

GWINNETT COUNTY
BOARD OF COMMISSIONERS
LAWRENCEVILLE, GEORGIA

ORDINANCE ENTITLED: **Vacant/Foreclosed Real Property Registration Ordinance**

READING AND ADOPTION: **June 19, 2012**

At the regular meeting of the Gwinnett County Board of Commissioners held in the Gwinnett Justice and Administration Center, Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Name	Present	Vote
Charlotte J. Nash, Chairman	YES	YES
Lynette Howard, District 2	YES	YES
Mike Beaudreau, District 3	YES	YES
John Heard, District 4	YES	YES

On motion of Commissioner Beaudreau, which carried 4-0, the Code of Ordinances of Gwinnett County is hereby amended by adopting a new Article XI, entitled "Vacant/Foreclosed Real Property Registration," of Chapter 14 of the Code of Ordinances of Gwinnett County.

WHEREAS, in March 2010, the Gwinnett County Board of Commissioners amended the Property Maintenance Ordinance; and

WHEREAS, the Property Maintenance Ordinance adopted in 2010 included provisions to address the registration, maintenance, and securing of vacant buildings or structures to protect neighborhoods and Gwinnett County from deterioration and blight that can be caused by the lack of maintenance of vacant buildings or structures; and

WHEREAS, during the 2012 Session of the Georgia General Assembly, House Bill 110 (Act 644) was enacted to provide for more uniformity in vacant and foreclosed real property registries in Georgia; and

WHEREAS, the Board of Commissioners find that due to the enactment of House Bill 110 (Act 644) certain provisions of the Property Maintenance Ordinance addressing the registration of vacant structures need to be amended to be in conformity with the changes to state law; and

WHEREAS, the Board of Commissioners desires to separate the registration of vacant and/or foreclosed properties from the Property Maintenance Ordinance to address the necessary amendments pursuant to House Bill 110 (Act 644) and to prevent confusion with other provisions of the Property Maintenance Ordinance; and

WHEREAS, the Board of Commissioners finds that it is in the best interests of Gwinnett County to adopt the following Vacant or Foreclosed Real Property Ordinance to address the registration, vacant or foreclosed real property; and

NOW, THEREFORE, BE IT ORDAINED that the Gwinnett County Board of Commissioners hereby adopts a new Article XI, entitled "Vacant/Foreclosed Real Property Registration," of Chapter 14 of the Code of Ordinances of Gwinnett County which is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that this new "Vacant/Foreclosed Real Property Registration" Ordinance shall be effective July 1, 2012.

GWINNETT COUNTY BOARD OF COMMISSIONERS

BY: Charlotte J. Nash
CHARLOTTE J. NASH, CHAIRMAN

ATTEST:

BY: Diane Kemp
DIANE KEMP, COUNTY CLERK

APPROVED AS TO FORM"

BY: Theresa A. Co
SENIOR ASSISTANT COUNTY ATTORNEY



Exhibit A

SECTION 1 – The following new Article XI of Chapter 14 of the Code of Ordinances of Gwinnett County is hereby adopted as follows:

CODE OF ORDINANCES OF GWINNETT COUNTY CHAPTER 14 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE XI – VACANT OR FORECLOSED REAL PROPERTY REGISTRATION

Division I – Generally.

Section 14-400. Title.

The title of this ordinance shall be the “Vacant/ Foreclosed Real Property Ordinance” and may be cited hereinafter as this article.”

Section 14-401. Purpose.

The purpose of this article is to establish minimum requirements and standards for registration or vacant and/or foreclosed real property and structures in order to promote and protect the public health, safety, convenience, order and general welfare of the citizens of the county.

Section 14-402. Scope.

This Article shall apply to all commercial, office, industrial, multi-family, and single-family residential structures.

Section 14-403. Interchangeability.

Words stated in the present tense include the future. Words stated in the masculine gender include the feminine and neuter. Words stated in the singular number include the plural and the plural the singular.

Section 14-404. Definitions.

Unless otherwise noted, terms not defined herein shall have their meaning as defined in the Zoning Resolution, the Development Regulations, and the Construction Code, or in the absence of such definition, words shall have their common dictionary definition. The following definitions shall apply in the interpretation and enforcement of this article:

Department. The Gwinnett County Department of Planning and development.

Director. The Director of the Department of Planning and Development, or his designee.

Evidence of Utility Usage. A bill or invoice from a supplier of water, electric, and/or gas which includes at a minimum the base charge charged by such supplier for utility usage at the property indicated on such bill or invoice.

Foreclosed Real Property. Improved real property which is held pursuant to a judicial or nonjudicial foreclosure of a mortgage, deed of trust, security deed, deed to secure debt, or other security instrument securing a debt or obligation owed to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor.

Local Agent. An individual with a place of business in this state at which he or she is authorized to accept inquiries, notices, and service of process on behalf of a vacant or foreclosed real property owner.

Street Address. Such term means the street or route address, but shall not mean or include a post office box.

Vacant Real Property. Real property that is

- (1) Is intended for habitation, has not been lawfully inhabited for at least sixty (60) days, and has no evidence of utility usage within the past 60 days; or
- (2) Is partially constructed or incomplete without a valid building permit.

The term vacant real property shall not include a building or structure containing multiple units with common ownership that has at least one unit occupied with evidence of utility usage.

Division II – Vacant Real Property

Section 14-410. Registration Required.

- (a) An owner of any vacant real property shall register vacant real property with the Gwinnett County Department of Planning and Development within fourteen (14) days of the structure becoming vacant as defined in this ordinance.
- (b) Upon receiving information that real property is vacant as defined in this ordinance and the owner has not registered as set forth in subsection (a), the County shall provide a written notice to the owner of the existence of the vacant real property. The owner shall, within fourteen (14) calendar days of the date shown on such notice, register the vacant real property with the Department, supplying all necessary information, and paying all applicable fees.
- (c) The fee for registration is set forth in the schedule of fees adopted by the Board of Commissioners.
- (d) The owner registering a vacant structure shall supply the following information on an authorized application form provided by the Department:
 - (1) The real property owner's name, street address, mailing address, telephone number, facsimile number, and e-mail address;
 - (2) The local agent's name, street address, mailing address, telephone number, facsimile number, and e-mail;
 - (3) The real property's street address and tax parcel identification number;
 - (4) The transfer date of the instrument conveying the real property to the owner; and
 - (5) At such time as it becomes available, recording information, including deed book and page numbers, of the instrument conveying the real property to the owner.

- (e) The owner shall notify the Department in writing of any change in the above required information within thirty (30) days of said change.
- (f) Upon a change in ownership of the vacant real property, the new owner shall be required to register the property if such property continues to meet the definition of vacant real property above.
- (g) Vacant real property shall comply with all other applicable codes and ordinances.

Division III - Foreclosed Real Property

Section 14-420. Registration Required.

- (a) Except as provided in Subsections (c) and (d) below, an owner or mortgagee of any foreclosed real property shall register such foreclosed real property with the Gwinnett County Department of Planning and Development.
- (b) The owner registering foreclosed real property shall supply the following information on an authorized application form provided by the Department:
 - (1) The real property owner's name, street address, mailing address, telephone number, facsimile number, and e-mail address;
 - (2) The local agent's name, street address, mailing address, telephone number, facsimile number, and e-mail;
 - (3) The real property's street address and tax parcel identification number;
 - (4) The transfer date of the instrument conveying the real property to the owner; and
 - (5) At such time as it becomes available, recording information, including deed book and page numbers, of the instrument conveying the real property to the owner.
- (c) Foreclosed real property shall not be required to be registered pursuant to this ordinance within ninety (90) days of the real property's transfer pursuant to a deed under power of sale or deed in lieu of foreclosure or to the first subsequent transferee after the property has been acquired by foreclosure under power of sale pursuant to O.C.G.A. § 44-14-160 or acquired pursuant to a deed in lieu of foreclosure.
- (d) The owner of foreclosed real property shall not be required to register or pay the applicable fee if the property is acquired under power of sale pursuant to O.C.G.A. § 44-14-160 or pursuant to a deed in lieu of foreclosure and
 - (1) The deed under power of sale or deed in lieu of foreclosure contains the information specified in subsection (b) above;
 - (2) The deed is filed with the clerk of the superior court within sixty (60) days of the transfer; and
 - (3) Proof of the following is provided to the Department:
 - i. A filing date stamp or receipt showing payment of the applicable filing fees; and
 - ii. The entire deed under power of sale or entire deed in lieu of foreclosure.
- (e) Upon receiving information that real property is foreclosed real property as defined in this ordinance, that ninety (90) days have elapsed since the transfer, and that the owner has not registered the foreclosed real property as required by this ordinance, the County shall provide a written notice to the owner of the existence of the foreclosed real property. The owner shall, within fourteen (14) calendar days of the date shown

on such notice, register the foreclosed real property with the Department, supplying all necessary information, and paying all applicable fees.

- (f) The fee for registration is set forth in the schedule of fees adopted by the Board of Commissioners.
- (g) The owner shall notify the Department in writing of any change in the above required information within thirty (30) days of said change.
- (h) Except as otherwise specified in this subsection, upon a change in ownership of the foreclosed real property, the new owner shall be required to register the property if such property continues to meet the definition of foreclosed real property as defined in this ordinance.
- (i) Foreclosed real property shall comply with all other applicable codes and ordinances.

Division IV – Enforcement and Appeals.

Section 14-430. Enforcement.

This article shall be enforced by the Chief of Police or the Director of the Gwinnett County Department of Planning and Development or their duly authorized representatives, as applicable.

Section 14-431. Penalties.

Any person convicted by a court of competent jurisdiction of violating any provision of this article shall be guilty of violating a duly adopted ordinance of the county and shall be punished by a fine not to exceed \$1,000.

Section 14-432. Appeal.

- (a) Any vacant or foreclosed real property owner affected by this ordinance may challenge any determination made by the Director, or his designee, pursuant to this ordinance through an appeal to the Recorder's Court of Gwinnett County.
- (b) Any determination required to be made by the Director, or his designee shall be writing in with a copy provided to the owner of the vacant or foreclosed real property owner.
- (c) Any vacant or foreclosed real property owner desiring to appeal a determination by the Director, or his designee, shall request an appeal form from the Department.
- (d) Upon request, the Director or his designee shall provide the vacant or foreclosed real property owner an appeal form.
- (e) The vacant or foreclosed real property owner shall file the appeal form, the written determination, and any other necessary documents with the Clerk of the Recorder's Court of Gwinnett County within thirty (30) days of the date of the Director's written determination. The vacant or foreclosed real property owner shall pay any applicable costs associated with filing any such appeal.

Section 14-433. Unlawful Acts.

It shall be unlawful for a person, firm or corporation to be in conflict with, or in violation of, this article.

Section 14-434. Liability.

No officer, agent, or employee of Gwinnett County shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties pursuant to this Article.