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**SUPPLEMENTAL INDEX OF
AMENDMENTS TO THE CODIFIED ORDINANCES
OF THE CITY OF BEREA, OHIO**

Page One of One

ADOPTED THRU OCTOBER, 2009

Legislation Number	Legislation Title	Date Adopted
2009-47	Amending and supplementing Sections 197.07, 197.08, 197.09, and 197.99 of Chapter 197, "Standards of Conduct", of the Codified Ordinances to provide for enhanced ethical requirements for High Ranking Public City Officials in the hiring and award of bid and no-bid contracts of the City to General Family Members, expressly repealing Ordinance 2008-78, and declaring an emergency. (4-18)	05-18-09
2009-71	Enacting New Chapter 1362, "Abandoned Residential Property Registration" of Part Thirteen, "Building Code," of the Codified Ordinances of the City to provide for registration, Security, maintenance and abatement of abandoned residential Properties. (9-6) [EFFECTIVE 30 DAYS FROM PASSAGE: 11-19-2009]	10-19-2009

**INSTRUCTIONS: FILE THIS ORDINANCE IN YOUR CODIFIED
ORDINANCE BOOK. DISCARD UPON RECEIPT OF REPLACEMENT
PAGES DURING THE FIRST QUARTER OF 2010.**

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2009-71

By Dean W. Van Dress Sponsored By Mayor Cyril M. Kleem

AN ORDINANCE

ENACTING NEW CHAPTER 1362, "ABANDONED RESIDENTIAL PROPERTY REGISTRATION" OF PART THIRTEEN, "BUILDING CODE," OF THE CODIFIED ORDINANCES OF THE CITY TO PROVIDE FOR REGISTRATION, SECURITY, MAINTENANCE AND ABATEMENT OF ABANDONED RESIDENTIAL PROPERTIES.

WHEREAS, an increasing number of homes within the City of Berea are currently in various stages of foreclosure, are bank-owned; or

WHEREAS, there are also homes which are under the control of various government agencies because of default of government insured mortgage; and

WHEREAS, many of the homes currently in foreclosure and most of the bank-owned and those controlled by government agencies are vacant; and

WHEREAS, City Council finds that the presence of vacant, abandoned residences can lead to neighborhood decline, create an attractive public nuisance, contribute to lower property values, discourage potential buyers from purchasing a home adjacent to or in neighborhoods with vacant abandoned residences; and

WHEREAS, the City of Berea desires to establish a vacant or abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of such properties; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio;

SECTION 1. That new Chapter 1362, "Abandoned Residential Property Registration", is hereby enacted as follows:

ABANDONED RESIDENTIAL PROPERTY REGISTRATION

Sections:

- 1362.01 Purpose and Scope.
- 1362.02 Definitions.
- 1362.03 Initial Inspection by Foreclosing Entities.
- 1362.04 Registration Duration.
- 1362.05 Maintenance Requirements for Foreclosing Entities.
- 1362.06 Security Requirements for Foreclosing Entities.
- 1362.07 Property Management Requirements for Foreclosing Entities.
- 1362.08 Additional authority.
- 1362.09 Fees.
- 1362.10 Enforcement.
- 1362.11 Appeals.
- 1362.12 Nuisance Abatement.
- 1362.99 Penalty.

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2009-71

By Dean W. Van Dress Sponsored By Mayor Cyril M. Kleem

- 2 -

1362.01 Purpose and Scope.

It is the purpose and intent of Berea City Council, through the adoption of this chapter, 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. Berea City Council finds that the presence of vacant, abandoned residences can lead to neighborhood decline, create an attractive public nuisance, contribute to lower property values, and discourage potential buyers from purchasing a home adjacent to or in neighborhoods with vacant abandoned residences.

1362.02 Definitions.

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

- (A) "Abandoned" means a residential property that is vacant and is in default with any foreclosing entity, is subject to a current foreclosure action, a finding of foreclosure has been issued relative to the property, has been sold at a sheriff's sale, is owned by a foreclosing entity, or has been transferred via a deed in lieu of foreclosure.
- (B) "Accessible property" means a residential property that is accessible through a compromised or breached gate, fence, wall, or other opening proving access.
- (C) "Accessible structure" means a residential 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) "Buyer" means any person, partnership, co-partnership, association, corporation, fiduciary or other entity that agrees to transfer anything of value in consideration for property.
- (E) "Deed in lieu of foreclosure" means a recorded document that transfers ownership of a residential property from the mortgagor to the mortgagee.
- (F) "Default" means the failure to fulfill a contractual obligation, whether monetary or conditional.
- (G) "Distressed" means a residential 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.
- (H) "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 residential 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 disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or personal items consistent with residential habitation, statements, based on observations, by neighbors, passersby, delivery agents, government employees that the residential property is vacant.

9/14/09

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2009-71

By Dean W. Van Dress Sponsored By Mayor Cyril M. Kleem

- 3 -

(I) "Foreclosing Entity" means an entity holding a note secured by a mortgage, an entity holding a lien recorded with the Cuyahoga 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 residential property as a result of a government insured mortgage or loan.

(J) "Foreclosure" means the process by which a foreclosing entity seeks a decree of foreclosure from the Cuyahoga Common Pleas Court or the Cuyahoga County Board of Revisions.

(K) "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.

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

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

(N) "Out-of-area" means in excess of 5 miles distance of the subject property.

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

(P) "Owner of record" means the person, partnership, co-partnership, association, corporation, fiduciary or any other entity having recorded title to the property with the Cuyahoga County Recorder's Office.

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

(R) "Residential building" means any improved residential real property, or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, including any houses, buildings and other structures that may be 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 or zoned for such use.

(S) "Securing" means such measures as may be directed by the City Building Department 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.

9/14/09

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2009-71

By Dean W. Van Dress Sponsored By Mayor Cyril M. Kleem

- 4 -

(T) "Vacant" means a residential house, building or structure that is not legally occupied and "evidence of vacancy" exists leading a reasonable person to conclude such residential real property is vacant.

1362.03 Initial Inspection by Foreclosing Entities.

For any residential real property located within the City of Berea, any foreclosing entity, that files a foreclosure action; accepts a deed in lieu of foreclosure; buys residential real property at a Sheriff's Sale; or accepts property as a result of a government insured mortgage or loan, shall perform an inspection of the property, prior to filing a foreclosure action or accepting a deed in lieu of foreclosure; or within 10 days after buying the residential real property at a Sheriff's Sale or accepting the residential real property as a result of a government insured mortgage.

(A) At the time of inspection, if the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the foreclosing entity shall, within 10 days of the inspection, make application to register the property as abandoned with the City Building Department on forms provided by the City.

- (1) The foreclosing entity shall pay a registration fee of \$50 and an inspection fee of \$100
- (2) Once a completed application and all fees have been paid, the City Building Department shall conduct an exterior inspection of the property and an interior inspection of any structures on the property to ensure compliance with this chapter, the Codified Ordinances of the City of Berea, The City of Berea Zoning Code, and the City of Berea Exterior Maintenance Code.
- (3) During the inspection by the City Building Department should any violation of this chapter, the Codified Ordinances of the City of Berea, the City of Berea Zoning Code, and the City of Berea Exterior Maintenance Code be found the City Building Department shall forward a list of violations and a timeframe to cure the violations to the foreclosing entity and the foreclosing entity shall cure the violations within the timeframe specified by the City Building Department.

(B) At the time of inspection, if the property is found to be occupied, the foreclosing entity shall perform an inspection of the property once every thirty (30) days to determine whether the property is still occupied. This duty shall continue until:

- (1) The foreclosure action is dismissed;
- (2) Title to the property is transferred from the foreclosing party to another entity; or
- (2) The property is found to be vacant or shows evidence of vacancy, at which time the foreclosing entity shall comply with the requirements set forth in Section 1362.03(A).

9/14/09

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2009-71

By Dean W. Van Dress Sponsored By Mayor Cyril M. Kleem

- 5 -

1362.04 Registration Duration.

(A) Registration shall remain valid for six (6) months from the date of issuance. Should the property remain vacant upon expiration of the initial registration, the foreclosing entity shall complete another application to register the property as an abandoned property and pay an additional \$50 registration fee.

(B) Properties subject to this chapter shall remain under the registration requirement, security and maintenance standards of this section, the Codified Ordinances of the City of Berea, the City of Berea Zoning Code and the City of Berea Exterior Maintenance Code as long as the residential real properties remain vacant. 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 of information contained in registration and required by this chapter, within 10 days of the change.

(C) 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) A direct contact name, telephone number and email address for the foreclosing entity; and
- (4) In the case of a corporation or out-of-area foreclosing entity, the name and mailing address of the local property management company as well as the direct contact name, telephone number and email address of the person responsible for the security, maintenance and marketing of the said property.

1362.05 Maintenance Requirements for Foreclosing Entities.

While residential real properties are required to be registered with the City of Berea pursuant this Chapter, such residential real properties are required to be maintained in accordance with the Codified Ordinances of the City of Berea, the City of Berea Zoning Code and the City of Berea Exterior Maintenance Code, including but not limited:

(A) Being kept free of grass and weeds in excess of six (6) inches, dead branches, 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) 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.

9/14/09

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2009-71

By Dean W. Van Dress Sponsored By Mayor Cyril M. Kleem

- 6 -

(C) Yard areas shall be landscaped and maintained. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, indoor-outdoor carpet or any similar material. Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning and mowing of required landscaping and removal of all trimmings.

(D) Pools and spas shall be drained and kept dry. Properties with pools and/or spas must comply with the minimum security fencing requirements of the City of Berea.

Adherence to this section does not relieve the foreclosing party of any obligations set forth in any covenants, conditions and restrictions, and/or homeowners' association rules and regulations which may apply to the property.

1362.06 Security Requirements for Foreclosing Entities.

While residential real properties are required to be registered with the City of Berea pursuant to this Chapter, such residential real properties are required to be maintained in a secure manner so as not to be accessible to any unauthorized persons. Secure manner includes but is not limited to:

(A) 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).

(B) In the case of windows securing includes locking and repair or replacement of any broken, damaged, deteriorated or dilapidated sills, sashes, molding, lintels, frames, trim, glazing or glass with substantially similar materials, i.e. broken glass must be replaced with new glass, not plywood.

(C) In the case of doors securing includes locking and repair or replacement of any broken, damaged, deteriorated or dilapidated door frames, doors, knobs, handles and locks with substantially similar materials, i.e. broken doors must be replaced with new doors, not plywood.

1362.07 Property Management Requirements for Foreclosing Entities.

While residential real properties are required to be registered with the City of Berea pursuant to this Chapter and the foreclosing entity is out of the area, the foreclosing entity is required to:

(A) Arrange to have a property management company perform weekly interior and exterior inspections to verify that the requirements of this chapter, the Codified Ordinances of the City of Berea, the City of Berea Zoning Code, the City of Berea Exterior Maintenance Code and any other applicable laws, are being met.

(B) Arrange to have the property maintenance company create reports detailing the findings of the weekly inspections required by Section 1362.07(A) and forward copies of these reports to: City of Berea Building Department, 11 Berea Commons, Berea, Ohio 44017.

9/14/09

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE _____ No. 2009-71 _____

By Dean W. Van Dress Sponsored By Mayor Cyril M. Kleem

- 7 -

(C) Install a single non-illuminated sign in the interior of a window or door, or onto the exterior of the structure facing the front of the property so it is visible from the street. The sign must be constructed of and printed with weather resistant materials. Should the exterior posting become damaged, weathered or removed a new exterior posting shall be installed on the property. The sign shall be no less than 11 inches by 17 inches, be legible from a distance of at least 45 feet and state the following:

- (1) The foreclosing entity's name, mailing address, its contact person's name, 24 hour telephone number and email address; and
- (2) The property management company's name, mailing address, its contact person's name, 24 hour telephone number and email address;

(D) If the property is found not to be in compliance with the requirements of this chapter, the Codified Ordinances of the City of Berea, the City of Berea Zoning Code or the City of Berea Exterior Maintenance Code, by the local property management company, the City of Berea, or if notification of noncompliance is reported to the local property management company through some other means, the property shall be brought back into compliance within 72 hours of notice thereof, which may be extended by the City of Berea's Chief Building Official for good cause shown and diligent efforts at compliance.

1362.08 Additional authority.

In addition to the standards established herein and in this chapter, the Codified Ordinances of the City of Berea, the City of Berea Zoning Code, the City of Berea Exterior Maintenance Code, and any other enforcement remedies permitted under the law, the Chief Building Official or his or her designee shall have the authority to require the foreclosing entity or owner of record of any property affected by this section to implement additional maintenance or security measures including but not limited to securing any or 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.

1362.09 Fees.

The fee for registering or re-registering an abandoned residential property shall be \$50. The fee for an inspection required under this chapter shall be \$100. The fee for a re-inspection required under this chapter shall be \$50. A fee of \$50 shall be assessed for any inspection or re-inspection that is cancelled with less than 24 hours advance notice or when the foreclosing entity or its designee fails to appear at an inspection or re-inspection.

1362.10 Enforcement.

In addition to enforcement procedures specified in this chapter, violations of this chapter may also be enforced in any combination of the Codified Ordinances of the City of Berea, the City of Berea Zoning Code, the City of Berea Exterior Maintenance Code, Nuisance Abatement under Chapter 931 of the Codified Ordinances of the City of Berea and any other enforcement remedies permitted under the law.

9/14/09

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2009-71

By Dean W. Van Dress Sponsored By Mayor Cyril M. Kleem

- 8 -

1362.11 Appeals.

Any person aggrieved by any of the requirements of this chapter may appeal to the Berea Municipal Planning Commission. Such appeal shall be made in writing to the Secretary of the Municipal Planning Commission and shall be filed within ten (10) days from the issuance of the order or notice from which an appeal is taken.

1362.12 Nuisance Abatement.

Any property deemed abandoned pursuant to the terms of this chapter and not maintained pursuant to the terms of this chapter, the Codified Ordinances of the City of Berea, the City of Berea Zoning Code and the City of Berea Exterior Maintenance Code is declared a nuisance. Any property declared a nuisance shall have the nuisance conditions abated pursuant to the terms of Chapter 931 of the Codified Ordinances of the City of Berea.

1362.99 Penalty.

Violations of this chapter shall be treated as a strict liability offense regardless of intent. Whoever violates any provision of this chapter is guilty of a minor misdemeanor. Pursuant to Berea Codified Ordinance 901.99(C) violation of this section by an organization shall carry a fine of not more than \$1,000 per offense. Each day the violation occurs or continues to occur shall be deemed a separate offense.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: October 19, 2009

James J. Brown
President of Council

ATTEST: Kathleen Russell Orndorff
Clerk of Council

APPROVED: October 20, 2009

Cyril Kleem
Mayor

Approved as to Form:

Gregory M. Jansella
Director of Law

Effective 30 days from
Passage: 11-19-2009