

# City of Cincinnati

RLT 

## An Ordinance No. 195

- 2012

**MODIFYING** the provisions of Title XI, "Cincinnati Building Code," of the Cincinnati Municipal Code by enacting new Chapter 1123, "Vacant Foreclosed Residential Property Registration."

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Title XI, "Cincinnati Building Code," of the Cincinnati Municipal Code is hereby modified by enacting new Chapter 1123, "Vacant Foreclosed Residential Property Registration," to read as follows:

### **Chapter 1123. - VACANT FORECLOSED RESIDENTIAL PROPERTY REGISTRATION.**

#### **Sec. 1123-1. - Legislative Findings.**

It is hereby found and determined that vacant, foreclosed properties pose a danger to the public health, safety and welfare. Several studies have demonstrated that vacant, foreclosed properties can quickly become blighted properties, and foreclosed residential properties are at greater risk of becoming vacant and abandoned properties than other properties in the city. Locating the person in control of the property or responsible for the care and maintenance of the property is often an impossible task, mired in disputes between the mortgagee, mortgagor, servicer, and subservicer. Accordingly, citations for property maintenance are routinely ignored at these properties, placing properties at increased risk for becoming unsecured, vandalized, and hazardous.

The proliferation of these vacant, foreclosed properties has caused blight to flourish, providing havens for criminal activity; destroying the safety of neighborhoods; posing dangerous risks to the city's firefighters, police officers, and code enforcement officials; depleting already scarce city resources; diminishing property values throughout the city; undermining the city's ability to enforce its criminal laws; and interfering with the city's duty to protect its citizens from unsafe and harmful conditions.

The purpose of this chapter is to ensure that vacant, foreclosed properties are protected and maintained and that city officials are alerted to the location of these vulnerable properties. This chapter is enacted in order to address the problem of blighted properties that are a direct result of vacant, foreclosed properties and that pose a threat to the public health, safety, and welfare.

This chapter is enacted as a pilot project and is applicable to the neighborhoods of Westwood, West Price Hill, East Price Hill, College Hill, and Madisonville. These neighborhoods were selected due to the high concentration of foreclosures during the past several years. As a pilot program, the city wishes to address the neighborhoods with the most severe problems.

**Sec. 1123-3. - Definitions.**

For the purposes of this chapter, words and phrases shall have their ordinary meaning unless defined in the following sections or in the preceding chapters of Title XI.

**Sec. 1123-3-C. - City Solicitor.**

“City solicitor” shall mean the city solicitor of the city of Cincinnati or his or her designee.

**Sec. 1123-3-C-1. - Code Official.**

“Code official” shall mean the chief of the property maintenance code enforcement division of the department of community development of the city of Cincinnati or his designee.

**Sec. 1123-3-F. - Foreclosed.**

“Foreclosed” shall mean a property upon which a mortgagee has filed an action in foreclosure in order to recover monies pursuant to a mortgage agreement which has been secured by a lien on property.

**Sec. 1123-3-M. Mortgagee.**

“Mortgagee” shall mean any for-profit lender who is a party to a mortgage agreement and whose interest in that agreement is secured by a lien on residential property.

**Sec. 1123-3-P. - Person in Control.**

“Person in control” shall mean the person, persons, or entity holding title to the freehold estate of the premises; a mortgagee or vendee in possession; a receiver; an executor; a trustee; and any person, public or private entity, lessee or holder of a lesser estate in the premises, and/or its duly authorized agent(s), with the authority to bring a building or premises into compliance with the provisions of this code, including, but not limited to any mortgagee that has filed an action in foreclosure on the particular premises at issue, until title to the premises is transferred to a third party.

**Sec. 1123-3-P-1. - Pilot Neighborhoods.**

“Pilot neighborhoods” shall mean the statistical neighborhood boundary maps of the neighborhoods of Westwood, West Price Hill, East Price Hill, College Hill, and Madisonville. The statistical neighborhood boundary maps are on file with the Department of city Planning.

**Sec. 1123-3-P-2. - PMCE.**

“PMCE” shall refer to the property maintenance code enforcement division of the department of community development of the city of Cincinnati.

**Sec. 1123-3-R. - Residential Property.**

“Residential property” shall mean parcel of land which contains a dwelling or structure that provides living accommodations for persons.

**Sec. 1123-3-V. - Vacant.**

“Vacant” shall mean unoccupied or without authorized human inhabitants.

**Sec. 1123-3-V-1. - Vacant, Foreclosed Property Registration Form.**

“Vacant, foreclosed property registration form” shall mean a form publicly available from the PMCE division that mortgagees subject to the requirements of this chapter must complete and submit as specified in this section.

**Sec. 1123-5. - Registration of Vacant, Foreclosed Residential Property.**

- a. Within ten (10) business days of filing a foreclosure action on residential property located within the pilot neighborhoods that is vacant at the time of filing, the mortgagee shall submit a vacant, foreclosed property registration form for the property to the city’s PMCE division.

A mortgagee is not required to submit the vacant, foreclosed registration form if the residential property located within the pilot neighborhoods is not vacant on the date of the filing of a foreclosure action on the property. However, if the residential property becomes vacant at any point during the foreclosure process, the mortgagee shall submit a vacant, foreclosed property registration form regarding the property to the city’s PMCE division within ten (10) business days of the vacancy.

The vacant, foreclosed property registration form shall contain the following information:

- (1) Description of the residential property, including, but not limited to, the street address and parcel identification number;
  - (2) The name, street address, and telephone number of a natural person, 18 years of age or older, or a business entity registered with the Ohio Secretary of State designated by the mortgagee as an authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of the mortgagee in connection with enforcement of this chapter, and this person or entity must maintain an office in Ohio or must actually reside in Ohio; and
  - (3) The mortgagee shall pay the initial registration fee listed in section 1123-7(1) or, if the mortgagee meets the exemption requirements in section 1123-13, the mortgagee shall pay the exception fee listed in section 1123-7(3).
- b. The mortgagee shall notify the city's PMCE division within ten (10) business days of any change of information on the foreclosed property registration form. The vacant, foreclosed property registration form shall be maintained with accurate information until the property is sold at a judicial sale, transferred to a bona fide owner-occupant, or an unaffiliated third party. The mortgagee shall notify PMCE in writing when the property is transferred to a bona fide owner-occupant or an unaffiliated third party, the property is reoccupied, or the property is sold at a judicial sale, so the property may be promptly removed from the registry.
- c. On an annual basis, the mortgagee shall pay the annual registration fee listed in section 1123-7(2) or, if the mortgagee meets the exemption requirements in section 1123-13, the mortgagee shall pay the exception fee listed in section 1123-7(3).

**Sec. 1123-7. - Fees.**

Mortgagees shall pay any required fees until the foreclosure is dismissed or until the property is transferred to a third-party. The fees for the various requirements under this chapter are as follows:

<u>Subsection</u>	<u>Title of fee</u>	<u>Fee amount</u>
(1)	Initial registration fee	\$500
(2)	Annual registration fee	\$500
(3)	Exception fee	\$50

All fees shall be directed to a special fund designated only for use in administering and operating the registry program. The fee is non-refundable and cannot be prorated.

**Sec. 1123-9. - Maintenance Obligations of Mortgagees.**

During the period that the property is registered, the mortgagee shall have the obligations set forth in this section.

- a. Vacant, foreclosed property shall be maintained free of all outward appearances of foreclosure and vacancy during the registration period including:
  - (1) No signs or placards on the exterior of the building or in the windows indicating that the property is vacant or foreclosed;
  - (2) Grass shall be no higher than 10 inches at any time and all noxious weeds shall be removed;
  - (3) The premises shall be maintained free of debris and litter;
  - (4) The premises shall remain secure and locked. Broken windows and doors which are visible from the right-of-way may be covered with plywood or similar boarding material on an emergency basis, but for no more than ten (10) business days, while arrangements are being made to replace broken glass or broken parts of the existing windows and doors. Broken windows and doors on the rear or sides of the building may be boarded until the windows and doors are repaired for re-occupancy provided that the boarded openings are not visible from public right-of-way;
  - (5) Windows and doors which are visible from the right-of-way may not be boarded and shall be maintained in good repair;
  - (6) Handbills, circulars, and advertisements shall be removed from porches and yards in a timely manner; and
  - (7) Standing water on the premises, including but not limited to standing water in swimming pools, shall be eliminated.
- b. The maintenance requirements and penalties in this chapter related to vacant, foreclosed residential properties are in addition to, and shall not be considered in conflict with, any and all other property maintenance requirements of the Cincinnati Municipal Code. Nothing within this chapter shall be construed to limit the responsibilities of persons in control to comply with and adhere to any and all building, housing, health, and zoning ordinances established by the city. Nothing within this chapter shall be construed to limit or conflict with the responsibilities of persons in control to comply with and adhere to any and all state and federal laws.

**Sec. 1123-11. - Penalties.**

- a. Failure to register a vacant, foreclosed property shall constitute a Class D civil offense on the first day, and having once been notified under Section 1501-13, each additional day that the property remains unregistered shall constitute a separate, subsequent Class E civil offense.
- b. Failure to maintain accurate information once having registered shall constitute a Class A civil offense on the first day, and having once been notified under Section 1501-13, each additional day that the information remains inaccurate shall constitute a separate, subsequent Class B civil offense.
- c. Failure to maintain the property in accordance with the maintenance provisions contained in 1123-9 shall constitute a Class A civil offense on the first day, and having once been notified under Section 1501-13, each additional day that the property fails to meet the maintenance provisions shall constitute a separate, subsequent Class B civil offense.

**Sec. 1123-13. - Exemptions.**

With the approval of the code official, a mortgagee may install and maintain a working burglar and fire alarm system and have an active account with a third-party alarm company. The burglar alarm system shall connect to all areas of the building subject to unauthorized human entry, including, but not limited to, all exterior doors, windows or other readily accessible openings. The burglar alarm system shall, upon detecting unauthorized entry or fire, send an automatic signal to a burglar alarm company that has twenty-four hour live operators who will monitor the system and telephone the mortgagee of the unauthorized entry or fire, and who will also telephone the police department or fire department as applicable, if there is no adequate response from the mortgagee. If the mortgagee complies with this section, the mortgagee shall be exempt from the following:

- a. The initial and annual registration fees listed in Section 1123-7; and
- b. The point of sale requirements in Section 1123-15 provided that the mortgagee arranges for an inspection of the premises by the code official and there must be a finding by the code official that the property does not have any code violations, or if code violations exist, the mortgagee fixes the code violations within thirty (30) calendar days.

**Sec. 1123-15. - Point of Sale Inspections on Vacant, Foreclosed Properties.**

- a. Point of sale inspections are hereby authorized on all properties that are subject to the vacant, foreclosed property registration. Mortgagees shall arrange to have all properties subject to the requirements of this chapter inspected by the code official within five (5) business days of filing for the property to be sold at a judicial sale. If the mortgagee fails to arrange an inspection, the property shall be

inspected by the code official pursuant to Ohio Revised Code § 2329.17(B) prior to the property being sold at a judicial sale or pursuant to a search warrant issued by a court of competent jurisdiction.

- b. If, as a result of the above inspection, the code official determines that health code violations, housing code violations, hazards, or structural defects exist on the property, the code official shall notify the city solicitor of these conditions. The city solicitor shall provide written notice via certified mail to the mortgagee or the mortgagee's agent, as designated on the foreclosed vacant property registration form, the owner of record, and any equitable lien holders, informing the parties of the following:
- (1) The need to repair and correct the violations, hazards, or structural defects prior to the judicial sale;
  - (2) If the property is not brought into compliance within thirty (30) calendar days of the issuance of the notice of violation, the code official may correct or repaired some or all of the violations;
  - (3) If the code official corrects or repairs some or all of the violations, the city solicitor shall promptly place a priority lien on the property for the total cost of abating the violations. The city solicitor shall collect the priority lien from the proceeds of the judicial sale of the property, or upon any subsequent sale of the property, or by the methods provided in ORC § 715.261. When notice is given as provided for in this section, the lien shall be a priority over liens of prior record and the lien will be effective on the date the city incurs the costs of repairs as provided in ORC § 715.26(B).
- c. The mortgagee may post a bond in an amount equal to the cost of abatement of the code violations which may include repair or demolition. The mortgagee must submit to the code official written cost estimates by contractors registered with the city of Cincinnati for abating the violations. The code official will establish the bond amount based upon the submitted cost estimates. Upon successful submission of the bond pursuant to Chapter 303 of the Cincinnati Municipal Code, the mortgagee shall be exempt from the requirements of Section 1123-15(b). The code official may extend the compliance date up to 90 days if a bond is posted. An additional 90 days may be extended in writing by the code official if good cause or diligence in abating the violations is demonstrated. If the violations are not abated in conformance with the terms of this section, the bond will be forfeited and the code official shall cause the violations to be abated with the proceeds of the forfeiture.

**Sec. 1123-17. - Joint and Several Liability.**

Any owner of property, person in control of property, or subsequent owner of property for which a notice of violation is issued under Chapter 1123 to correct health or building

code violations shall be jointly and severally liable for the costs incurred by the city for the abatement of violations on the property. Joint and several liability shall be attributed to each entity in the chain of title from the date of issuance of orders forward.

**Sec. 1123-19. - Severability.**

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

Section 2. The boundaries of the statistical neighborhood boundary maps of the pilot neighborhoods of Westwood, West Price Hill, East Price Hill, College Hill, and Madisonville shall be consistent with the maps as set forth in Exhibit A, attached hereto and by this reference made apart hereof. The official statistical neighborhood boundary maps are on file with the Department of city Planning.

Section 3. That this ordinance shall take effect and be in force from and after the earliest time allowed by law.

Passed: June 6, 2012

Attest: Brenda Williams  
Acting Clerk

[Signature]  
Mayor

HEREBY CERTIFY THAT ORDINANCE No. 195-2012  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 6-19-2012  
[Signature]  
CLERK OF COUNCIL