

ORDINANCE NO. 2022-07

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 72 TITLED "MORTGAGED REAL PROPERTY REGISTRATION" IN ITS ENTIRETY, AND AMENDING AND RENUMBERING IT AS CHAPTER 11 TITLED "MORTGAGED REAL PROPERTY REGISTRATION," AS CONTAINED HEREIN, TO SIMPLIFY THE CODE, REMOVE UNECESSARY AND OBSOLETE PROVISIONS, AND ESTABLISH A REGISTRATION PROCESS TO PROTECT NEIGHBORHOODS FROM BECOMING BLIGHTED BY THE LACK OF ADEQUATE MAINTENANCE OF PROPERTIES SUBJECT TO MORTGAGES THAT ARE IN DEFAULT; PROVIDING A REPEALER CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Wellington Council, as the governing body, pursuant to the authority vested in it by Chapter 166, Florida Statutes, and Article VIII, Section 2 of the Florida Constitution, is authorized and empowered to adopt legislation to govern the affairs of its citizens; and

WHEREAS, Wellington adopted its first Code of Ordinances in 1997, shortly after incorporation, and since that time has adopted revisions as necessary to protect the health, safety and welfare of its citizens; and

WHEREAS, Wellington believes that it is in the best interest of the community to make additional modifications to the Code of Ordinances to remove outdated and unnecessary provisions and to simplify the provisions set forth therein.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF WELLINGTON,
FLORIDA, THAT:**

SECTION 1: Chapter 72 of Wellington's Code of Ordinances is hereby repealed in its entirety, and is amended and renumbered as Chapter 11, titled "Mortgaged Real Property Registration," and is hereby adopted as specifically provided in Exhibit A attached to this Ordinance.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington Ordinance, Resolution, or Municipal Code provision, then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 4: Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

SECTION 5: This Ordinance shall become effective immediately upon adoption of the Wellington Council following second reading.

PASSED this _____ day of _____, 2022 upon first reading.

PASSED AND ADOPTED this _____ day of _____, 20__ on second and final reading.

WELLINGTON

	FOR	AGAINST
BY: _____ Anne Gerwig, Mayor	_____	_____
_____ John McGovern, Vice Mayor	_____	_____
_____ Michael Drahos, Councilman	_____	_____
_____ Michael Napoleone, Councilman	_____	_____
_____ Tanya Siskind, Councilwoman	_____	_____

ATTEST:

BY: _____
Chevelle D. Addie Village Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____
Laurie S. Cohen, Village Attorney

EXHIBIT A

Chapter 72—MORTGAGED REAL PROPERTY REGISTRATION⁽¹⁾

Footnotes:

~~---(1)---~~

Editor's note—Ord. No. 2019-02, § 2, adopted Feb. 26, 2019, amended Ch. 72 in its entirety to read as herein set out. Former Ch. 72, §§ 72-1—72-10, pertained to similar subject matter, and derived from Ord. No. 2012-21, § 2, adopted Jan. 8, 2013.

Sec. 72-1.—Purpose and intent.

~~It is the purpose and intent of this chapter to establish a process to mitigate the number of deteriorating properties located within Wellington for which a public notice of default or lis pendens has been filed, is in foreclosure, or where ownership has been transferred to a lender or mortgagee by any legal method. It is further intended to establish a registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties subject to mortgages that are in default.~~

~~(Ord. No. 2019-02, § 1, 2-26-19)~~

Sec. 72-2.—Definitions.

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning. Where the context will permit and no definitions are provided herein, the definitions provided in the Florida Building Code shall apply.~~

~~*Accessible property* means a property that is accessible through a compromised/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.~~

~~*Default* means that the mortgagee files a public notice of default on the mortgage. A mortgage shall be considered in default at such time as the mortgagee declares said mortgage to be in default, by recording a lis pendens.~~

~~*Enforcement officer* means any fulltime law enforcement officer, building official, fire inspector or code enforcement officer employed by, contracted for, or servicing Wellington.~~

~~*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, electricity, water or other utilities turned off, stagnant~~

~~swimming pool, statements by neighbors, passers-by, delivery agents or government agents, among other evidence.~~

~~Foreclosure means the judicial process by which a property, placed as security for a mortgage loan, after a judicial process, is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.~~

~~Local property manager means an individual property manager, property management company, property maintenance company or similar entity located within Palm Beach County, designated by the owner or mortgagee which is responsible for the maintenance of abandoned real property.~~

~~Mortgagee means any party holding a mortgage interest regardless of their priority.~~

~~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.~~

~~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.~~

~~Vacant means any building or structure that is not lawfully occupied or inhabited by human beings.~~

~~(Ord. No. 2019-02, § 1, 2-26-19)~~

~~Sec. 72-3.—Applicability.~~

~~This chapter relates to property subject to a mortgage that has been determined by the mortgagee to be in default. This chapter shall be considered cumulative and is not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to Wellington above and beyond any other state, county and/or local provisions for same.~~

~~(Ord. No. 2019-02, § 1, 2-26-19)~~

~~Sec. 72-4.—Penalties.~~

~~Unless exempted by 12 U.S.C. § 4617(a)(7), any person who shall violate the provisions of this chapter shall, upon conviction, be punished as provided in Section 1-12 of Wellington's Code of Ordinances, as applicable. In addition, any violation of this section may be enforced by Wellington's Special Master as provided in Chapter 2, Article IV, of Wellington's Code of Ordinances.~~

~~(Ord. No. 2019-02, § 1, 2-26-19)~~

~~Sec. 72-5.—Registration of real property mortgagee holding mortgages in default.~~

- ~~(a)—Any mortgagee who holds a mortgage on real property located within Wellington shall within ten days of a recording of lis pendens by the mortgagee, register the property with Wellington.~~
- ~~(b)—Registration pursuant to this section shall contain at a minimum the name of the mortgagee, the mailing address of the mortgagee, e-mail address, and telephone number and name of the local property manager and said person's address, e-mail address, and telephone number. The local~~

~~property manager shall be responsible to inspect, secure and maintain the property. The property manager named in the registration shall be located within Palm Beach County and available to be contacted by Wellington, Monday through Friday between 9:00 a.m. and 5:00 p.m., holidays and lunch hours excepted.~~

~~(c) The village council shall establish, by resolution, fees for the registration and re-registration requirements required by this article. Except as provided by 12 U.S.C. § 4617(a)(7), said fees shall be based on the reasonable estimated cost of administering the provisions of this article and shall be due and payable at the time of registration or re-registration. The fee schedule may be based on the size and type of property being registered. The registration shall be renewed 12 months from the initial registration date annually. Wellington may assign and delegate the collection of such fee to an independent contractor, as noted on the registration form.~~

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

~~[(e) Reserved.]~~

~~(f) Inspections and obligations of properties subject to this section shall remain in place so long as the mortgagee is involved in a foreclosure action. At such time that a foreclosure action is completed the mortgagee shall notify Wellington or its designee of the new owner's name and mailing address.~~

~~(g) Failure of the mortgagee and/or property owner of record to properly register or to revise from time to time the registration to reflect a change of circumstances as required by this chapter is a violation of the Codes of Wellington and may result in a citation by the Code Compliance Division. Pursuant to a finding and determination by the special master that any property is in violation of Wellington's ordinances, Wellington may take the necessary action to ensure compliance with its ordinance. Except as provided by 12 U.S.C. § 4617(a)(7), such steps may include placing a lien(s) on the property for the cost of the work performed to benefit the property and to bring it into compliance, which lien may be assigned to either the entity that performs the work or arranges to have the work performed.~~

~~(Ord. No. 2019-02, § 1, 2-26-19)~~

~~Sec. 72-6. Maintenance requirements.~~

~~Any mortgagee who holds a mortgage on real property located within Wellington and subject to this chapter shall take all reasonable actions including to obtain permission from the courts, if necessary, to secure and maintain properties as outlined in sections 72-6 and 72-7:~~

~~(a) Properties subject to this chapter 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 including, but not limited to, furniture, clothing, large and small appliances, 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 the height limitations imposed by Wellington's Codes 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. Yards shall be landscaped and maintained pursuant to the standards set forth in the Code. Landscaping shall include, but not be limited to, grass, ground cover, bushes, shrubs, hedges or similar plantings,~~

~~decorative rock or bark or artificial turf/sod designed specifically for residential, commercial or industrial installation, as applicable. Landscaping shall not include weeds, gravel, broken concrete, asphalt or similar material.~~

- ~~(c) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required landscape and removal of all trimmings and weeds.~~
- ~~(d) Pools and spas shall be kept in working order so that pool and spa water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of Wellington's Codes and the Florida Building Code.~~
- ~~(e) Failure of the mortgagee and/or property owner of record to properly maintain the property is a violation of the Code of Ordinances of Wellington and may result in the issuance of a citation by the Code Compliance Division. Pursuant to a finding and determination by the special master, Wellington may take the necessary action to ensure compliance with its ordinances and place a lien(s) on the property and, except as provided in 12 U.S.C. § 4617(a)(7), may assign it as provided herein.~~

~~(Ord. No. 2019-02, § 1, 2-26-19)~~

~~Sec. 72-7. Security requirements.~~

- ~~(a) Properties subject to this chapter 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 or adult to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or boarding.~~
- ~~(c) If a mortgage on the property is in default on the property and has become vacant or abandoned, a local property manager shall be designated by the mortgagee to perform the work necessary to bring the property into compliance with the Code of Ordinances and the local property manager must perform bi-weekly inspections to verify compliance with the requirements of this section, and any other applicable laws or Codes of Wellington.~~
- ~~(d) When the property becomes vacant or abandoned, it shall be posted with the name and 24 hour contact telephone number of the local property manager. The posting shall be no less than 18 inches x 24 inches, and shall be of a font that is legible from a distance of 45 feet. The posting shall contain the following language:~~

~~**THIS PROPERTY IS MANAGED BY (Name of Local Property Manager). TO REPORT PROBLEMS OR CONCERNS CALL (Telephone number of Local Property Manager).**~~

- ~~(e) The posting shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or if no such area exists, on a stake of sufficient size to support the posing in a location that is at all times visual from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.~~

~~(f) The local property manager shall inspect the property on a bi-weekly basis to ensure that the property is in compliance with this section. Upon the request of Wellington, or its authorized representative, the local property manager shall provide a copy of the inspection reports to the Code Compliance Division.~~

~~(g) Failure of the mortgagee and/or property owner of record to properly inspect and secure the property, and post and maintain the signage noted in this section, is a violation of this chapter and shall result in the issuance of a notice of violation by a code compliance officer. Pursuant to a finding and determination by a special master, Wellington may take the necessary action to ensure compliance with this section, and except as provided in 12 U.S.C. § 4617(a)(7), may place a lien(s) on the property and assign it as provided herein.~~

~~(Ord. No. 2019-02, § 1, 2-26-19)~~

~~Sec. 72-8. Additional authority.~~

~~Wellington's Code Compliance Manager, designee, or Wellington's authorized representative shall have authority to require the mortgagee and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably required to help prevent further decline of the property.~~

~~(Ord. No. 2019-02, § 1, 2-26-19)~~

~~Sec. 72-9. Adoption of rules; expenditure of funds; declaration of municipal purpose.~~

~~The manager, consistent with his/her assigned duties and authorities under the Charter, including those duties and authorities relating to emergency situations, is authorized and empowered to adopt rules and regulations and expend Wellington funds as may be reasonably necessary and available to carry out the terms of this section, the expenditure of such funds being declared a proper municipal purpose.~~

~~(Ord. No. 2019-02, § 1, 2-26-19)~~

~~Sec. 72-10. Supplemental provisions.~~

~~Nothing contained in this chapter shall prohibit Wellington from enforcing its codes by any other means, including, but not limited to, injunction, abatement or as otherwise provided by Code.~~

~~(Ord. No. 2019-02, § 1, 2-26-19)~~

Chapter 11- MORTGAGED REAL PROPERTY REGISTRAION

Sec. 11-1. - Purpose and Intent.

It is the purpose and intent of this chapter to establish a process to mitigate the number of deteriorating properties located within Wellington for which a public notice of default or lis pendens has been filed, that are in foreclosure, or for which ownership has been transferred to a lender or mortgagee by any legal method. It is further intended to establish a registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties subject to mortgages that are in default.

Sec. 11-2. - Applicability.

This chapter relates to property subject to a mortgage that has been determined by the mortgagee to be in default. This chapter shall be considered cumulative and is not superseding or subject to any other law or provision for same, but shall be an additional remedy available to Wellington above and beyond any other state, county, and/or local provisions for same.

Sec. 11-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning. Where the context will permit and no definitions are provided herein, the definitions provided in the Florida Building Code shall apply.

Abandoned Structure means a primary or accessory building or other property improvement that is not occupied or used for its intended purpose and is not being maintained in conformance with the requirements of this Code. A property that contains one or more abandoned structures or improvements may be considered to be an abandoned property.

Default means that the mortgagee has declared a default on the mortgage. A mortgage shall be considered in default at such time as the mortgagee declares said mortgage to be in default, by recording a lis pendens or any legal action to foreclose the lien of its mortgage.

Foreclosure means the judicial process by which a property, placed as security for a mortgage loan, after a judicial process, is to be sold at an auction or other sales method, or is otherwise deeded or conveyed to the mortgagee to satisfy a debt upon which the borrower has defaulted.

Local Property Manager means an individual property manager, property management company, property maintenance company, or similar entity located within Palm Beach County, designated by the owner or mortgagee as responsible for the maintenance of vacant and/or abandoned real property.

Mortgagee means any party holding a mortgage interest regardless of their priority.

Vacant means any building or structure that is not lawfully occupied or inhabited by human beings.

Sec. 11-4. - Penalties.

Unless exempted by 12 U.S.C. § 4617(a)(7), any person who violates the provisions of this chapter shall, upon conviction, be punished as provided in Chapter 1 of this Code, as applicable. In addition, any violation of this chapter may be enforced by Wellington's Special Magistrate as provided in Chapter 2 of this Code.

Sec. 11-5. - Registration of Real Property Mortgagee Holding Mortgages in Default.

- (a) Any mortgagee who holds a mortgage on real property located within Wellington shall, within ten days of recording a lis pendens, register the property with Wellington.
- (b) Registration pursuant to this section shall contain at a minimum the name, mailing address, e-mail address, and telephone number of the mortgagee and the name of the local property manager and said person's address, e-mail address, and telephone number. The local property manager shall be responsible to inspect, secure, and maintain the property. The property manager named in the registration shall be located within Palm Beach County and available to be contacted by Wellington, Monday through Friday between 9:00 a.m. and 5:00 p.m., holidays and lunch hours excepted.
- (c) The Wellington Council shall establish, by resolution, fees for the registration and re-registration requirements required by this chapter. Except as provided by 12 U.S.C. § 4617(a)(7), said fees shall be based on the reasonable estimated cost of administering the provisions of this chapter and shall be due and payable at the time of registration or re-registration. The fee schedule may be based on the size and type of property being registered. The registration shall be renewed 12 months from the

initial registration date annually. Wellington may assign and delegate the collection of such fee to an independent contractor, as noted on the registration form.

- (d) Any person or other legal entity that has registered a property under this chapter must report any change of information contained in the registration within 10 days of the change.
- (e) Inspections and obligations of properties subject to this chapter shall remain in place so long as the mortgagee is involved in a foreclosure action. At such time that a foreclosure action is completed, the mortgagee shall notify Wellington or its designee of the new owner's name and mailing address.
- (f) Failure of the mortgagee and/or property owner of record to properly register or to revise the registration to reflect a change of circumstances as required by this chapter is a violation of this Code.

Sec. 11-6. - Maintenance Requirements.

Any mortgagee who holds a mortgage on real property located within Wellington and subject to this chapter shall take all reasonable actions including to obtain permission from the courts, if necessary, to secure and maintain properties as outlined in this chapter.

- (a) Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, and notices, except those required by federal, state, or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, 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 the height limitations imposed by this Code or Wellington's Land Development Regulations (LDR) 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. Yards shall be landscaped and maintained pursuant to the standards set forth in this Code and the LDR. Landscaping shall include, but not be limited to, grass, ground cover, bushes, shrubs, hedges or similar plantings, decorative rock, bark, or artificial turf/sod designed specifically for residential, commercial, or industrial installation, as applicable. Landscaping shall not include weeds, gravel, broken concrete, asphalt, or similar material.
- (c) Maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing of required landscape and removal of all trimmings and weeds.
- (d) Pools and spas shall be kept in working order so that pool and spa water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of this Code, the LDR, and the Florida Building Code.
- (e) Failure of the mortgagee and/or property owner of record to properly maintain the property is a violation of this Code.

Sec. 11-7. - Security Requirements.

- (a) Properties subject to this chapter 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 or adult to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or boarding.
- (c) If a mortgage on the property is in default and the property has become vacant or abandoned, a local property manager shall be designated by the mortgagee to perform the work necessary to bring the property into compliance with Wellington's regulations.
- (d) When the property becomes vacant or abandoned, it shall be posted with the name and 24 hour contact telephone number of the local property manager. The posting shall be no less than 18 inches x 24 inches, and shall be of a font that is legible from a distance of 45 feet. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY (Name of Local Property Manager). TO REPORT PROBLEMS OR CONCERNS CALL (Telephone number of Local Property Manager).

- (e) The posting shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visual from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.
- (f) The local property manager shall inspect the property on a bi-weekly basis to ensure that the property is in compliance with this chapter, and any other applicable Wellington regulations. Upon the request of Wellington, or its authorized representative, the local property manager shall provide a copy of the inspection reports to the Code Compliance Division.
- (g) Failure of the mortgagee and/or property owner of record to properly inspect and secure the property and post and maintain the signage noted in this section, is a violation of this Code.

Sec. 11-8. - Additional Authority.

Wellington's Code Compliance Manager, designee, or Wellington's authorized representative shall have authority to require the mortgagee and/or owner of record of any property affected by this chapter, to implement additional maintenance and/or security measures including, but not limited to, securing any and all doors, windows, or other openings, employment of an on-site security guard, or other measures as may be reasonably required to help prevent further decline of the property.

Sec. 11-9. - Adoption of rules; Expenditure of Funds; Declaration of Municipal Purpose.

The Village Manager, consistent with his/her assigned duties and authorities under the Charter, including those duties and authorities relating to emergency situations, is authorized and empowered to adopt rules and regulations and expend Wellington funds as may be reasonably necessary and available to carry out the terms of this chapter, the expenditure of such funds being declared a proper municipal purpose.

Sec. 11-10. - Supplemental Provisions.

Nothing contained in this chapter shall prohibit Wellington from enforcing this Code by any other means, including, but not limited to, injunction, abatement or as otherwise provided by law.