

ORDINANCE NO. 2011-08-250

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AMENDING ORDINANCE NO 2010-23-231, REQUIRING THE REGISTRATION OF ABANDONED PROPERTIES; REPEALING SECTIONS 28-297 THROUGH 28-300 OF ARTICLE VI OF THE MIAMI GARDENS CODE OF ORDINANCES RELATING TO REGISTRY OF SINGLE-FAMILY DWELLING UNITS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 8, 2010, the City Council adopted Ordinance Number 2010-23-231, requiring the registration of abandoned properties to abate the nuisances associated with having vacant properties in the community, and

WHEREAS, the ordinance required that all vacant property owners register abandoned properties within the City, affix a decal to the property, and that the Code Compliance Division maintain a list of these properties to aid the police department in calls for service at these properties, and

WHEREAS, city staff is recommending that the City's current regulations be broadened to include foreclosed properties, and

WHEREAS, amending the City's current regulations will enhance City services and will prevent blight in the neighborhoods,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. AMENDMENT: Ordinance No. 2010-22-231, is hereby amended as follows:

Section 4. Definitions: As used herein, the following terms shall have the following meanings:

- a) ~~Abandoned shall mean any condition that on its own, or combined with other conditions, would lead a reasonable person to believe that the property is vacant and it is ultimately determined that the property is vacant. Such conditions may include, but not be limited to, overgrown or dead vegetation; potential for collapsing, falling or burning; disconnected electricity, water, or other utilities; stagnant swimming pool, or other evidence that the property is vacant.~~ Abandoned real property means any property that is vacant or shows evidence of vacancy or is subject to a mortgage under a current Notice of Default and/or Notice of Mortgagee's Sale, pending Tax Assessors Lien Sale and/or vacant properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.
- b) City means the City of Miami Gardens or its contractor.
- c) *Code enforcement officer or inspector* means any authorized agent or employee of the city whose duty it is to assure code compliance.
- d) Evidence of vacancy shall mean any condition that on its own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant and it is ultimately determined that the property is vacant. Such conditions may include, but not be limited to, overgrown or dead vegetation; potential for collapsing, falling or burning; disconnected electricity, water, or other utilities; stagnant swimming pool, accumulation of abandoned real property, as defined herein, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.
- e) Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.
- f) *Mortgagee* means the creditor, including but not limited to, trustees; service companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the

creditor's rights, interests or obligations under the mortgage agreement. For purposes of this article only, the term mortgagee does not apply to governmental entities.

g) *Owner* means every person, entity, or service company, who alone or severally with others:

(1) Has the legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, building, structure, or parcel of land, vacant or otherwise, including a mobile home park; or

(2) Has care, charge, or control of any dwelling, dwelling unit, mobile dwelling unit, building, structure, or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including, but not limited to, agent, executor, executrix, administrator, trustee, or guardian of the estate of the holder of legal title; or

(3) Is a mortgagee in possession of any such property; or

(4) Is an agent, trustee, or other person appointed by the courts and vested with possession or control of any such property; or

(5) Is a person who operates a rooming house.

h) *Property* means any real property, or portion thereof, located in the city, including buildings or structures situated on the property. For the purposes of this article only, property does not include commercial property or property owned or subject to the control of the city or any other governmental bodies.

i) *Property management company* means a property manager, property maintenance company or similar entity or individual responsible for the maintenance of abandoned real property.

j) *Vacant* means any building/structure that is not legally occupied.

#### Section 5. Public Nuisance.

All abandoned real property is hereby declared a public nuisance, the abatement of which pursuant to the city's police power is hereby declared necessary for the health, welfare and safety of the residents of the City of Miami Gardens.

#### Section 56. Requirements; Registration Of Abandoned Real Property:

~~All owners of abandoned properties as defined herein, shall be required to register said property with the City. Said registration shall include the following:~~

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- ~~a) The registration shall state the property address; the owner's name, mailing address, and telephone number; and email address.~~
- ~~b) All property registrations are valid for one calendar year, and there shall be no registration fee.~~
- ~~c) Once a property is no longer abandoned, the owner must provide proof of sale or written notice and proof of occupancy to the city.~~
- ~~d) Owners who have registered a property under this Ordinance must report any change of information contained in the registration within ten (10) days of the change.~~
- ~~k) Upon registration, abandoned properties must be posted with a decal to be provided by the City.~~
- a) Any property owner who owns vacant or abandoned real property located within the city, shall perform an inspection of the property, and within ten (10) days of the inspection, shall register the property with the city manager, or his/her designee, on forms provided by the City. A registration is required for each vacant property.
- b) Any mortgagee who holds a mortgage on real property located within the City shall, upon default by the mortgagor and prior to the issuance of a notice of default, perform an inspection of the property that is the security for the mortgage. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned real property and the mortgagee shall, within ten (10) days of the inspection, register the property with the city manager, or his/her designee, on forms provided by the City. A registration is required for each vacant property.
- c) If the property is occupied but the mortgage on the property remains in default, the property 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 vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of that inspection, register the property with the city manager, or his/her designee, on forms provided by the City.
- d) Registration pursuant to this section shall contain the name of the property owner(s) or mortgagee, the direct mailing address of the property owner(s) or mortgagee, a direct contact name and telephone number of property owner(s) or mortgagee, a facsimile number and email address for property owner (s) or

mortgagee, and the name and twenty-four (24) hour contact phone number of the property management company responsible for the security and maintenance of the property.

- e) 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.
- f) Properties subject to this section shall remain under the annual registration requirement, and the security and maintenance standards of this section as long they remain vacant.
- g) Any person or corporation that has registered a property under this section must report any change of information contained in the registration in writing within ten (10) days of the change to the city manager or his/her designee.
- h) Once a property is no longer vacant, the owner or mortgagee must provide proof of sale or written notice and proof of occupancy to the city.

#### Section 7. Maintenance and Security Requirements

- a) Registration does not exonerate the property owner or mortgagee from compliance with all applicable codes and ordinances, including this section, nor does it preclude any of the actions the City is authorized to take pursuant to this section or elsewhere in the City's Code of Ordinances.
- b) Properties subject to this section shall be maintained and secured in accordance with the City's property maintenance standards found in Chapter 16 – Article III, Building Regulations, and Chapter 28 – Article VI of the Land Development Code. The owner of a vacant property shall take such steps and perform such acts as may be required of him/her from time to time to ensure that the vacant property and its adjoining yard remain safe and secure and do not present a hazard to the adjoining property or the public. Owners will be responsible for maintaining their properties so that they do not become an unoccupied hazard.

#### Section 68. Registration Fee.

The City Council shall establish the registration fee by separate resolution.

#### Section 9. Additional Authority

The city manager, or his/her designee, 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 doors, windows, or other openings, employment of an on-site security guard, or other measures as may be reasonably required to prevent decline of the property.

Section 710. Penalty; Enforcement.

This Ordinance shall be enforced in accordance with the City's Code Enforcement ~~Ordinance No. 2004-11-27~~ regulations, as amended outlined in Chapter 8 of the Code of Ordinances, and Property Maintenance Ordinance 2005-13-51 regulations, as amended outlined in Chapter 16 – Article II and Building regulations as outlined in Chapter 28, Article VI of the Land Development Code. Any person found in violation of this Ordinance shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation, or by imprisonment not to exceed sixty (60) days, or both.

SECTION 3: REPEAL: Sections 28-297 through 28-300 of the City's

Code of Ordinance is hereby repealed.

SECTION 4. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 5. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the section of this Ordinance may be renumbered or relettered and the word "Ordinance"

may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

SECTION 7. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 13<sup>TH</sup> DAY OF APRIL, 2011.

PASSED ON SECOND READING ON THE 27<sup>TH</sup> DAY OF APRIL, 2011.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 27<sup>TH</sup> DAY OF APRIL, 2011.

  
SHIRLEY GIBSON, MAYOR

**ATTEST:**

  
RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: DR. DANNY O. CREW, CITY MANAGER

Moved by: Councilwoman Robinson  
Second by: Councilwoman Davis

**VOTE: 4-0**

Mayor Shirley Gibson	<u>      </u> (Yes)	<u>      </u> (No)(not present)
Vice Mayor Aaron Campbell, Jr.	<u>      </u> (Yes)	<u>      </u> (No)(not present)
Councilman David Williams Jr	<u>      </u> (Yes)	<u>      </u> (No)(not present)
Councilwoman Lisa Davis	<u>  X  </u> (Yes)	<u>      </u> (No)
Councilman Oliver Gilbert, III	<u>  X  </u> (Yes)	<u>      </u> (No)
Councilwoman Felicia Robinson	<u>  X  </u> (Yes)	<u>      </u> (No)
Councilman Andre' Williams	<u>  X  </u> (Yes)	<u>      </u> (No)