

ORDINANCE NO. 8996-17

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA, CREATING SECTION 3-1505, COMMUNITY DEVELOPMENT CODE TO BE ENTITLED, "FORECLOSURE PROPERTY REGISTRY"; PROVIDING FOR PURPOSE, INTENT AND APPLICABILITY OF THE ORDINANCE REQUIRING THE REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY BY MORTGAGEES; PROVIDING FOR PENALTIES AND ENFORCEMENT, AS WELL AS THE REGULATION, LIMITATION AND REDUCTION OF REGISTRABLE REAL PROPERTY WITHIN THE MUNICIPALITY; CREATING APPENDIX A, SECTION XIX., "FORECLOSURE PROPERTY REGISTRY," PROVIDING FOR AN ANNUAL REGISTRATION FEE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to protect the public health, safety and welfare of the citizens of the City of Clearwater and maintain a high quality of life for the citizens of the City through the maintenance of structures and properties in the City; and

WHEREAS, the mortgage foreclosure crisis of 2008 continues to have serious negative implications for all communities trying to manage the consequences of properties that have defaulted mortgages, are in the foreclosure process, foreclosed upon and/or mortgagee owned; and

WHEREAS, properties with defaulted mortgages that are neglected and have unsecured, accessible structures have a negative impact on community value, create conditions that invite criminal activity, and foster an unsafe and unhealthy environment for children; and

WHEREAS, often times, the foreclosing party or property owners are out of state, and there is no local contact for such a property, which makes it difficult to notify the proper party of the violations of the City Community Development Code ("Code"), and to maintain the requisite level of maintenance and security on such structures or lots; and

WHEREAS, the City Council recognizes an increase in the number of properties with defaulted mortgages and subject to foreclosure action or foreclosed upon, ("registrable properties") located throughout the City which lead to a decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetic; and

WHEREAS, the City Council has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; and

WHEREAS, the City Council recognizes that in the best interests of public health, safety and welfare a more regulated method is needed to discourage registrable property

owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the City Council has a vested interest in protecting neighborhoods against decay caused by registrable property and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of registrable property located within the City to discourage registrable property owners and mortgagees from allowing Code violations to accumulate; and

WHEREAS, the City Council desires to amend the City's Code in order to establish a property registration process that will identify a contact person to address safety and aesthetic concerns to minimize the negative impact and conditions that occur as a result of vacancy, absentee ownership and the foreclosure process; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF CLEARWATER, FLORIDA:

Section 1. Section 3-1505, Clearwater Community Development Code is hereby amended to read as follows:

Section 3-1505. – Foreclosure Property Registry Reserved.

A. *Applicability.* These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be an additional remedy available to the City above and beyond any other State, County or City provisions for the same.

B. *Penalties.* Violations of this section shall be subject to enforcement by any enforcement means available to the City.

C. *Registration of properties in foreclosure; duty to provide notice of properties in foreclosure.*

1. Within ten (10) calendar days of the filing of a *lis pendens* and/or an action to foreclose upon a mortgage or similar instrument, regardless of occupancy, or after the mortgagee has notified the borrower of default and the mortgagee finds evidence that the property is vacant or is consistent with the definition of an abandoned building, the mortgagee shall register the property.
2. If the property is found by the City to be vacant or is consistent with the definition of an abandoned building, the mortgagee shall register the property within fifteen (15) calendar days of notice by the City. The process for registration under this section shall be as specified by the Community Development Coordinator.
3. Mortgagees who have existing registrable property on the effective date of this ordinance shall have forty-five (45) calendar days from the effective date to register the property.
4. A separate registration is required for each property.

5. Registration pursuant to this section shall contain the direct mailing address, a direct contact name, telephone number, and e-mail address for the mortgagee/trustee, the servicer, and the name and the all-hours contact phone number of the local property management company responsible for the security and maintenance of the property who has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditure in connection therewith.
6. If the mortgage on a registrable property is sold or transferred, the new mortgagee is subject to all the terms of this section and must, within five (5) days of the transfer, register the property and pay a registration fee in accordance with this section. Any previous unpaid registration fees are the responsibility of the new mortgagee and are due and payable with their initial registration.
7. All property registrations are valid for one year, from the date of the first action requiring registration as determined by the City. In the case of foreclosure, the date of interest shall be the filing of a *lis pendens*, and in the case of abandoned buildings, the date of interest shall be when the property is found abandoned by the City. An annual registration fee as specified in Appendix A shall accompany each registration form, and each successive annual period thereafter. All registration fees collected pursuant to this section, less administrative costs, shall be placed in a fund restricted for nuisance abatement purposes throughout the City, including but not limited to abandoned buildings, unsafe structures, unsecured properties and structures, and demolition. Subsequent annual registrations and fees are due within thirty (30) days of the expiration of the previous registration.
8. Any person or other legal entity that has registered a property under this section must report any change of information contained in the registration within fifteen (15) calendar days of the change.
9. Registration of the property will no longer be required upon the occurrence of either of the events set forth below:
 - a. The property is transferred from the mortgagee to a third party intending to occupy or lease in an arm's length transaction and proof of the transfer is provided to the City.
 - b. The property becomes occupied and evidence of occupancy is provided to the City. If the property subsequently becomes vacant prior to the transfer of the property as contemplated in paragraph 8.a. above, registration of the property will again be required.

There will not be a refund or prorating of any registration fee already paid to the City.
10. Pursuant to the City's determination that any property is in violation of this section, the City may take the necessary action to ensure compliance and/or place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.
11. Property owned or subject to the control of the City or any other governmental body is not subject to the registration requirement. In accordance with Ch. 718, Florida Statutes, individual units in condominium ownership or other individual units in common-interest communities where all exterior elements and common

areas are jointly owned and maintenance is the joint responsibility of a community association are not subject to the registration requirement.

D. Maintenance and security requirements.

1. All mortgagees and/or owner(s) of record are responsible for maintaining registrable properties in accordance with the provisions specified in this section and all other applicable City ordinances.
2. Unoccupied or vacant properties subject to this section shall maintain a visible posting with the name and all-hours contact number of the mortgagee's local agent. The sign shall be no less than eighteen (18) inches x twenty-four (24) inches, and shall be of a font that is legible from a distance of forty-five (45) feet. The posting shall be secured to the exterior of the structure or affixed to the interior of a window so that the sign can be clearly read from the street. The posting shall contain the following language:

THIS PROPERTY IS MANAGED
BY _____ AND IS INSPECTED ON
A REGULAR BASIS. THE PROPERTY
MANAGER CAN BE REACHED AT
() - _____ OR BY EMAIL
AT _____.

3. Failure of the mortgagee, their agents, and/or owner(s) of record to properly maintain and secure the property and to post and maintain the signage specified is a violation of the Code and may be subject to enforcement by any means available to the City. Pursuant to a finding and determination, the City of Clearwater may take the necessary action to ensure compliance with its ordinances and place a lien(s) on the property and assign it as provided herein.

Section 2. Section XIX., Appendix A—Schedule of Fees, Rates and Charges, Clearwater Community Development Code is hereby created to read as follows:

XIX. Foreclosure Property Registry (§ 3-1505):

Annual registration fee 200.00

Section 3. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING _____

PASSED ON SECOND AND FINAL
READING AND ADOPTED _____

George N. Cretokos
Mayor

Approved as to form:

Attest:

Matthew Smith
Assistant City Attorney

Rosemarie Call
City Clerk