

CHAPTER 53

MAINTENANCE OF VACANT AND/OR FORECLOSED PROPERTIES

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53.01 PURPOSE. The purpose of this chapter is to protect and preserve the public health, safety, security, and enjoyment of the use of property located within the City of Perry by residents, visitors, and business by (1) requiring all residential and commercial property owners or titleholders, including lenders and trustees, to have their vacant, foreclosed properties registered with the City of Perry, if the property registration information has not already been made available to the City of Perry through other means; and (2) regulating the security and maintenance of residential and commercial vacant, foreclosed properties to prevent blighted and unsecure residences and buildings. The City Council finds that the occurrence of foreclosures may lead to buildings and structures becoming targets for criminal activity. The City Council also finds that foreclosed buildings and structures that remain unoccupied for months or even years are more likely to experience multiple violations of the building, fire, housing and nuisance municipal codes. The City Council further finds that vacant and foreclosed properties are likely to negatively impact surrounding neighborhoods and business districts. Based on these findings, the City Council has deemed it necessary to enact the following regulations for the City of Perry.

53.02 DEFINITIONS. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

1. “Accessible Property” means a property that is accessible through a compromised, breached, or broken gate, fence, or other entry point.
2. “Accessible Structure” means a structure that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.
3. “Beneficiary” means a lender, designee, nominee, or servicer under a note secured by a deed of trust or mortgage.

4. "Commercial Building" means a building used for the barter, exchange, sale, service or trade of goods, materials, or services, either tangible or intangible for financial, material, or monetary gain.
5. "Days" means consecutive calendar days.
6. "Deed of Trust" means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition includes any subsequent deeds of trust.
7. "Deed in Lieu of Foreclosure or Sale" means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.
8. "Default" means the failure to fulfill a contractual obligation, monetary or conditional.
9. "Enforcement Official" means the City Administrator, the Building Official, the Fire Chief, the Chief of Police, and/or any of the City Department Officials, including code enforcement officers, who are responsible for enforcing the provisions of this chapter.
10. "Evidence of Vacancy" means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions 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 by neighbors, passersby, delivery agents, and government employees that the property is vacant.
11. "Foreclosure" means procedure whereby property pledged as security for a debt is sold to pay the debt in the event of default in payments or terms.
12. "Local" means located within sixty (60) road or driving miles distance of the subject property.
13. "Mortgage" means an instrument by which a borrower pledges certain real property or collateral as guarantee for the repayment of a loan.
14. "Mortgagee" means the lender in a mortgage loan transaction.
15. "Mortgagor" means the borrower in a mortgage loan transaction.

16. “Notice of Default” means a notice issued pursuant to the applicable real estate security document or required by law that a default has occurred under a deed of trust or mortgage.
17. “Out-of-State Beneficiary” means a beneficiary who does not have a physical presence in the state of Iowa.
18. “Owner” means any person, partnership, association, corporation, fiduciary, or other legal entity having a legal or equitable title or any interest in real property.
19. “Owner of Record” means the person holding recorded title to the property at any point in time when official records are produced by the County Recorder’s Office.
20. “Property” means any unimproved or improved real property, or portion thereof, situated in the City and includes the buildings or structures located on the property regardless of condition.
21. “Registered Representative” means the person designated by a beneficiary as the beneficiary’s representative for the purpose of accepting notice, service, and summons on behalf of the beneficiary and for otherwise ensuring compliance with the Perry Municipal Code requirements.
22. “Residential Building” means any improved real property or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures 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.
23. “Securing” means such measures as may be directed by an Enforcement Official that assist in rendering the real property inaccessible to unauthorized persons, including but not limited to repairing fences and walls, chaining or padlocking of gates, and the repairing or boarding of doors, windows, or other openings.
24. “Trustee” means any person, partnership, association, corporation, fiduciary, or other legal entity holding a deed of trust or mortgage securing an interest in real property.
25. “Trustor” means any borrower under a deed of trust or mortgage who deeds property to a trustee as security for the payment of a debt.
26. “Vacant” means any building structure, or real property that is unoccupied or occupied by a person without a legal right of occupancy.

53.03 REGISTRATION REQUIREMENTS. The following provisions shall apply to commercial and residential properties located in the City that have been subject to foreclosure action. Beneficiaries who have voluntarily registered their properties with the City at any time following the issuance of a notice of default by the mortgagee or trustee to the mortgagor or trustor, but prior to obtaining title to the property through a foreclosure action, or who have registered their properties on the *MERS system* allowing the City to access current property preservation contact information, shall be considered exempt from complying with the following registration requirements:

1. Any beneficiary under a deed of trust or mortgage covering a property located within the City shall be responsible for having an inspection performed of the property that is the security for the deed of trust or mortgage within twenty (20) days of obtaining title to the property through a foreclosure action. If, at the time of the inspection, the property is found to be vacant or shows evidence of vacancy, the beneficiary shall, within ten (10) days of the inspection, register the property with the City's Police Department on forms provided by the City. There is no fee associated with the property registration if the beneficiary complies with these time deadlines.
2. The registration shall contain the full legal name of the beneficiary and the registered representative, the direct street or office mailing address of the beneficiary and the registered representative (NO Post Office boxes), a direct contact name and telephone number for the beneficiary and registered representative, and, if applicable, the local property management company responsible for the security, maintenance, and marketing of the property for an out-of-state beneficiary. A company e-mail address may be used for the beneficiary and registered representative in lieu of a direct contact name and telephone number.
3. The registration shall be valid as long as the subject property remains vacant and shall be amended as needed.
4. This section shall also apply to properties that have been the subject of a foreclosure sale where title to the property was transferred to the beneficiary of a deed of trust or mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.
5. Properties subject to this chapter shall remain under the security and maintenance standards of this chapter as long as they remain vacant.

6. Any person or entity that has registered a property under this chapter must report any change of information contained in the registration within ten (10) days of the change.

53.04 SECURITY REQUIREMENTS.

1. All registered properties shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (walk-through, 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). In the case of broken windows, "securing" means the re-glazing or boarding of the window.

2. If the beneficiary is an out-of-state beneficiary, a local property management company shall be contracted by the beneficiary to perform appropriate and timely inspections to verify that the requirements of this chapter, and any other applicable laws, have been satisfied.

3. The beneficiary shall cause the property to be inspected on an appropriate and timely basis to determine if the property is in compliance with the requirements of this chapter.

53.05 MAINTENANCE REQUIREMENTS. All registered properties shall comply with all of the requirements of the Perry Municipal Code. Adherence to this chapter does not relieve the beneficiary or property owner of any obligations set forth in any covenants conditions and restrictions or homeowners' association rules and regulations which may apply to the property. The duties and obligations specified in this chapter shall be joint and several among and between all trustees and beneficiaries and their respective agents.

53.06 ENFORCEMENT. This chapter is intended to be cumulative to, and not in place of, other rights and remedies available to the City pursuant to the Perry Municipal Code. The City Attorney's Office and the City's Enforcement Officials have the authority to enforce this chapter, including the pursuit of any right or remedy permitted by this Code, including but not limited to commencement of any civil action or administrative action to abate any nuisances.

53.07 VIOLATIONS. Violations of this chapter are declared to be municipal infractions pursuant to Chapter 4. Any civil penalties imposed shall be in addition to any alternative relief sought by the City, such as seeking reimbursement for the City's costs for abatement or correction of the violation(s).

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