

ORDINANCE NO. 2014-__

AN ORDINANCE OF THE CITY COMMISSION AMENDING THE CODE OF THE CITY OF CORAL GABLES, FLORIDA, BY AMENDING ARTICLE VI "ABANDONED REAL PROPERTY" OF CHAPTER 34 "NUISANCES", TO CHARGE AN ADDITIONAL FEE FOR VACANT PROPERTIES; TO ALLOW CITY POLICE DEPARTMENT TO ISSUE TRESPASS WARNINGS VACANT PROPERTIES; TO GRANT THE CITY FOR ATTORNEY THE AUTHORITY, WITH THE APPROVAL OF THE CITY MANAGER OR DESIGNEE, TO INITIATE COURT ACTION; DECLARING UNLAWFUL THE FAILURE TO REGISTER OR MAINTAIN A VACANT PROPERTY BY THE MORTGAGEE OR PROPERTY OWNER; AND PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City has established a process to address the deterioration and blight of City neighborhoods caused by abandoned, foreclosed or distressed real property located within the City, and to identify, regulate, limit and reduce the number of abandoned properties located within the city;

WHEREAS, the City has established a registration program as a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned and foreclosed properties;

WHEREAS, the City Commission is concerned that abandoned properties that are vacant are less likely to be maintained, and finds that remedial action is particularly necessary against vacant properties where existing Code violations have existed for a period of over 60 days;

WHEREAS, the City Commission finds that many mortgagees are not maintaining the properties listed on the abandoned property registry in an adequate manner, and at times do not maintain the properties at all;

WHEREAS, the City Commission finds that the City must expend significant police, public service, and code enforcement resources in monitoring vacant properties;

WHEREAS, it is the City's intent to utilize the mechanisms in place to ensure compliance with the City's Codes.

NOW THEREFORE BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

SECTION 1. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. Section 34-165 of the Code of the City of Coral Gables, Florida, is hereby amended to read as follows:

Sec. 34-165. Registration of abandoned real property.

(a) Any mortgagee who holds a mortgage on real property located within the City of Coral Gables shall perform an inspection of the property, upon default by the mortgagor. The mortgagee shall, within ten days of the inspection, register the property with the division of code enforcement, or designee, on forms provided by the city, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.

(b) If the property is occupied but remains in default, it shall be inspected by the mortgagee or his designee monthly until (1) the mortgagor or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten days of that inspection, update the property registration to a vacancy status on forms provided by the city.

(c) Registration pursuant to this section shall contain the name of the mortgagee and the server, the direct mailing address of the mortgagee and the server, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the folio or tax number, and the name and 24-hour contact phone number of the property management company responsible for the security and maintenance of the property. If the mortgagee has a general counsel's office or legal department, the name and contact information of a representative from the general counsel's office or legal department shall be provided as well.

(d) A non-refundable annual registration fee in the amount of \$200.00 per property, shall accompany the registration form(s). In the event the abandoned property is vacant, and in addition to the annual \$200 fee, a non-refundable annual fee of \$600 shall be paid to account for the City's additional costs in monitoring the property under this ordinance.

~~(e) All registration fees must be paid directly from the mortgagee, servicer, trustee, or owner. Third party registration fees are not allowed without the consent of the city and/or its authorized designee.~~

(f) 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.

(g) Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this section as long as they remain vacant or in default.

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

(i) Failure of the mortgagee and/or owner to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement.

(j) Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the city may take the necessary action to ensure compliance with and place a special assessment lien on the property for the cost of the work performed to benefit the property and bring it into compliance.

(k) In registering an abandoned property as vacant, the form will indicate that submission grants the City police department the authority to issue trespass warnings to individuals who cannot demonstrate written authorization to be on the property. The mortgagee or owner can opt out of or revoke the police department's authority to issue a trespass warning by notifying the police department on the registration form or in writing directed to the Chief of Police.

(l) In addition to the mortgagee, the owner also has a duty to ensure compliance with the provisions of this article.

SECTION 3. Section 34-168 of the Code of the City of Coral Gables, Florida is hereby amended to read as follows:

Sec. 34-168. Public nuisance.

(a) All abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the city.

(b) The City Attorney, with the approval of the City Manager or designee, is authorized to initiate court action, including seeking injunctive relief before a court of competent jurisdiction, or to initiate foreclosure or forfeiture proceedings, in order to enforce this article. If a violation of this article exists, the City shall be entitled to an injunction requiring the mortgagee or owner to correct the violation on an expedited basis and at the mortgagee or owner's expense. If requested, the City shall also be entitled to appointment of a receiver for the property, with expenses for the receiver to be paid by the mortgagee or owner. Likewise, the City shall be entitled to recovery of its attorneys' fees and costs in obtaining a court order under this article. The provisions of this section are cumulative with and in addition to other available remedies, including Code Enforcement.

(c) In registering a property as vacant, and in order to abate part of the harm caused by the public nuisance of vacant properties, the police department is granted the authority to issue a trespass warning to individuals on the property unless they can demonstrate authority in writing to be on the property. The mortgagee or owner can opt out of or revoke the police department's authority to issue a trespass warning by notifying the police department on the registration form or in writing directed to the Chief of Police.

(d) The mortgagee and owner of a property that is a public nuisance as described herein each have an affirmative duty to take action to abate the public nuisance for that property. Nothing in this article is intended to place an affirmative duty on the City to take any action or to otherwise limit the City's discretion in addressing a public nuisance.

SECTION 4. Section 34-173 of the Code of the City of Coral Gables, Florida is hereby amended to read as follows:

Sec. 34-173. Immunity of enforcement officer and other persons authorized to enforce article.

Any enforcement officer or any person authorized by the city to enforce the sections here within shall be immune from prosecution, civil or criminal, for actions taken to enforce this article, as well as for reasonable, good faith entry upon real property while in the discharge of duties imposed by this article.

SECTION 5. Section 34-174 of the Code of the City of Coral Gables, Florida is hereby created to read as follows:

Sec. 34-174. Failure to register and maintain a vacant property.

The City is concerned about the failure of owners and mortgagees to register and maintain vacant properties on the abandoned property registry.

Accordingly, it is unlawful for an owner or mortgagee to fail to register a vacant property on the abandoned property registry or to fail to maintain said vacant property, which shall be punished by a fine not exceeding \$500.00 for each offense, or imprisonment of the responsible individual(s) for a term not exceeding 60 days, or by both such fine and imprisonment in the discretion of the judge. There is a rebuttable presumption of a violation of this provision if a vacant property has 2 or more violations of the City's Minimum Housing Code or the registration and maintenance provisions of this article for a period of 60 days or more after the City notifies the owner or mortgagee. The provisions of this section are cumulative with and in addition to other available remedies, including Code Enforcement.

SECTION 6. SEVERABILITY.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 7. REPEALER.

This ordinance is intended to provide authority to the City Attorney without limiting any other authority of the City Attorney or other City officers provided in other parts of the City Charter, City Code, and Zoning Code. Accordingly, any other ordinances or parts of ordinances that provide authority to the City Attorney or other City officers are not repealed by this ordinance.

SECTION 8. CODIFICATION.

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 9. EFFECTIVE DATE.

This ordinance shall become effective upon adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D.,
2014.

APPROVED:

JIM CASON
MAYOR

ATTEST:

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

CRAIG E. LEEN
CITY ATTORNEY