be vacant or shows evidence of vacancy, as defined in this article, it shall be deemed abandoned and the mortgagee shall comply with the registration requirements of section 3-2-115, within ten (10) days of the inspection.
 - (ii) If the property is occupied but remains in default, it shall be inspected by the mortgagee or the mortgagee's designee monthly until either: (1) the mortgagor or other party remedies the default; or (2) it is found to be vacant or shows evidence of vacancy.
- (b) 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, Notice of Lis Pendens or foreclosure action as of August 1, 2010, shall perform an inspection of the property by September 1, 2010. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the mortgagee shall register the property in accordance with section 3-2-115, within ten (10) days of the inspection.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-117. - Maintenance requirements.

The responsible party shall have the following obligations with respect to maintaining property that is subject to this article:

- (a) Properties shall be kept free of 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, appliances, or any other items that give the appearance that the property is abandoned.
- (b) 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 in accordance with the county's standard at the time registration was required.
- (d) Items considered to be "landscaping" shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf.
- (e) Maintenance shall include, but not be limited to, items such as the following: watering, cutting and mowing of landscaping, removal of yard waste and debris, exterior painting, glass replacement, repairs to a building or other structure, or other acts reasonably necessary to maintain acceptable cosmetic appearance of the property, including any building or structure on the property, and to maintain the structural integrity of any building or structure on the property, and to comply with applicable provisions of the Charlotte County Code and other local, state or federal law, rule or regulation.
- (f) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the International Property Maintenance Code, as may be amended from time to time.
- (g) Failure of the owner or mortgagee or other responsible party to properly maintain the property shall be a violation of the County Code of Ordinances. Enforcement of the provisions of this article

shall be accomplished in the same manner as for other violations of the County Code, but such enforcement shall not be the county's exclusive remedy, it being the intent of the county to make use of any and all available remedies under this article or under other provisions of local, state or federal law.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-118. - Security requirements.

- (a) The responsible party shall secure properties subject to this article so they are not accessible to unauthorized persons.
- (b) "Secure", as used in subsection (a) above, means the closing and locking of windows, doors, gates and other openings of such size that may allow access to enclosed areas of the property or to buildings and structures on the property. Walls and fences surrounding the property or any portion of the property shall be maintained in good repair. Broken windows shall be secured by reglazing; boarding of broken windows shall be used only as a temporary corrective measure and shall be secured in accordance with the International Property Maintenance Code. Once a structure is occupied, all boarded openings must be repaired with glazing or new windows and doors.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-119. - Additional authority as to maintenance and security.

The county administrator, or the county administrator's designee, shall have authority to require the owner, mortgagee and other responsible parties to implement additional maintenance and security measures as may be reasonably required to prevent further decline of the property.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-120. - Property managers.

- (a) The owner, the mortgagee or other responsible party may elect to use a property manager for purposes of complying with the requirements of this article, and any other laws applicable to the property, but such election shall not relieve the owner, mortgagee or other responsible party from liability for compliance with this article. If a property manager is being used for purposes of complying with this article, the name, address, telephone number and other pertinent contact information identifying the property manager shall be included in the registration of the property required under this article.
- (b) A property manager accepting appointment as the agent of the owner, the mortgage or other responsible party shall inspect the property not less than bi-weekly during the months of March to October to ensure that the property is in compliance with this article.
- (c) If inspection reveals noncompliance, the property manager shall immediately give written notice of the noncompliance to the owner, the mortgagee or other responsible party, who shall have ten (10) business days to begin the action necessary to bring the property into compliance, and not more than thirty (30) days to complete such action. The county administrator or the county administrator's designee may extend the compliance time period upon showing unreasonableness of the time frame for the existing conditions.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-121. - Enforcement; notice of prohibited conditions.

- (a) Enforcement. Code compliance officers are directed and empowered to investigate and enforce the provisions of this article. They are authorized to inspect any property where a violation of this article is alleged to exist. Code compliance officers may take code enforcement actions in accordance with chapter 162, Florida Statutes or section 1-1-15, Charlotte County Code for properties found to be in violation of this article.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-122. - Exemptions.

- (a) Property shall be exempt from the registration requirement of this article if either of the following two (2) conditions exist.
- (1) The property was not the subject of foreclosure and is listed in the applicable multiple listing service or other substantial competent evidence of actively marketing the property is provided and the property has not remained vacant more than one hundred eighty (180) days and the outward appearance is being maintained; or
 - (2) The property is under construction and the contractor has applied for and is covered by an inspection extension program.
- (b) At such time either qualifications for exemption ceases to exist, the property shall be subject to the registration requirements of this article.

(Ord. No. 2010-031, § 1, 7-13-10)

Sec. 3-2-123. - Applicability.

- (a) This article shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the mortgagee as a result of a foreclosure sale, and to property transferred to the mortgagee by a deed-in-lieu of foreclosure or sale.
- (b) This article shall be considered cumulative and not superseding of, or subject to, any other law or provision relating to the same subject, but shall rather be an additional remedy available to the county above and beyond any other state, county or local law or regulation.

(Ord. No. 2010-031, § 1, 7-13-10)

Secs. 3-2-124—3-2-140. - Reserved.

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ORDINANCE
NUMBER 2012 -024

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AMENDING CHAPTER 3-2 BUILDINGS AND BUILDING REGULATIONS OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA; PROVIDING FOR CORRECTION OF SCRIVENORS ERROR; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, the Board of County Commissioners (the "Board"), pursuant to the provisions of Section 125.01, Florida Statutes, has the power to adopt ordinances and resolutions necessary for the exercise of its powers and prescribe fines and penalties for the violation of ordinances in accordance with law; and

WHEREAS, Chapter 3-2 *Buildings and Building Regulations* of the Code of Laws and Ordinances of Charlotte County, Florida (the "Code") sets forth the building requirements and regulations for construction within Charlotte County as well as the regulation and licensing requirements for performing construction related work in the County including the duties and powers of the Construction Industry Licensing Board; and

WHEREAS, from time to time it is necessary to update the Code to delete unnecessary or out of date provisions of the Code and to make other necessary changes to the Code; and

WHEREAS, the Board of County Commissioners finds that it is in the public interest of the citizens of Charlotte County to amend Chapter 3-2 of the Code for the above stated reasons.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Charlotte County, Florida:

1 **Section 14.** Section 3-2-115 of Article VI, Chapter 3-2 of the Code of Laws and

2 Ordinances of Charlotte County, Florida, is hereby amended as follows:

3 **Sec. 3-2-115. - Registration of abandoned real properties or real property at risk of**
4 **abandonment.**

5 (a) Any owner of property located within the county who has abandoned real property or
6 who intends to abandon that real property shall immediately register the property with the
7 county administrator or the county administrator's designee. Registration fees will be
8 waived for single-family homeowners who resided in the home until the property was
9 vacated for the first year of registration.

10 (b) Upon the filing of a Notice of Lis Pendens or an action to foreclose upon a mortgage
11 or other similar instrument of debt, which debt is secured by real property located within the
12 county, the holder or owner of said mortgage or other debt instrument, or the party bringing
13 the foreclosure action, shall immediately register the property with the county administrator
14 or the county administrator's designee.

15 (c) The registration of property required in the article shall be upon such forms as are
16 designated by the county administrator or the county administrator's designee and shall be
17 accompanied by the approved registration fee as established in this section 3-2-115. The
18 county shall provide for electronic registration.

19 (d) Registration by an owner shall contain the name of the owner, the address of the
20 property, the owner's forwarding address and a telephone number at which the owner can
21 be reached in the future. In addition, the registration shall contain the name, address and
22 telephone number of any mortgagee. Any owner who registers a property under this article
23 must report any change of information contained in the registration within ten (10) days of
24 the change.

25 (e) Registration by a mortgagee shall contain the name of the mortgagee, the direct
26 mailing address of the mortgagee, the name and direct telephone number of mortgagee's
27 designated contact person, a facsimile number and e-mail address. In addition, the
28 registration shall include the same contact information for any property manager or other
29 party responsible for the security and maintenance of the property. Any mortgagee that has
30 registered a property under this article must report any change of information contained in
31 the registration within ten (10) days of the change.

32 (f) A copy of the registration shall be posted by the responsible party upon the property in
33 a prominent and conspicuous location in a weatherproof enclosure accessible to personnel
34 of the county.

35 (g) For so long as the property remains vacant, or subject to a Notice of Lis Pendens or a
36 foreclosure action, a registration fee shall be due from the owner or other responsible
37 party, as applicable under the circumstances, each year not later than the fifteenth day of
38 the month following the month in which the original registration was made. The annual
39 registration fee for the first year is hereby set at ~~the initial amount of~~ one hundred fifty

1 dollars (\$150.00) per property. and Thereafter, the annual registration fee per property
2 shall be as set forth below: ~~from time to time in the countywide fee schedule.~~

3 \$250.00 for buildings that have been vacant for one to two years;

4 \$500.00 for buildings that have been vacant for two to three years;

5 \$1000.00 for buildings that have been vacant for three to five years;

6 \$2000.00 for buildings that have been vacant for five to seven years;

7 \$4000.00 for buildings that have been vacant for seven or more years.

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Section 18. A certified copy of this Ordinance shall be filed with the Department of State of the State of Florida within 10 days of enactment and shall take effect upon filing with said department.

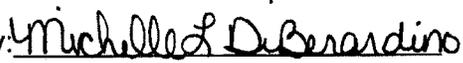
PASSED AND DULY ADOPTED this 13th day of Nov., 2012.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: 
Christopher, Chairman



ATTEST:
Barbara T. Scott, Clerk of
Circuit Court and Ex-Officio
Clerk to the Board of County
Commissioners

By: 
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: 
Janette S. Knowlton, County Attorney
LR11-1586