

ORDINANCE NO. 02014-41

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WILDWOOD REQUIRING THE REGISTRATION AND MAINTENANCE OF PROPERTIES IN FORECLOSURE; PROVIDING FOR FINDINGS; PROVIDING FOR DEFINITIONS; ESTABLISHING REQUIREMENTS FOR MORTGAGEES; MAKING CERTAIN ACTS UNLAWFUL; PROVIDING PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, property subject to a mortgage in default often ends up in situations causing neighborhood blight as a result of lack of adequate monitoring, maintenance and security; and

WHEREAS, the recent wave of foreclosures during the current economic recession has caused a significant increase in properties becoming vacant within the City; and

WHEREAS, the abandonment of real property due to foreclosure often results in property becoming deteriorated and a public nuisance; and

WHEREAS, mortgagees have an interest in maintaining real property that is subject to foreclosure proceedings so the property does not become an eyesore to the neighborhood or a public nuisance; and

WHEREAS, it is in the public interest to address, through code enforcement, the safety, aesthetic, and economic concerns caused by real property in foreclosure; and

WHEREAS, the City Commission's intent by imposing the registration and other requirements set forth in this ordinance, is to decrease the likelihood of vacant real property and real property in foreclosure from becoming public eyesores and public nuisances; and

WHEREAS, the City desires to provide a local mechanism to collect and share information regarding foreclosed real properties so these properties can quickly move into the hands of owners who can make productive use of them for the economic well-being of the community; and

WHEREAS, the City Commission of the City of Wildwood, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Wildwood.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the City Commission of Wildwood, Florida, as follows:

Section 1. Title.

This Ordinance shall be known and may be cited as "Wildwood Abandoned and Neglected Property Registration Ordinance".

Section 2. Purpose and intent.

It is the purpose and intent of the City to establish a process to address the amount of real property located within the City which is in the default or foreclosure process. It is the City's further intent to establish a program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned and neglected properties.

Section 3. Definitions.

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

Abandoned real property means any real property that is vacant or shows evidence of vacancy, and is under a current notice of default and/or notice of mortgagee's sale by the lender or a pending tax assessor's lien sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

Accessible property means a property that is accessible through a comprised/breached gate, fence, wall, etc.

Accessible structure means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Enforcement officer means any full time law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector employed within the City.

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 may include, but not be limited to, overgrown and/or dead vegetation, accumulation of abandoned personal property, utilities being shut off, lack of response to notices, returned or forwarded mail, unsecured doors, absence of, or

condition of, personal belongings on the property, 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 parcel, tract, lot or other defined area of real 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.

Private property means all lands and improvements other than public lands and improvements.

Property Management Company means a local property manager, property maintenance company or similar entity responsible for the maintenance of real property.

Public property means canals, all waterways, lands and improvements owned by a governmental body or any governmental agency including but not limited to easements and rights-of-way, but excluding the campus of any institution of the state university system.

Neglected real property means any improved property that is in default or foreclosure, whether occupied or abandoned, which is not maintained as required by Wildwood Code of Ordinances. These properties include, but are not limited to, those under a current notice of default and/or notice of mortgagee's sale by the lender, or a pending tax assessor's lien sale, and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure, and any properties transferred under a deed in lieu of foreclosure or sale.

Vacant means any building/structure that is not legally occupied.

Section 4. Applicability.

This article shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the City above and beyond any other state, county and/or local provisions for same.

Section 5. Registration of abandoned and/or neglected real property.

(a) Any mortgagee who holds a mortgage on real property located within the City shall perform an inspection of the property that is the security for the mortgage within ten (10) days of the issuance of a notice of default by the mortgagee. Each

abandoned or neglected real property in default shall be registered by the mortgagee with the City of Wildwood.

(b) Registration pursuant to this Section shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of the mortgagee, including facsimile number and e-mail address and, in the case of a corporation or out-of-area mortgagee, the local property management company responsible for the security and maintenance of the property.

(c) An annual non-refundable registration fee in the amount of \$125.00, per property, shall accompany the registration form.

(d) This Section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

(e) Properties subject to this Section shall remain under the annual registration requirement, and the security and maintenance standards of this Section as long as they remain in default or foreclosure.

(f) Any person or corporation that has registered a property under this Section must report any change of information contained in the registration within ten days of the change.

Section 6. Maintenance requirements.

(a) All properties in the City, including properties subject to this Section, shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law; discarded personal items, included, 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 or not being properly maintained. Weeds, overgrown brush or dead vegetation over ten (10) inches tall are prohibited.

(b) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.

(c) Front, side, and rear yard landscaping shall be maintained in accordance with the City's standards.

(d) Yards shall be landscaped and maintained pursuant to the standards set forth in the Code. Landscape shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod. Landscaped areas shall not include weeds, gravel, broken concrete, asphalt or similar material.

(e) Maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing of required landscape and removal of all trimmings.

(f) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with the requirements of the City Code of Ordinances.

(g) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of the City Code and issuance of a citation or Notice of Violation/Notice of Hearing by a City's code enforcement officer. Pursuant to a finding and determination by the City's Code Enforcement Board or Special Magistrate, the City may take the necessary action to ensure compliance with this section. Where property is abandoned or neglected, the City's code enforcement officer may bring a case against either the mortgagee, even if the property is not yet owned by the mortgagee, or the property owner or both.

(h) Compliance with this ordinance does not relieve the owner of any applicable obligations set forth elsewhere in the City of Wildwood Code of Ordinances, the City of Wildwood Land Development Regulations, or within any covenants, conditions and restrictions and/or homeowner's association rules and regulations.

Section 7. Security requirements.

(a) Abandoned or neglected real properties subject to this Section shall be maintained 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 either replacing, glazing or boarding of the window.

(c) Any excavations or swimming pools, (whether finished or unfinished) must be filled in with dirt or properly barricaded or secured.

(d) When a property becomes abandoned or neglected and the mortgagee has been notified, the mortgagee shall assume responsibility or, if out of the area contract with a local property management company, to perform biweekly inspections to verify compliance with the requirements of this section, and any other applicable laws.

(e) The abandoned or neglected property shall be posted with the name and 24-hour contact phone number of the local property management company. The posting shall be and contain the following language:

THIS PROPERTY IS MANAGED BY:

AND IS INSPECTED ON A REGULAR BASIS
TO REPORT PROBLEMS OR CONCERNS CALL:

The posting shall be placed on the interior of a window facing the street to the front of the abandoned or neglected property so it is visible, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible or, if no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. Exterior posting shall be constructed of and printed with weather-resistant materials.

(f) The local property management company shall inspect the abandoned or neglected property as needed to ensure that the property is in compliance with this ordinance.

(g) Failure of the mortgagee and/or property owner of record to properly maintain the abandoned or neglected property may result in a violation of the City Code and issuance of a citation or Notice of Violation/Notice of Hearing by a City's code enforcement officer. Pursuant to a finding and determination by the City's Code Enforcement Board or Special Magistrate, the City may take the necessary action to ensure compliance with this Section, and place a lien on the property and assign it as provided herein.

Section 8. Opposing, obstructing enforcement officer; penalty.

Whoever opposes, obstructs or resists any enforcement officer, or any person authorized by the enforcement officer, in the discharge of duties as provided in this Code, upon conviction, shall be punished as provided by law. In addition to any criminal enforcement, the City or any individual may pursue any available civil remedies deemed appropriate and necessary.

Section 9. Immunity of enforcement officer.

Any enforcement officer, or any person authorized by the enforcement officer, shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this Code.

Section 10. Additional authority.

The code enforcement officer shall have authority to require the mortgagee and/or owner of record of any property affected by this ordinance, to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, or other measures as may be reasonably required to help prevent further decline of the property.

Section 11. Penalties.

The provisions of this ordinance may be enforced and penalties imposed on mortgagees and/or owners of record for violations of this article as provided by law. Without limiting the City's right to impose any other penalties as provided by law, or to enforce this article by any other lawful means, a violation of this article shall be subject to code enforcement procedure and penalties. Nothing under this ordinance shall be construed as imposing liability on local property managers acting on a mortgagee's behalf pursuant to this ordinance.

Upon failure of the mortgagee to comply with the maintenance or security requirements under this ordinance, the City Manager or designee may take such appropriate action deemed necessary to remedy a maintenance and security failure on property subject to this article. Any such action taken on such premises shall be charged against the real estate upon which the building or structure is located and shall be a lien upon such real estate. Any such lien shall be superior to all other liens except those of state, county or municipal taxes and shall be on a parity with liens of state, county or municipal taxes. Further, such lien shall bear interest at the maximum rate permitted by state law and costs of collection, and shall continue to be a lien against the real estate until paid.

Section 12. Severability.

If any Section, subsection, sentence, clause, phrase or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

Section 13. Effective date.

This ordinance shall take effect immediately upon its final adoption by the City Commission.

PASSED AND ORDAINED this 10th day of November, 2014, by the City Commission of the City of Wildwood, Florida.

SEAL

CITY COMMISSION
CITY OF WILDWOOD, FLORIDA

ATTEST:

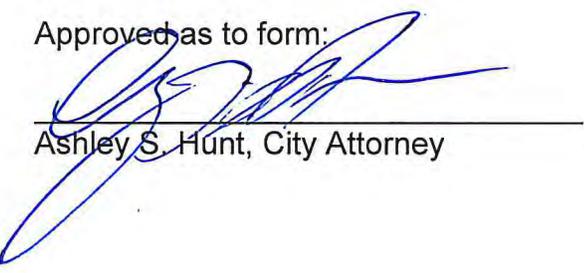

Cassandra Lippincott, City Clerk


Ed Wolf, Mayor

First Reading: October 3, 2014

Second Reading: November 10, 2014

Approved as to form:


Ashley S. Hunt, City Attorney