ORDINANCE NO. __2016-20__

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 78 ENTITLED "SOLID WASTE", ARTICLE II ENTITLED "NUISANCES" OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, AND IN PARTICULAR, REVISING HIALEAH CODE § 78-38 ENTITLED "REGISTRATION OF PROPERTIES WITH MORTGAGES IN DEFAULT BY MORTGAGEE", INCREASING THE ANNUAL REGISTRATION FEE AND AMENDING THE REQUIRED INFORMATION FOR REGISTRATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2012, in other to address the negative effects of the mortgage foreclosure crisis in the community that resulted in a significant number of properties in foreclosure left vacant and abandoned, quickly succumbing to the forces of nature and the elements, with overgrown grass, unsanitary pools, broken windows and opened doors, the City of Hialeah adopted Ordinance No. 2012-11 (February 28, 2012) creating an obligation on the mortgagee to register, maintain and secure properties with mortgages in default;

WHEREAS, in practice, the foreclosure property registry process established pursuant to Hialeah Ordinance No. 2012-11 (February 28, 2012), consists of a two-steps procedure including (1) registration of properties with mortgages in default with the City of Hialeah, and (2) the subsequent inspection and periodic monitoring of properties registered to identify and timely address code violations, safety hazards and illegal occupancy issues by the City of Hialeah;

WHEREAS, the City of Hialeah further finds that improvements must be made to the current registration process, particularly to enhance the data collection process, whereby the City or its designee not only will be processing the registration of properties with mortgages in default, but also identifying those mortgagees who hold a mortgage on any real property located within the city, who have determined that such mortgage is in default, have issued a notice of default, have recorded a lis pendens, or taken any other legal action to enforce its right to accelerate the debt or foreclose its interest in the property, but have failed to register the property with the City in compliance with Hialeah Ordinance No. 2012-11 (February 28, 2012);

WHEREAS, a more efficient registration process will increase the number of properties currently in the foreclosure registry, and consequently the City will be required to allocate more resources to the inspection and periodic monitoring of these properties allowing the City to identify and address, promptly and efficiently, violations of the City of Hialeah Code of Ordinances; and

WHEREAS, the general purpose and intent of this ordinance is to assess the appropriate fees to properly administer the City's code enforcement regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 78 entitled "Solid Waste", Article II. Nuisances, of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read, by revising Hialeah Code § 78-38 entitled "Registration of properties with mortgages in default by mortgagees", as follows:

Chapter 78

SOLID WASTE

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ARTICLE II. NUISANCES

* * *

Sec. 78-38. Registration of properties with mortgages in default by mortgagees

(a) Any mortgagee who holds a mortgage on any real property located within the city, regardless of the property's land use designation, zoning district, or nature of the use or uses given to the structures found on the property, and who has determined that such mortgage is in default, has issued a notice of default, has recorded a lis pendens, or taken any other legal action to enforce its right to accelerate the debt or foreclose its interest in the property, shall register the

property with the city's code compliance division ~~or~~ __designee__. The mortgagee must register the property within 15 days from the date it first gives notice to the debtor/mortgagor of its intent to accelerate the debt and/or foreclose its interest in the property. Together with the registration, the mortgagee must submit an annual fee of ~~$100.00~~ __$200.00__ for each property registered. The mortgagee must designate an individual or entity to act as its local agent who shall be responsible for inspecting, maintaining and securing the property according to the provisions of this section and be available to be contacted by the city during regular business hours. The local agent must have a place of business in Miami-Dade County. ~~All registrations must state the property address, the mortgagee's name, address, email address and telephone number, the name of an agent responsible for the property's management, agent's mailing address, email address and telephone number. If the local agent designated by the mortgagee is an entity, the registration must identify an individual and that individual's position within the entity. The individual must have the necessary authority within the entity to make all necessary decisions and take all necessary actions to discharge the mortgagee's obligations pursuant to this section. Postal box office numbers cannot be utilized as mailing addresses.~~ __Registration pursuant to this section shall contain the name, direct mailing address, a direct contact name, telephone number, and e-mail address for the Mortgagee/Trustee, and the Servicer, and the name and twenty-four (24) hour contact phone number of the local property management company responsible for the security and maintenance of the property who has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditure in connection therewith__. Any change in the information required must be reported to the code compliance division within ten days from the date of the change. If the mortgagee who first registers the property assigns the mortgage in default to another, the mortgagee must notify the city of the assignment, the identify and contact information of the assignee. The assignee must re-register the property, pay the registration fee, designate a local agent and provide all the information required for registration.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed by a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered, as appropriate, to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.
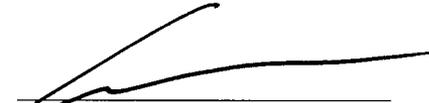
PASSED AND ADOPTED this __22__ day of _____March_____, 2016.
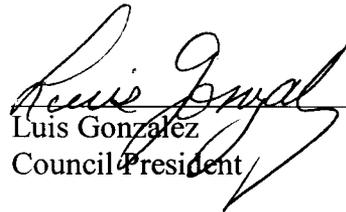
Luis González
Council President

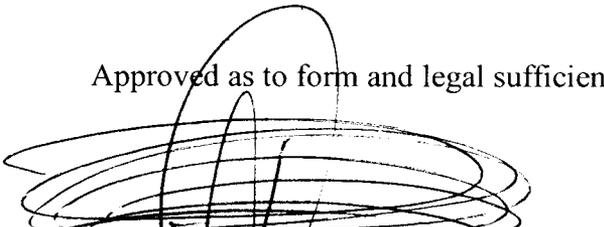Attest: Approved on this __30__ day of _March_, 2016.

Marbelys Fatjo, City Clerk   Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

Lorena E. Bravo, City Attorney

Strikethrough indicates deletion. Underline indicates addition.

Ordinance was adopted by a (5-0-2) vote with Councilmembers, **Caragol,** Cue-Fuente, Hernandez, Lozano and Gonzalez voting "Yes". Councilwoman Casáls-Muñoz and Councilwoman Garcia-Martinez **absent.**