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**CITY OF CORAL GABLES, FLORIDA**

**ORDINANCE NO. 2015-\_\_**

**AN EMERGENCY ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA, AMENDING THE CODE OF THE CITY OF CORAL GABLES, FLORIDA BY REPEALING DIVISION 2 "CONDEMNATION" OF ARTICLE III "DANGEROUS OR UNSAFE BUILDINGS" OF CHAPTER 105 "BUILDINGS AND BUILDING REGULATIONS" AND DIVISION 2 "UNFIT DWELLINGS" OF ARTICLE V "MINIMUM HOUSING CODE" OF CHAPTER 105 "BUILDINGS AND BUILDING REGULATIONS" AND REPLACING BOTH WITH A RENAMED ARTICLE III "UNSAFE STRUCTURES" OF CHAPTER 105 "BUILDINGS AND BUILDING REGULATIONS" AND RENUMBERING DIVISION 3 "PERMIT FEES" OF ARTICLE III "DANGEROUS OR UNSAFE BUILDINGS" OF CHAPTER 105 "BUILDINGS AND BUILDING REGULATIONS" AS DIVISION 2 OF ARTICLE II OF CHAPTER 105 "BUILDING AND BUILDING REGULATIONS" AS DIVISION 2 OF ARTICLE II OF CHAPTER 105 "BUILDING AND BUILDING REGULATIONS"; PROVIDING FOR ENFORCEMENT PROCEDURES; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Miami-Dade County, Florida adopted Miami-Dade County Ordinance No. 11-03 permitting municipalities to adopt their own ordinances establishing an administrative process to address unsafe structures within the municipal boundaries; and

**WHEREAS**, as a result of the foreclosure crisis, which has been widely reported since 2008, several properties in foreclosure within the Coral Gables Community have been found to be in violation of the City Code; and

**WHEREAS**, these properties are not being maintained in compliance with the City Code by the owners or various financial institutions, despite their being notified of the deficiencies; and

**WHEREAS**, this ordinance will provide additional tools for the City to address situations where an abandoned property is determined to be an unsafe structure; and

**WHEREAS**, the Miami-Dade County Unsafe Structures Board cannot hear any pending cases for several months; and

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**WHEREAS**, the City Commission has determined that an emergency exists based on the need to adopt its own ordinance to expeditiously address the threat to the public health, welfare, and safety of unsafe structures within the City.

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

**SECTION 1.** That the foregoing recitals 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.** That Division 2, "Condemnation" of Article III, "Dangerous or Unsafe Buildings" of Chapter 105 "Buildings and Building Regulations" of the Code of the City of Coral Gables, Florida, and Division 2, "Unfit Dwellings" of Article V, "Minimum Housing Code" of Chapter 105 "Buildings and Building Regulations" of the Code of the City of Coral Gables, Florida is repealed and replaced as follows:

## **CHAPTER 105. BUILDINGS AND BUILDING REGULATION**

### **ARTICLE III, UNSAFE STRUCTURES**

#### **Sec. 105-185. Definitions.**

The following definitions shall apply exclusively to this Article.

*Administrative costs* shall mean the costs and expenses incurred by the City in its prosecution of unsafe structures cases, including, but not limited to, any staff time, Construction Regulation Board's time, and attorneys' fees for the inspection, investigation, prosecution, testing, monitoring or correction of a violation of this Article.

*Building Official* means the City Building Official as defined in the Florida Building Code, or the Director of the Development Services Department or designee.

*Fire Marshall* means the City Fire Marshall who is the Authority Having Jurisdiction as defined in the Florida Fire Prevention Code.

*Owner* means any person, agent, firm, or corporation having a legal or equitable interest in the property.

*Structure* means anything that is built or constructed. The term "structure" shall be construed as if followed by the words "or part thereof." For the purposes of this Article, each portion of a structure separated from other structures by a four-hour firewall shall be considered a separate structure. If a structure has been designated historic and is under Miami-Dade County's historic preservation jurisdiction, said structure may only be demolished pursuant to the procedures set forth in Chapter 16A of the Miami-Dade County Code. If the Building Official determines that a structure is a designated historic landmark or within a historic landmark district, pursuant to Article 11 of the City Zoning

Code, is unsafe, the Building Official shall immediately notify the Historic Preservation Board and shall otherwise proceed as provided in Section 3-1116 of the City Zoning Code.

*Cost to repair, restore, or replace* means the cost of any repair, reconstruction, or rehabilitation, addition, or other improvement of a structure to bring it into compliance with the City Code, including but not limited to the Florida Building Code and any applicable zoning law. The total cost does not include nonstructural interior finishing, including, but not limited to, finish flooring and floor coverings, base molding, nonstructural substrates, drywall, plaster, paneling, wall covering, tapestries, window treatments, decorative masonry, paint, interior doors, tile, cabinets, moldings and millwork, decorative metal work, vanities, electrical receptacles, electrical switches, electrical fixtures, intercoms, communications and sound systems, security systems, HVAX grills and decorative trim, freestanding metal fireplaces, appliances, water closets, tubs and shower enclosures, lavatories, and water heaters, or roof coverings. The Building Official shall ascertain the estimated costs to repair or replace the structure based on the prevailing local customary costs.

**Sec. 105-186. Physical criteria for unsafe structures.**

A structure shall be considered unsafe if it meets any of the following criteria:

- (a) The structure or its electrical, gas, mechanical, or plumbing system is unsafe; dangerous; unsanitary; does not provide adequate egress; constitutes a fire or windstorm hazard; is otherwise dangerous to human life; by reason of illegal or improper use, occupancy or maintenance, constitutes a hazard to safety or health; or has been substantially damaged by the elements, fire, explosion, or otherwise.
- (b) The structure constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.
- (c) The structure is not completed in substantial conformity with the plans and specifications upon which the building permit for construction was issued and 120 days or more have lapsed since the expiration, revocation, or cancellation of the building permit.
- (d) The structure has been determined to be unsafe for entry or a hazard to fire or law enforcement officials by evidence of a report stating so.
- (e) The structure has been boarded with materials previously approved by the Building Official and the boarding has been breached without repair.
- (f) The structure has been used to conduct criminal activity on more than two occasions within a six-month period, and such criminal activity was facilitated by the existence of one or more of the conditions enumerated in this section.

(g) The structure is occupied and its storm shutters have not been removed from all of the means of escape required by the Florida Fire Prevention Code after a hurricane watch or warning has expired.

(h) The structure is a swimming pool or spa that contains stagnant water or does not conform to the swimming pool barrier requirements of the Florida Building Code and other applicable law.

(i) There is an accumulation of debris or other combustible material in the structure that creates a hazard of combustion or the condition of the structure creates a hazard with respect to the means of egress and fire protection.

(j) A structure shall be presumed to be unsafe if one or more of the following criteria applies:

(1) There is falling-away, hanging, or loose siding, blocks, bricks, or other building material.

(2) The structure or its structural parts are deteriorated.

(3) The structure is partially destroyed.

(4) There is an unusual sagging or leaning out of plumb or square of the structure and such effect is caused by deterioration or over-stressing.

(5) The electrical, gas, mechanical, plumbing installations or systems create a hazardous condition contrary to the standards of the Florida Building Code and the National Electric Code.

(6) An unsanitary condition exists by reason of inadequate or malfunctioning sanitary facilities or waste disposal systems.

(7) The structure is occupied and there is no potable water service or no electric service.

(8) The structure is in violation of the Minimum Housing Code of Article V of this Chapter.

(9) The construction of the structure or the construction or installation of systems or components within the structure has been commenced or completed without a permit or all of the required inspections or where the permit has expired prior to the required final inspections and the issuance of a certificate of occupancy or certificate of completion.

- (10) The structure is vacant and abandoned and is not covered at the doors or windows or is covered with materials not previously approved by the Building Official.
- (11) By reason of illegal or improper use, the occupancy or maintenance does not comply with the Florida Building Code or the Florida Fire Prevention Code.
- (12) The structure or part thereof meets any of the physical criteria of an unsafe structure set forth above and has not been repaired and brought into compliance with the applicable codes following the expiration of a reasonable notice period.

**Sec. 105-187. Grow Houses.**

(a) A structure that has been identified by any law enforcement officer as being used to grow or manufacture controlled substances as defined by Chapter 893 of the Florida Statutes or any drugs, as defined in Chapter 499 of the Florida Statutes (“Grow House”) shall be presumed to be unsafe if one or more of the following criteria applies:

- (1) There is an open and obvious modification or addition to any of the structure’s electrical wiring or electrical components, or there exists any exposed wires or exposed electrical components.
- (2) There is an open and obvious modification or addition to any of the structure’s plumbing, and/or any discharge of water or other effluent that is not into an ordinarily available drain.
- (3) The structure’s interior walls have been destroyed, moved, or modified in any way. This may be evidenced by marks on the ceiling and/or floor that are indicative of a wall having been moved or removed, holes or passages in a wall that are not ordinary, and may be unfinished in appearance. This list shall not be considered exhaustive such that any other evidence of walls being destroyed, moved or modified shall be proper.
- (4) Any exterior window has been modified or covered in such a way, so as to inhibit or reduce egress or which inhibits or prevents normal use for ventilation purposes; this shall not include curtains and other ordinary window coverings.
- (5) Any of the structure’s exterior or interior doors has been modified or covered in such a way to prevent or inhibit ingress or egress.

(b) Upon observation of any one of the above criteria, any law enforcement personnel shall be authorized to post and shall post a notice in a conspicuous location on the structure that has been determined to be unsafe. The posted notice shall read substantially as follows:

**UNSAFE STRUCTURE:** This building or structure is declared unsafe by the City of Coral Gables Police Department. **THIS STRUCTURE SHALL BE VACATED AND SHALL NOT BE OCCUPIED.** The owner must contact the City of Coral Gables Building Department immediately. **THIS**

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NOTICE SHALL NOT BE REMOVED EXCEPT BY THE BUILDING OFFICIAL. DATE POSTED:(insert date posted).

(c) Entry to any structure posted with such a notice shall be prohibited except by an Order issued by a Court of competent jurisdiction, until such time as all necessary inspections listed in subsection (e) below have been completed.

(d) The City Police Department shall promptly notify the City Building Department of any such notice and violations. Upon receiving such notification from the Police Department, the Building Department shall immediately serve a notice of inspection of the unsafe structure stating that the Building Official will conduct an inspection of the structure and may issue a notice of unsafe structure. The notice of inspection shall be served by the same means as a civil violation notice pursuant to Article VI of Chapter 101.

(e) All structures that meet any of the criteria from subsection (a) above and have been posted with the notice in subsection (b) above must pass the following inspections to the satisfaction of the Building Official before the structure can be deemed safe for use:

- 1) An electrical inspection;
- 2) A plumbing inspection;
- 3) An inspection by a certified mold inspector; and
- 4) An inspection by a structural engineer.

(f) Upon completion of the inspections described herein, an inspection report shall be filed with the Building Department for approval. The City shall proscribe the forms to be used for the inspections described herein and shall be authorized to charge a fee for the review of the inspection reports. Each inspection report shall indicate whether there are any unsafe or hazardous conditions in the structure, whether all building code violations have been corrected, and whether the structure is safe for occupancy. No structure deemed unsafe pursuant to this section shall be occupied until the Building Official has reviewed the results of the required inspections and determines that occupancy may be safely resumed and the property has passed final inspection on all permits required to bring the structure back into compliance with the Building Code. Nothing herein shall relieve the owner from the requirement to obtain permits for any repairs required to meet the requirements of this section.

**Sec. 105-188. Inspections and criteria for demolition; infestation.**

(a) The Building Official, the Fire Marshall, or any other authorized representative is hereby authorized to conduct such inspections and take such action as may be required to enforce the provisions of this Article, including, but not limited to, vacating, boarding, securing, repairing, or demolishing a structure.

(b) In those cases where the cost of repairing, restoring, or replacing any structure in order to bring it into compliance with this Article shall exceed 50 per cent of its value, the Building Official shall order the demolition of said structure and shall not issue a building permit for the repair of said structure.

(c) In those cases, where the cost to repair, restore, or replace any structure shall be equal to or less than 50 per cent of its value, the Building Official shall order the demolition of said structure, unless the owner or other interested party applies for and obtains the required building permit for repair, restoration, or replacement of the structure within 30 days and obtains the permit and passes final inspection on the repair, restoration, or replacement permit within a reasonable period.

(d) In those cases where the structure has been vacated, boarded, or secured for a period of 6 months or more and the owner or other interested party has not applied for permits to make the structure occupiable and criminal activity has occurred on the property on more than two occasions, the Building Official shall order the demolition of the structure and shall not issue a building permit for the repair of said structure.

(e) In those cases where the owner or other interested party fails to comply with a notice to vacate, board, secure, repair, or demolish, the Building Official may cause such unsafe condition to be abated and shall recover all costs of doing so as provided in this Article.

(f) Prior to demolition, all structures shall be free of infestation from insects and rodents. If the property is infested, the owner or other interested party shall hire a licensed exterminator to provide the appropriate treatment to eliminate the infestation and shall provide documentation to the Building Official that this requirement has been met prior to demolition. If the City undertakes demolition of the structure, the City may provide for said treatment.

**Sec. 105-189. Reports of unsafe dwellings.**

Members of the City fire department, police department, and any other department may make a written report to the Building Official of a structure that appears to be unsafe. Such reports shall be submitted to the Building Official as soon as practicable.

**Sec. 105-190. Requirements not covered by code.**

Any requirement not specifically covered by the applicable code, but necessary for the strength or stability of an existing or proposed structure or the safety, health, and welfare of the occupants thereof and of neighboring properties or those using adjoining rights-of-way, shall be determined by the Building Official or Fire Marshall, as appropriate.

**Sec. 105-191. Abatement required.**

All unsafe structures or systems are hereby declared illegal and shall be vacated and the unsafe condition shall be abated by repair, rehabilitation or demolition. A permit shall be obtained to demolish the structure or, where specifically allowed by this section, to bring the structure into compliance with the applicable codes as provided herein.

**Sec. 105-192. Notices, hearings, and appeals.**

(a) Except as provided in section 105-193 relating to emergencies, the Building Official shall prepare and issue a notice of unsafe structure directed to the owner of record and all other interested parties. The Building Official shall consult with the City Attorney to request a report listing the interested parties who have recorded notice of their interest in the Public Records of Miami-Dade County. If a structure has been designated as historic under this Code, a copy of the notice shall be served on the historic preservation officer. Failure to serve the historic preservation officer shall not affect the validity of the proceeding. The notice shall be served by the same means as a civil violation notice pursuant to Article VI of Chapter 101. The notice shall contain, but is not limited to, the following information:

- (1) The street address and legal description of the property where the structure is located and a brief description of the structure.
- (2) A statement indicating the structure has been declared unsafe by the Building Official, and a detailed report documenting the conditions determined to have rendered the structure unsafe under the provisions of this Article.
- (3) A statement advising that, if the required action is not completed by the time specified, the Building Official may order that the structure be vacated, boarded, secured, and posted to prevent further occupancy until the required action is completed; and that the Building Official may cause the required action to be done and recover the costs incurred against the property and the owner of record.
- (4) A statement that the owner or interested party may appeal the decision of the City to the City's Construction Regulation Board within 20 days of the date of the notice. A hearing on said appeal shall be conducted pursuant to Article VI of Chapter 101.
- (5) A statement that, if the owner or other interested party does not take all required action or appeal the decision of the City, the Construction Regulation Board may enter an order of demolition and assess all costs of the proceedings and demolition and other required action for which the City shall have a lien against the owner and the property.

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(6) The order of the Construction Regulation Board may be appealed pursuant to Article VI of Chapter 101.

**Sec. 105-193. Emergency action.**

When, in the opinion of the Building Official or Fire Marshall, there is an actual or immediate danger of the failure or collapse of a structure, or there is a health, safety, windstorm or fire hazard, the Building Official or Fire Marshall may order the occupants to vacate and may temporarily close for use and occupancy the structure, rights-of-way thereto, sidewalks, streets or adjacent structures or nearby area and institute such other temporary safeguards, including securing the structure and nearby area, as they may deem necessary under the circumstances, and may employ the necessary labor and materials, including private contractors, to perform the required work as expeditiously as possible. In such event, the operation of the notice and hearing requirements of this Article shall be suspended as reasonably necessary in the opinion of the Building Official or Fire Marshall to redress the emergency situation. The costs incurred in the performance of such emergency work shall be paid by the City and the City shall have a lien against the property for such costs as provided in Section 105-195. An owner or interested party who is contesting whether the emergency action should have been taken and whether the City should have a lien for such costs, must request such a hearing within 30 days of the date they receive notice of a lien for such costs, but in any event no later than 30 days from the date such notice is recorded in the public records of Miami-Dade County.

**Sec. 105-194. Posting of notice to vacate.**

(a) Every notice to vacate shall be posted by the Building Official or Fire Marshall at each exit and entrance to the structure and shall state:

**UNSAFE STRUCTURE:** This building or structure is declared unsafe by the Building Official for the City of Coral Gables. **THIS STRUCTURE SHALL BE VACATED AND SHALL NOT BE OCCUPIED.** The owner must contact the City of Coral Gables Building Department immediately. **THIS NOTICE SHALL NOT BE REMOVED EXCEPT BY THE BUILDING OFFICIAL. DATE POSTED: (insert date posted).**

(b) Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm, or corporation or their agents to remove such notice without written permission of the Building Official, or for any person to enter the structure except for the purpose of making the required repairs or demolishing the structure.

**Sec. 105-195. City to recover costs.**

All administrative costs, including investigative costs and attorneys' fees, and costs of corrective action incurred by the City in enforcing this Article shall be promptly paid by

the owner, respondent, or interested party and the City shall have a special assessment lien for such costs on the property where the unsafe structure is or was located. The City shall also have a lien on any real and personal property of any owner in the unsafe structures case. The Construction Regulation Board may award all administrative costs and costs of repair or demolition in its order or the City may record an affidavit setting forth its costs and may foreclose on any unpaid liens. The City may sell as salvage or require the demolition contractor to dispose of the contents of the structure demolished. The lien for the costs of repair or demolition shall have equal dignity with a lien for taxes. The City shall record the affidavit of costs or the order of the Construction Regulation Board in order to have the lien provided for in this section.

**Sec. 105-196. Provisions supplemental and exhaustion of administrative remedies.**

The City may enforce this Article by any other lawful means, including, but not limited to, Article VI of Chapter 101. The enforcement procedures of this Article are supplemental to all others and shall not be deemed prerequisites to filing a suit for the enforcement of any section of the code. A property owner or other interested party must have exhausted the administrative remedies provided for in this Article prior to filing any action in court.

**SECTION 3. 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 4. REPEALER.**

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

**SECTION 5. 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. Specifically, Division 3 “Permit Fees,” of Article III of Chapter 105 is renumbered as Division 2, Article II of Chapter 105.

**SECTION 6. EFFECTIVE DATE.**

This ordinance shall become effective upon adoption.

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PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 2015.

APPROVED:

JIM CASON  
MAYOR

ATTEST:

WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

CRAIG E. LEEN  
CITY ATTORNEY