

MEMORANDUM

TO: Honorable Chairman and Members of the Board of County Commissioners

FROM: Kate Newman, Acting County Manager 

RE: Sheriff - Ordinance Adopting Policy Manual Part 3, Chapter 8, Section 1 Regulating Distressed Real Property - First Reading to Set Public Hearing for and Order the Ordinance Published

DATE: January 31, 2023

Staff Recommendation: WHEREAS, by virtue of Section 30-15-401, C.R.S., the Board of County Commissioners (BCC) has the power to adopt ordinances for the control of matters of purely local concern, and do all acts and make all regulations which may be necessary or expedient for the promotion of the health, safety and welfare of its citizens, and

WHEREAS, the Colorado Legislature passed SB 21-271, the Misdemeanor Reform Bill, and

WHEREAS, Staff is proposing to amend the Distressed Real Property Ordinance to comply with state statute.

NOW THEREFORE, BE IT RESOLVED, that the BCC hereby introduces and reads by title the Ordinance entitled "An Ordinance Adopting Policy Part 3, Chapter 8, Section 1 Distressed Real Property,"

FURTHER RESOLVED, that a public hearing for consideration of the adoption of this Ordinance is hereby set for February 21, 2023.

FURTHER RESOLVED, that the Clerk to the Board shall have the ordinance published in full in a newspaper of general circulation at least 10 days before the public hearing.

Resolution No. CC23-025

Background:

The Misdemeanor Reform Bill, SB 21-271, impacted several county ordinances. Proposed amendments will bring the Distressed Real Property Ordinance into compliance with state statute. Provisions of this ordinance have become civil matters.

Fiscal Impact: The proposed ordinance changes may result in increases or decreases to associated revenue, with potential changes varying year to year.

BCC Briefing Presented on: January 10, 2023

Originator: Kate Newman

Distribution: Carey Markel, Deputy County Attorney; Rebecca Klymkowsky, Assistant Deputy County Attorney; Abel Montoya, Director of Development and Transportation; Chris O'Keefe, Director of Planning and Zoning; Pat O'Connell, Engineering Geologist; Mike Schuster, Assistant Director Planning and Zoning; Russell Clark, Planning Manager

ORDINANCE
An Ordinance Adopting Policy Part 3, Chapter 8, Section 1 Distressed Real Property.

Title: Regulatory Policy Distressed Real Property	Policy No. Part 3, Regulations Chapter 8, Property Section 1
	Effective Date
Policy Custodian Sheriff	Adoption/Revision Date

Adopting Resolution(s):

References (Statutes/Resos/Policies): C.R.S. § 30-15-401(1)(q) & (r); CC11-353

Purpose: An Ordinance, pursuant to the authority granted by C.R.S. § 30-15-401(1)(q) & (r), regulating distressed Real Property within unincorporated Jefferson County for the purposes of protecting public safety and health.

Policy: Regulation of Distressed Real Property

A. Definitions

1. "Distressed Property" means any Vacant Real Property in Foreclosure or any Vacant Real Property with a Hazardous Condition.
2. "Hazardous Condition" means a condition that threatens public safety and/or health.
3. "In Foreclosure" means that (1) a notice of election and demand has been recorded in the office of the county clerk and recorder pursuant to section 38-38-102, C.R.S., (2) an action has been filed in a court requesting an order of foreclosure, and/or (3) a notice of default and sale has been served pursuant to Chapter 38 of the Multifamily Mortgage Foreclosure Act of 1981. Real Property remains In Foreclosure until (1) the foreclosure proceedings are terminated without any transfer of title from the owner or (2) a party unaffiliated with the foreclosing party takes title to the Real Property and the Real Property becomes occupied by that title holder or persons authorized by that title holder.
4. "Preservation" of Distressed Property includes registration, security, and maintenance as described in this ordinance.
5. "Real Property" means both residential and non-residential improved land, including the improvements on such land.
6. "Responsible Party" means any (1) owner of the Real Property; (2) holder of a

lien on the Real Property that has taken possession of the Real Property pursuant to C.R.S. § 38-38-601 to -602; or (3) receiver appointed to take possession of or to Preserve the Real Property.

7. "Secured" means inaccessible to unauthorized persons, including but not limited to having fences and walls in good repair, gates chained or locked, and doors, windows or other openings locked and in good repair, in conformance with all applicable standards of the United States Department of Housing and Urban Development.
8. "Vacant" means unoccupied by the owner or persons authorized by the owner.

B. Registration of Vacant Real Property in Foreclosure

1. If a Real Property is Vacant and In Foreclosure, the Responsible Party shall register the property with the Jefferson County Planning and Zoning Division by providing contact information for a person or entity responsible for the Preservation of the Real Property in Foreclosure, including a telephone number by which the person or entity responsible for the Preservation of the Real Property in Foreclosure may be contacted 24 hours a day in case of emergency. The Responsible Party shall register the Real Property within 10 days of the Real Property meeting the definition of In Foreclosure.
2. The Responsible Party may be required to pay a nonrefundable registration fee if specified by the Board of County Commissioners.

C. Registration of Other Distressed Property

The County may issue written notice to Responsible Parties requiring them to register any Real Property that becomes Distressed Property through identification of a Hazardous Condition. The Responsible Party shall register any such Distressed Property in accordance with the requirements of Section B above within 10 days of the issuance of such notice. The notice that may be provided in this section applies only to the registration requirements. The Security and Maintenance requirements of this Ordinance apply to any Distressed Property regardless of whether notice of a requirement for registration has been provided.

D. Security

The Responsible Party shall ensure that a Distressed Property remains Secured at all times. In the event that the property is not secured through no fault of the Responsible Party, the Responsible Party shall secure the property within 24 hours of notice or, if substantial construction is necessary to secure the Distressed Property, as soon as reasonably possible. Under no circumstances shall such time exceed 45 days unless circumstances beyond the control of the Responsible Party make timely compliance impossible.

E. Maintenance Standards for Distressed Properties

The Responsible Party for a Distressed Property shall ensure that the Real Property is maintained so that it does not have Hazardous Conditions. Examples of Hazardous Conditions include, but are not limited to:

1. Deteriorating structure.
2. Presence of trespassers.
3. Unmaintained pools and spas.
4. Failed septic systems.
5. Presence of graffiti.

F. Violations

1. A Responsible Party who violates this ordinance commits a civil infraction and, upon conviction thereof, shall be subject to fine pursuant to C.R.S. § 30-15-402(1) and -402(2)(a). Any law enforcement officer may enforce this ordinance through the penalty assessment procedure established by C.R.S. § 16-2-201. Every seven (7) calendar days from the date of the issuance of the initial penalty assessment during which a Responsible Party fails to correct a violation of this ordinance shall constitute a separate violation.
2. The penalty for such violation shall be a fine of not more than \$1,000 for each separate violation.
3. The County Attorney is authorized to prosecute violations of this ordinance.

G. Validity of Other Laws and Requirements

1. Compliance with the requirements of this ordinance shall not relieve any person of the duty to comply with any other local, state, or federal laws or regulations, including zoning or building code regulations.
2. Compliance with the requirements of this ordinance shall not relieve any person of any obligations set forth in any covenant, condition, or restriction on property or common interest community/homeowners' association requirement which may apply to the property.