

ORDINANCE NO. 2014-1

AN ORDINANCE OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA; RELATING TO MAINTENANCE STANDARDS FOR REAL PROPERTY; AMENDING CHAPTER 10 SECTION 10-6 OF THE CODE OF ORDINANCES OF THE CITY; CREATING PROVISIONS WITH RESPECT TO THE MAINTENANCE OF SWIMMING POOLS; AMENDING SECTIONS 10-10 AND 10-11 RELATING TO ENFORCEMENT; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR THE REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT HERewith; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA, that:

SECTION 1: Chapter 10 section 10-6 of the Code of Ordinances of the City is amended in full to read as follows:

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“Sec. 10-6. Maintenance of building exteriors. Swimming pool maintenance

(a) The exterior of every structure, whether a principal structure or accessory structure, shall be maintained in good repair and free of broken glass, loose shingles, crumbling stone or brick, peeling paint, broken stucco and other damaged exterior building materials. In general, the exterior of all structures shall be maintained so that the appearance of such structures does not significantly reduce the values of adjoining property as determined by a qualified appraiser.

(b) In addition to the requirements of Article XIII section 13 the following maintenance requirements shall apply to Swimming Pools:

1. For purposes of this section *swimming pool* means any structure, located in a residential area, that is intended for swimming or recreational bathing and contains water of 18 inches deep or more, including, but not limited to, in-ground, aboveground, and on-ground swimming pools; hot tubs; and nonportable spas.

2. Stagnant swimming pools prohibited. Stagnant swimming pools are hereby declared a public nuisance and it shall be the duty of the record property owner, lessees, tenants and occupants to maintain a swimming pool to prevent unsanitary stagnant conditions. *Stagnant swimming pools* include, but are not limited to, any swimming pool that exhibits accumulation of debris, pool water quality where any portion of the bottom of the pool can not be seen by the naked eye, contains flies, mosquitoes, other harmful insects (including their larvae), vermin, blighted conditions, noxious odors, unsanitary conditions, conditions that adversely affect and

impair the economic welfare of adjacent property, or create fire hazards, environmental hazards, or potential hurricane hazards.”

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SECTION 2: Chapter 10 section 10-10 of the Code of Ordinances of the City is amended in full to read as follows:

Sec. 10-10. City actions in the event of noncompliance.

(a) If the city's code enforcement officer determines that a person or property is not in compliance with the provisions of this chapter, he shall cause a notice of such noncompliance to be delivered to owner and/or occupant of the property of which such noncompliance exists. Such notice shall provide a reasonable time determined by the code enforcement officer in which the noncompliance in question shall be corrected.

(b) If the notice of noncompliance concerns any violation of sections 10-1 through ~~10-4~~ 10-9 of this chapter, and the noncompliance is not corrected within the time set forth in the notice provided by the code enforcement officer, the city shall have the right and authority, but not the obligation, to cause such violation to be corrected with the use of city personnel or private contractors. In such event, the city shall pay the costs of such correction, and the code enforcement officer shall submit an invoice for such costs to the owner and/or occupant of the property to whom the original notice of noncompliance was addressed.

(c) If a noncompliance is repeated the code enforcement officer shall cause notice of the repeat noncompliance to be delivered to the owner and/or occupant of the property; however, the code enforcement officer is not required to give the owner and/or occupant of the property a reasonable time to correct the noncompliance. In the event of a repeat noncompliance the city, after the expiration of 5 days from the date of the notice provided for in this subsection, shall have the right and authority, but not the obligation, to cause such repeat noncompliance to be corrected with the use of city personnel or private contractors. In such event, the city shall pay the costs of such correction, and the code enforcement officer shall submit an invoice for such costs to the owner and/or occupant of the property to whom the original notice of noncompliance was addressed.

(d) The provisions of this section shall be in addition to and supplemental to any other remedy provided by law, including code enforcement pursuant to Chapter 162 of the Florida Statutes and City Code.

SECTION 3: Chapter 10 section 10-11 of the Code of Ordinances of the City is amended in full to read as follows:

Sec. 10-11. Lien for costs incurred by the city; foreclosure of lien.

(a) If the city submits an invoice for the correction of a violation of sections 10-1 through ~~10-4~~ 10-9 of this chapter to an owner and/or occupant of property as provided in section 10-10, and such invoice remains unpaid for a period of thirty (30) days after the date of such invoice, the

City Manager shall cause to be recorded in the public records of Brevard County a sworn statement showing the cost and expenses for the work which was the subject of the invoice and showing the date, place and legal description of the property on which such work was done. The recording of such sworn statement shall constitute a lien on the property described therein, and to the extent permitted by law said lien shall be superior to all other liens except the lien for taxes, for the amount due as set forth in the invoice, plus interest at the legal rate from the date of the invoice as well as attorney fees incurred by the city in the preparation of the sworn statement. A copy of such recorded statement shall be furnished to the property owner and/or occupant to whom the original notice of noncompliance was addressed. The said lien shall be a continuing lien and shall also cover and include any future corrective measures by the city after the recording of the original sworn statement.

(b) If the amount set forth in the recorded statement, plus any accrued amount since the recording of the sworn statement, including, but not limited to, interest at the legal rate, attorney fees, and costs, is not paid within thirty (30) days of the date of recording, the city shall have a right to bring legal action to foreclose the lien or may bring any other action to enforce the city's right to reimbursement for the costs of correcting a violation herein. Such legal proceedings shall be brought in the manner fixed by law for the foreclosure of mortgages or collection of monies owed and the city shall be entitled to an award of attorney's fees and court costs in addition to all other sums recovered in such proceeding.

SECTION 4: Severability/Interpretation Clause. In the event that any term, provision, clause or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, or illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

SECTION 5: That all ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.

SECTION 6: That this ordinance shall become effective upon adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA, ON THIS 25th DAY OF MARCH, 2014.

CITY OF INDIAN HAROUR BEACH
BREVARD COUNTY, FLORIDA

GENE NEWBERRY, MAYOR

ATTEST:

DEBORAH MALISKA, CITY CLERK

First Reading: March 11, 2014

Second Reading: March 25, 2014