

**12. NEW BUSINESS**

- a. Staff report regarding options to address developed abandoned and distressed properties



# City of Sanibel

Planning Department  
Staff Report

City Council Meeting:  
City Council Agenda Item:

March 1, 2011  
12 a.

**A legislative request by Staff, to City Council, seeking direction to proceed with drafting potential legislation that will establish a process and set of procedures designed to remedy those certain developed properties that have been either abandoned or foreclosed upon and as a result have fallen into physical distress.**

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As a result of the prolonged downturn in the economy the City has recently encountered a small number of developed properties that have become either an eyesore or public nuisance; in most instances due to the lack of normal routine maintenance and upkeep as a result of property abandonment, prolonged absence in occupancy or foreclosure action.

To help protect Island property values, existing neighborhoods from blight and to better assist in the City's efforts to have these distressed properties abate their violation(s) in a timely fashion, Staff is prepared to draft specific legislation where there would exist a specific process and set of procedures to deal with correcting certain ongoing nuisances prior to taking Code Enforcement action that would result in a public hearing where corrective fines and/or liens could be assessed.

It is envisioned that the City's enforcement official will serve an important role in this process. Code Enforcement will take any necessary action based upon observation and determination as to whether a particular developed property nuisance or abandonment violation exists either upon inspection or in conjunction with the receipt of a complaint. If any violation(s) are discovered during the inspection, the enforcing official will notify the owner, in writing, of the specific violation(s), the remedy required, and the time period in which the owner has to remedy the violation(s). Failure to comply with the notice of violation in the time period specified will result in the violation being scheduled for a public

hearing before the Hearing Examiner. If the violation(s) are abated prior to the scheduled public hearing before the Hearing Examiner, the case will then be closed.

Steps if the violation(s) are not abated;

- Notice of Violation will be served to the property owner;
- The violation will be scheduled for a public hearing before the Hearing Examiner;
- A Stipulation Agreement may be executed and recorded with the Clerk of the Court; and
- An order to comply will be issued, recorded with the Clerk of the Court, and sent to the property owner.

Failure to comply with the recorded order may result in the City taking action to remedy the violation(s) and the property owner will be assessed for the administrative costs and the costs associated with the remedy.

For properties that have been declared abandoned or vacant upon inspection by the enforcing official and do not have any current violations, the property owner will be notified of the property registration requirement and registration will be required.

### **Defaulted and Foreclosed Properties**

On properties in which a mortgagee has filed a notice of default or foreclosure, the legislation will require registration with the city. Registration requires designation of a local contact or property manager, an initial inspection of the property for determination of any violation(s), securing, and regular maintenance and inspections of the property.

If the owner does not abate the violation(s) discovered during the initial inspection in the time period specified or fails to maintain the property in the manner described within the proposed legislation, the above mentioned enforcement procedure will be implemented.

A draft, yet incomplete, copy of the proposed Ordinance is included with this report as **Attachment A**.

CITY OF SANIBEL

ORDINANCE NO. 11 - \_\_

AN ORDINANCE ESTABLISHING REGISTRATION OF PROPERTIES THAT HAVE BEEN DECLARED TO BE A NUISANCE, VACANT, ABANDONED, OR IN DEFAULT OR FORECLOSURE; PROVIDING FOR DEFINITIONS; PROVIDING FOR CRITERIA FOR REGISTRATION AND FEES; PROVIDING FOR DESIGNATION OF A LOCAL CONTACT; PROVIDING FOR INSPECTION CRITERIA AND INSPECTIONS; PROVIDING FOR SECURITY; PROVIDING FOR MAINTENANCE; PROVIDING FOR AN ABATEMENT PLAN; PROVIDING FOR AN ENFORCEMENT PROCEDURE; PROVIDING FOR SERVICE OF NOTICE OF VIOLATION; PROVIDING FOR APPEAL TO CITY COUNCIL; PROVIDING FOR STATUS OF CITY COUNCIL ACTION; PROVIDING FOR ASSESSING LIENS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, pursuant to Section 166.021, Florida Statutes, the Sanibel City Council has the power to adopt ordinances necessary for the exercise of power and prescribe fines and penalties for the violation of ordinances in accordance with law; and

**WHEREAS**, recent events in the housing market have lead to a rise in the number of nuisance, abandoned, vacant, defaulted, and foreclosed properties nationwide and within the city. Owners, banks and other financial institutions are neglecting the maintenance and security of these properties; and

**WHEREAS**, these properties quickly succumb to the forces of nature and the elements, swimming pools, spas, and fountains become stagnant creating public health hazards, windows break, and exteriors suffer damage from normal wear-and-tear and vandalism, all of which has a negative impact on neighboring properties; and

**WHEREAS**, these properties are often create both aesthetic and attractive public nuisances and lead to neighborhood decline; and

**ATTACHMENT "A"**  
CITY OF SANIBEL  
ORDINANCE  
REGISTRATION OF PROPERTIES  
DECLARED A NUISANCE

**WHEREAS**, many of these properties are in violation of multiple aspects of state law and city codes and ordinances, including among other violations, unoccupied buildings susceptible to vandalism or open structures rendering them unsafe and dangerous; and

**WHEREAS**, the owners or mortgagees of these properties are often located out of state; therefore, making it difficult to notify them of violations of state laws and city codes and ordinances. Code compliance officers have turned into investigators as they try to find out where the owners are located or who the mortgagees are and how to contact them to correct violations; and

**WHEREAS**, the owners or mortgagees have an interest in the continued maintenance and security of nuisance, defaulted, foreclosed, vacant, and abandoned property subject to the terms of each mortgage; and

**WHEREAS**, the city desires to protect its neighborhoods from decline and devaluation, to protect the public health, safety, and welfare of its citizens, and to maintain a high quality of life for the community; and

**WHEREAS**, the presence of nuisance, defaulted, foreclosed, vacant, and abandoned properties may discourage buyers from purchasing property adjacent to or in areas where these properties exist; and

**WHEREAS**, the city finds that the registration and abatement of nuisance, abandoned, vacant, defaulted, and foreclosed properties will protect against decay and devaluation of such properties, and surrounding properties, that is caused by the lack of adequate maintenance, neglect, and disrepair of those nuisance, defaulted, foreclosed, vacant, and abandoned properties.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council for the City of Sanibel, Lee County, Florida:

**Section 1. Purpose and intent.** It is the purpose and intent of the city to establish a process to register nuisance, abandoned, vacant defaulted, and foreclosed properties located within the city. It is the city's further intent to specifically establish a registration, security, inspection, maintenance, and

abatement program as a mechanism to protect residential areas from becoming blighted through the lack of adequate and regular maintenance and security of these properties.

**Section 2. Definitions.** For the purpose of the ordinance, the following definitions shall apply unless the context clearly indicates and requires a different meaning.

**Abandoned** means where the owner of a property has by action or inaction, failed to correct a serious health and/or safety violation on the property. A serious health and/or safety violation may be found where the health, safety, and welfare of the community is or may be at risk due to such conditions as:

1. Where a building is vacant; however, vacancy is not necessarily to be considered a prerequisite to a finding of abandonment; or
2. Where a lack of maintenance of the property which actually or potentially poses a risk to the public health, safety, or welfare; or
3. Where a building is not structurally sound or where the building or its interior is otherwise unfit for healthy or safe habitation or access; or
4. Where vandalism or defacement at the property has gone unrepaired; or where lack of maintenance or use of the property promotes a degradation of the surrounding community affecting the public health, safety, and welfare.

**Abatement plan** means a plan as defined in Section 8 of this ordinance.

**Accessible property** means a property that is accessible through a compromised or breached gate, fence, wall, etc.

**Code enforcement officer or inspector** means any authorized agent or employee of the city whose duty it is to assure code compliance.

**Days** mean consecutive calendar days.

**Default** means the mortgagor has failed to make payments which are due under the terms of their contract.

**Direct mailing address** means the physical address of the entity designated in the registration form.

**Enforcing official** means the city manager or her/his delegate is deemed the enforcing official.

**Evidence of vacancy** means any condition that on its own, or in combination with other conditions present, would lead a reasonable person to believe that the building or structure is vacant. Such conditions may include, but not be limited to, accumulation of abandoned personal property, utilities being shut off, nuisance weeds, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

**Foreclosure** means the legal process by which a property, placed as security for a real estate loan, is prepared for sale by the lender/mortgagee to satisfy the

debt if the borrower/mortgagor defaults. This definition shall include all processes, activities and actions, by whatever name, associated with the described process.

**Hearing Examiner** means the person(s) designated by the city council that has all the powers conferred upon code enforcement boards pursuant to Florida Statutes, Chapter 126, Part I and the Sanibel Land Development Code, Article VII, Section 2-351.

**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 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 the purpose of viewing the interior.

**Lis Pendens** means pending suit of foreclosure of a property.

**Local** means that the principal place of business is located within the boundaries of Lee, Collier or Charlotte counties, Florida.

**Local contact** means the agent or local property maintenance or management company designated by the mortgagee upon registration as required under this ordinance.

**Mortgagee** means the creditor, including but not limited to, trustees; service companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement.

**Mailing address** means the address of property of the owner or mortgagee, not a post office box.

**Nuisance** means a property which constitutes a menace to the public health, welfare, safety or which is structurally unsafe, unsanitary, or not provided with adequate and safe ingress and egress, or which constitutes a fire hazard, or which may otherwise be dangerous to human safety, or which in relation to existing uses constitute a hazard to the public health, welfare, or safety reasons of inadequate maintenance, dilapidation, obsolescence or abandonment. A property which is in receipt of a notice of violation from the city or a property which has been declared abandoned or vacant by the city.

**Nuisance weeds** means the accumulation of untended growth of weeds, grass, undergrowth or other dead or living plant life that impedes safe the ingress or egress to the structure or building or obstructs the line of sight for public rights-of-ways, sidewalks, or shared use paths for pedestrian, bike, or vehicular traffic.

**Owner** means every person, entity, or service company, who alone or severally with others:

1. has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, building, or structure; or
2. has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit, or building, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
3. is a mortgagee in possession of any such property; or
4. is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property.

**Property** means any structure, building, or dwelling unit and the associated yard located in the municipal boundaries of the City of Sanibel. Thereinafter used as the term "property".

**Securing** means any measures that assist in making the property inaccessible to unauthorized persons.

**Vacant** means any building or structure that shows evidence of vacancy or that is not legally occupied for more than one (1) year. This does not apply to undeveloped property.

### **Section 3. Registration and fees.**

- A. Any mortgagee who holds a mortgage on property within the city shall register, with the city's Planning Department, said property that is the security for the mortgage when the property meets one of more of the following criteria:
  1. is declared a nuisance; or
  2. is in default or has begun the notice of default procedure; or
  3. is in the process of foreclosure or upon filing of lis pendens with the Lee County Clerk of Court; or
  4. shows evidence of vacancy or is declared vacant; or
  5. is declared abandoned
- B. Properties that have been declared abandoned or vacant upon inspection by the enforcing official require registration and compliance with the terms and conditions set forth herein. Property owners will be notified in writing of the registration requirement.
- C. The property must be registered with the city within 10 days of meeting any of the above criteria.
- D. The filing fee for initial registration is \$100.00 per property. A subsequent fee of \$75.00 annually is required thereafter and is due within 30 days of the expiration of the initial registration.
- 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. The registration requirement shall remain in effect as long as the property remains a nuisance, is in default or foreclosure, is vacant, or is abandoned.

**Section 4. Designation of a local contact, and/or property maintenance company.**

- A. The mortgagee or owner, in the instance of declared abandoned or vacant properties, must designate and retain a local individual or local property management company as a point of contact for the property for the security, and the regular maintenance, and inspection of the property. The mortgagee shall provide the city with the following information for both the owner or mortgagee and local contact or property maintenance company:
  - 1. owner or mortgagee
    - a. name and title, if applicable; and
    - b. mailing address (must not be a post office box); and
    - c. phone number (including area code and extension)
  - 2. local contact or local property maintenance company
    - a. name and title, if applicable; and
    - b. direct mailing address (must not be a post office box); and
    - c. direct phone number (including area code and extension); and
    - d. 24-hour emergency contact phone number; and
    - e. direct facsimile number (including area code); and
    - f. direct e-mail address
- B. Any change to the contact information above for either the owner or mortgagee and the local contact or local property maintenance company must be reported to the city's Planning Department within 7 days of the change. No fee will be assessed to update the contact information. However, fees may be assessed if the contact information is not updated with the city and on the property within 7 days of the change.
- C. The local contact shall be responsible for the abatement of nuisances, hazards, violations, security, and the regular maintenance and inspection of the property.
- D. If the property is unoccupied, the contact information above must be posted on the property, inside in a window adjacent to the main entrance into the property. The contact information must be printed or

typed and clearly legible. Any change to the contact information must be updated on the posting within 7 days of the change. If possible, it should be clearly visible from the street. Contact forms for postings will be included as part of the property registration package.

**Section 5. Inspection criteria and inspections.**

- A. The owner or owner's agent shall perform an inspection of the property to identify the overall condition of the interior and exterior of the property and identify any potential nuisances and/or safety hazards within 7 days of registration.
- B. An inspection report shall be filed with the Planning Department, on forms provided by the city, within 7 days of registration of the property.
- C. The city's enforcing official will conduct an inspection of the property within 7 days of the filing of the initial inspection report submitted by the owner or owner's agent to verify the information in the report and document any violation(s) on the property. The city will provide written notice of those items that need to be remedied, to both parties identified in Sections 4. A. 1. and 4. A. 2, the remedy(ies) and the time period for which the remedy(ies) is required.
- D. The owner or local contact will have 30 days to remedy, repair, or replace the items identified in the enforcing officials' notice of violation. Should the remedy, repair, or replacement be considered to be exceedingly costly and/or require multiple disciplines to remedy, repair, or replace, the owner or owner's agent may file an abatement plan with the city within 7 days of the notice of violation.
- E. In the event that the violation(s) poses an imminent risk to public safety or welfare, remedy of the violation(s) will be required in advance of the 30 period. The abbreviated remedy time will be stated in the notice of violation.
- F. Failure to comply within the time period specified in the notice of violation will result in the implementation of the enforcement procedures set forth herein.
- G. Failure to comply with any of the terms and conditions or time periods specified in any of the associated building or development permits, issued as a result of the notice of violation, will result in the implementation of the enforcement procedures set forth herein.
- H. After the initial inspection report has been filed, monthly inspection reports must be filed, on forms provided by the city, with the city's Planning Department, by the owner or owner's agent.
- I. If the property is occupied but remains in default, it shall be subject to monthly inspections as set forth above.

## **Section 6. Security.**

- A. All owners are responsible for maintaining their property in a secure manner so as not to be accessible to unauthorized persons.
- B. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by re-glazing or replacing the windows within 30 days.
- C. Any excavations, swimming pools, spas, at grade fountains, or other attractive nuisances shall be properly secured and comply with the requirements of the city code and ordinances, state laws, and the Florida Building Code.

## **Section 7. Maintenance.**

- A. Registered properties must be maintained in accordance with terms and conditions set forth herein and all applicable city codes and ordinances, state laws, relevant sanitary codes, and the Florida Building Code concerning external or visible maintenance.
- B. Lawns that have been historically maintained shall continue to be maintained and kept in a condition reflective of reasonable care, with grass showing no excessive signs of neglect, discoloring and/or dead vegetative growth.
- C. Weeds, grasses, overgrown brush or dead vegetation over 12 inches tall, within 35 feet of the structure or building, are prohibited.
- D. The curtilage of the property must remain free of abandoned and neglected property, unsecured objects, and debris.
- E. Properties that employ native landscaping principles are exempt from the maintenance standards applicable for lawns (Section 7.B), so long as the native landscaping does not impede the safe ingress and egress or pose a fire hazard to the structure or building.
- F. In the event of defacement of the property, the owner must restore the surface to an approved state of maintenance and repair within 30 days of the act of defacement.
- G. Pools, fountains, and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools, fountains, and spas shall comply with the requirements of city code and the Florida Building Code.
- H. Failure to comply with any of the above items will result in the issuance of a notice of violating.
- I. Failure to abate the items noted in the notice of violation within the time period specified will result in the implementation of the enforcement procedures set forth herein.

## **Section 8. Abatement plan.**

- A. Should the property require an abatement plan as identified in Section 5. D., the property owner or owner's agent shall submit a plan within 7 days after the enforcing official's notice of violation. The abatement plan shall be submitted to the Planning Department. The abatement plan shall include the following information for each item noted in notice of violation:
  - 1. justification for the need of an abatement plan (i.e., excessive costs and/or complexity of remedy, etc.); and
  - 2. a process/plan for each remedy, repair, or replacement; and
  - 3. a timeline for remedy, repair, or replacement.
- B. The city will review, and either approve or deny, the abatement plan within 7 days of receipt of the plan. If the plan is denied, the city will provide written notice to the owner of what portions of the plan need to be amended and make any requisite recommendations.
- C. When approved, the owner or owner's agent must apply for any and all of the requisite building and development permits within 7 days of approval.
- D. Failure to apply for the requisite permits will result in the implementation of the enforcement procedures set forth herein.
- E. Failure to comply with any of the terms and conditions or time periods specified in any of the associated building or development permits, issued as a result of the notice of violation, will result in the implementation of the enforcement procedures set forth herein.

## **Section 9. Enforcement procedure.**

- A. Powers and duties generally. The enforcing official shall be charged with the duty of administering the applicable standards of this ordinance, and securing compliance with this ordinance. In furtherance of this responsibility, the enforcing official shall:
  - 1. Make such inspections as may be necessary to effectuate the purpose and intent of this ordinance and to initiate appropriate action to bring about compliance with this ordinance if such inspections disclose any instance of noncompliance.
  - 2. Investigate thoroughly any complaint of alleged violations of this ordinance and indicate clearly in writing as a public record the disposition made of such complaint.
  - 3. Order in writing as set out below the remedy of all conditions or all violations of this ordinance found to exist in or on any premises, and state in the violation order a time limit for compliance with this ordinance as set out in this ordinance.

4. Request the city attorney to take appropriate legal action upon the failure of the responsible party to comply with such violation order at the time specified therein or refer the matter to the code enforcement board, or both.
- B. Authorization to inspect. The enforcing official or his/her agent is authorized and directed to lawfully enter and inspect all buildings and to lawfully go upon and inspect all lands within the city at reasonable times to determine their condition in order to safeguard the health, safety and welfare of the public, or upon receipt of complaints, or when he/she has cause to believe a violation of this ordinance exists, and to obtain any necessary search warrants for such inspections.
- C. Notice of violation. Whenever the enforcing official determines that a violation of this ordinance exists, he/she shall take action as follows:
1. Give written notice of the violation to the owner. Copies of such written notice shall be transmitted to the city manager and the city attorney.
  2. The notice shall include:
    - a. A description of the location of the property involved, either by street address or by legal description or tax parcel number.
    - b. A statement indicating the nature of the violation and reason or reasons why the notice of violation is issued.
    - c. A specification of the section or sections of this ordinance or city code upon which the notice of violation is based.
    - d. If repairs or alterations will bring the structure into compliance with this ordinance, a statement of the nature and extent of such repairs or alterations necessary to comply.
    - e. If remedies, repairs or alterations of a property are necessary for compliance, a time period for performing such remedy, repair, or alteration, shall be 30 days. Exemptions include an alternative time period which is specified in the notice of violation or the owner has an approved abatement plan and an alternative time period is specified therein.
    - f. The name or names of persons or entities upon whom the notice of violation is served.
    - g. A statement advising that upon the owner's or entity's failure to comply with the notice, the city may perform or cause to be performed the remedies, repairs, or alterations or cleaning up of the property involved, and that the expense of such performance by the city shall constitute a lien against the property involved.
    - h. A statement advising of the procedures available for review of the action of the enforcing official.

### **Section 10. Service of notice of violation; effect as order.**

- A. The written notice of violation referred to in Section C shall in all cases be served upon the owner, as well as upon the occupant of the premises if the premises are occupied by someone other than the owner. Such service shall be deemed complete if personally delivered and if the written notice cannot be delivered personally within the city, then service shall be deemed complete upon sending such written notice by certified mail, return receipt requested, to the address listed in the contact in Section 2 above and/or the last known address of the owner as shown on the tax rolls of the city, and by posting a copy of such notice in a conspicuous place on the premises.
- B. The enforcing official shall endorse on the copies of the written notice forwarded to the city manager and the city attorney the manner of service of the notice or notices as are required by this section.
- C. When any written notice of violation shall become an order, either because no petition for review of the decision of the enforcing official has been taken or because such petition for review has been taken and the decision of the enforcing official has not been reversed, then such order shall be executed by the enforcing official.
- D. If such order is not complied within the time specified in the order, then the city may make such repairs, alterations, demolition or clean-up as may be required in such order. Such expense shall be paid by the owner in accordance with Section 7. G.
- E. In the event that the property poses a danger or hazard to the public, the enforcing official shall place a notice on the property and post such notice on the property to read as follows:
  - 1. "This building (or land) has been found to be dangerous or hazardous by the city. This notice is to remain on this property as placed thereon until the requirements of the notice which has been given the owner or mortgagee have been fully complied with. It is unlawful to remove this notice until such requirements have been complied with."

### **Section 11. Appeal to the hearing examiner; procedure.**

- A. Generally. Notice of violation by the enforcing official may be appealed to the Hearing Examiner, as provided in this section.
- B. Procedure. Appeals for notice of violations may be taken by any person aggrieved by any notice which has been issued in connection with the enforcement of this ordinance. Such appeal shall be taken within 14 days after the notice of violation was served, by filing in the office of the Planning Department a written petition to the Hearing Examiner, setting forth the grounds therefor. Upon the receipt of such petition, the enforcing official shall schedule a hearing on the appeal at a public hearing before the hearing examiner more than ten days after the petition is filed. Written

notice of the time and place of the hearing shall be sent by certified mail, return receipt requested, to the person taking such appeal at least ten days prior to the date of such hearing. At the hearing, any party may appear in person or by agent or attorney.

- C. Power to sustain, modify or withdraw the notice of violation. After public hearing, the Hearing Examiner may sustain, modify or withdraw the notice of violation.
- D. Findings--Sustaining. If the Hearing Examiner sustains the enforcing official, it shall find that:
  - 1. The facts as stated in the written notice of violation are correct and that the situation covered by the notice is, in fact, a violation of this ordinance; and
  - 2. The remedy stated by the enforcing official in the written notice of violation is the minimum remedial action which will bring the property cited into compliance with the ordinance.
- E. Same--Modification or withdrawal. If the Hearing Examiner shall modify or withdraw the notice of violation, it shall find the following, as may be applicable to the specific case:
  - 1. That the facts as stated in the written notice of violation are not correct and that the situation as covered by the notice is not, in fact, a violation of this ordinance, or that the procedures required of the enforcing official in this ordinance have not been complied with; or
  - 2. That the remedial action required by the enforcing official is not the minimum remedial action necessary to bring the structure or premises into compliance with this chapter and that some other remedial action, to be stated by the city council as a part of the record of the case, is the minimum action necessary to secure compliance with this ordinance.

**Section 12. Status of city council action; judicial review. ( Sec. 14-271)**

- A. If the Hearing Examiner sustains or modifies the written notice of violation given by the enforcing official, it shall be deemed an order and action shall be taken by the enforcing official to enforce the order. Any notice of violation served pursuant to this ordinance and in conformity with the provisions of this ordinance shall become an order if no petition for review has been filed with the city council within the time limit set out in Section E.
- B. Any person or persons aggrieved by any decision of the Hearing Examiner may seek review by a circuit court, in the manner provided by the laws of the state.

**Section 13. Assessing liens.**

- A. Billing and notice. Promptly after completion of any remedies, repairs, alterations, or clearing or cleanup done by the city under authority of this

ordinance, the enforcing official shall cause the owner to be billed for the cost of such work including labor, materials and title searches. The bill shall be served upon the owner or mortgagee by delivery to the owner or mortgagee personally or by certified mail, return receipt requested, at the address identified in Section 2 or the last known address as shown in the city tax rolls. If the bill is not paid within 30 days following such service, the owner shall be notified of the enforcing official's intention to apply for a lien against the property. Such notice shall:

1. Describe the premises involved either by legal description or street address;
  2. Describe the nature of the work done thereon and state the amount for which a lien assessment is sought;
  3. Specify the date on which the city council will hold a public hearing for the purpose of making a lien assessment against the property for the cost of the work done thereon, and advise the owner of his right to be heard on any matter pertaining to the proposed lien assessment; and
  4. Such notice shall be served on the owner not less than ten days prior to the date set for the hearing in the same manner as set forth in this section.
- B. Hearings on liens. At the hearing, the enforcing official shall report to the city council on the nature of the work accomplished, the cost of the work, and the service of the required notice. All interested parties shall be given an opportunity to be heard at such hearing with respect to the validity and amount of the proposed lien assessment.
- C. Levy by city council. After such hearing, the city council may levy an assessment against the property for the cost of such work done on such property in such amount as the city council may find to be proper and reasonable. Such assessments shall be made by the adoption of a resolution containing findings of the city council, including the finding that:
1. The procedures of this ordinance have been followed;
  2. The work done was in conformity with the requirements of this ordinance; and
  3. The amount of assessment is just and reasonable and based on the actual cost of such work.

The resolution shall contain a legal description of the property, the names of the owners of such property, and such other information as may be deemed appropriate. The assessment shall become effective immediately upon the adoption of the resolution and shall bear interest thereafter at the rate of ten percent per annum. Upon the adoption of the resolution, the city shall have a lien against the property on which the work was done and on the real estate on which it is located, as described in the resolution, which lien shall be of equal dignity, with other municipal

liens for taxes, levies and assessments, and may be enforced as other such municipal liens. Upon foreclosure of such lien, the property owner shall be liable for all costs incidental to such foreclosure, including a reasonable attorney's fee, which shall also be secured by such lien.

- D. Notice of adoption of resolution. A copy of such resolution shall be served on the owner by certified mail, return receipt requested, within ten days of the date of its adoption.

**Section 14. Conflict.**

All sections of or parts this ordinance of the code of ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this ordinance are repealed to the extent of such conflict.

**Section 15. Severability.**

If any section, clause, sentence, or phrases of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 16. Effective date.**

This ordinance shall be effective immediately upon adoption of the second reading.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida,

this     day of     , 2011.

AUTHENTICATION:

\_\_\_\_\_  
Kevin Ruane, Mayor

\_\_\_\_\_  
Pamela Smith, City Clerk

APPROVED AS TO FORM: \_\_\_\_\_

Kenneth B. Cuyler, City Attorney

\_\_\_\_\_ Date

\_\_\_\_\_ First Reading

\_\_\_\_\_ Publication Date

\_\_\_\_\_ Second Reading

Vote of Council Members:

Ruane

Denham

Harrity

Jennings

Pappas

Date filed with City Clerk:

DRAFT

**Municipal Ordinances Requiring Registration**

Municipality	Trigger	Time to register	Local Contact	Fee	Annual Fee/ When	Inspection Timing	Maintenance	Security	Ordinance No. Section No.
Belleair	foreclosing	7 days	yes	100	yes/ 30 days prior	quarterly	general	general	465
Broward County	notice default	10 days	yes	150	yes/ October 1	monthly Ocp/ bi-wkly out area	yes	yes	39-139-153
Cape Coral	default	10 days	yes	150*	yes	monthly	yes	yes	
Casselberry	notice default	10 days	yes	100	yes	bi-wkly	yes	yes	09-1310
Charlotte County	abandonment /default	immediate/ 10 days	no	150	yes/ win 15 days of initial	monthly Ocp/ bi-wkly out area Mar. - Oct.	yes	yes	3-2-111
Coconut Creek	default	10 days	yes	150	yes	monthly Ocp/ bi-wkly out area	yes	yes	2008-032
Coral Springs	default	10 days	yes	150		monthly Ocp/ bi-wkly out area	yes	yes	2008-109
Cutler Bay	default	10 days		150		monthly Ocp/ bi-wkly out area	yes	yes	
Dade	lis pendes/ action			125	annual				
Davie	lis pendes/ default	10 days	y	150	annual	bi-weekly	y	y	Sect. 6-9.2
Florida City	default	10 days		150	annual	monthly	y	y	Art. VI, Ch. 30, Asect. 151-165
Hillsborough County	lis pendes/ action	10 days	y	100	annual	monthly	y	y	Ord. 09-59
Lady Lake	default	10 days		150	annual	monthly	y	y	Ord. 2009-23
Margate	default	10 days	y	50	annual	monthly	y	y	App. A Zoning, Sect. 23.16
Marion County	default	10 days		y	annual		y		Ch. 11, Art. VI, Sect. 11-221
Melbourne	default /vacant	10 days	y			weekly	y	y	Art. II Sec. 17-26

<b>Miami</b>	vacant			varying				y	y	Ch. 10, Art. IV, Sec. 10-61
<b>North Lauderdale</b>	vacant		y	50				y	y	Ord. 08-01-1205 (Art. III)
<b>Oakland Park</b>	default	10 days	y	150	annual	monthly		y	y	Ord. O-2010-009
<b>Ocala</b>	default	10 days	y	TBD	annual	monthly		y	y	Art. VI.
<b>Palm Bay</b>		7 days	y	100		monthly		y		Ord. 2010-44
<b>Parkland</b>	default	10 days		150	annual	bi-weekly		y	y	Ord. 2008-16
<b>Sanford</b>	vacant/ forclosing	10 days		100	annual			y		Ord. 2009-4157
<b>West Melbourne</b>	default	10 days	y	150	annual			y	y	Ord. 2009-66