

ORDINANCE NO. 2019-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 26-251, “REGISTRATION OF ABANDONED REAL PROPERTY”; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay (“Town”) finds it necessary to periodically amend its Code of Ordinances (“Code”) in order to update regulations and procedures in furtherance of municipal goals and objectives; and

WHEREAS, the Town Council wishes to amend Section 26-251, “Registration of Abandoned Real Property,” of the Town’s Code to provide exemptions from payment of the annual registration fee and amend the annual registration fee; and

WHEREAS, public notice was provided in accordance with law; and

WHEREAS, the Town Council finds that this Ordinance is in the best interest and welfare of the residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AS FOLLOWS:¹

Section 1. **Recitals.** The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. **Amending Chapter 26 of the Town Code.** The Town Council of the Town of Cutler Bay hereby amends Chapter 26, “Property Maintenance and Control” of the Town Code by amending Section 26-251, “Registration of Abandoned Real Property” as follows:

Chapter 26 – Property Maintenance and Control
Article V. – Responsible Property Owner and Merchant Act

Division 5. – Abandoned and Foreclosed Real Property

¹ Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with yellow highlighted ~~double strikethrough~~ and double underline.

Section 26-251. Registration of abandoned real property.

- (a) Any mortgagee who holds a mortgage on real property located within the town 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 days of the inspection, register the property with the town manager, or his designee, on forms provided by the town, which registration shall include an identification of the property as vacant (including showing evidence of vacancy). A registration is required for each vacant property.
- (b) 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 the mortgagor or other party remedies the default, or it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned real property, and the mortgagee shall, within ten days of that inspection, register the property with the town manager, or his designee, on forms provided by the town, or if the property is already registered, update the status of the property to either remove it from the registry or identify the property as vacant (including showing evidence of vacancy). A separate registration is required for each property.
- (c) Regardless of whether the property is vacant or occupied, upon filing a notice of default, or an action to foreclose on a mortgage or similar instrument, the property shall be deemed an abandoned real property, and if not currently registered with the town under this section, the mortgagee shall, within ten days of that filing, register the property with the town manager, or his designee, on forms provided by the town. A separate registration is required for each property.
- (d) Registration pursuant to this section shall contain the name of the mortgagee and any agents of the mortgagee related to the property, the direct mailing address, contact name and his telephone number, and facsimile number, and e-mail address of the mortgagee and any agents, the folio number, the 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.
- (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) A registration fee in the amount of ~~\$200.00~~\$50.00, per property, shall accompany the registration form(s). The Federal Housing Finance Agency, Fannie Mae, Freddie Mac, and any loan servicer acting on their behalf shall be exempt from paying the registration fee, but shall be required to register. The exemption must be supported by an affidavit filed with the registration form(s).
- (g) All properties, whether vacant or occupied, which are subject to this section shall remain under the registration requirement, inspection, security and maintenance standards of this division as long as they remain vacant or subject to a notice of default or foreclosure proceeding, or until the property has been sold to a new property owner and occupied under the new ownership.
- (h) 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 days of the change to the town manager or his designee.
- (i) Any property that has been registered and remains subject to the registration requirements of this section after one year from the date of its registration must complete an annual renewal registration for each year it remains subject to the registration requirements thereafter. An annual renewal registration fee of ~~\$200~~\$50.00 shall accompany the annual renewal registration. There shall be no fee for modifying contact information if the organizational information remains the same and the modification occurs within one year of filing or renewing the most recent registration.

Section 3. **Codification.** It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. **Severability.** If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. **Conflicts.** All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. **Effective Date.** This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading on the _____ day of September, 2019.

PASSED AND ADOPTED on second reading on the ____ day of _____, 2019.

ATTEST:

TIM MEERBOTT
Mayor

Debra E. Eastman, MMC
Town Clerk

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE SOLE USE OF
THE TOWN OF CUTLER BAY:

Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

First Reading:
Moved by: _____
Second by: _____

Second Reading:
Moved by: _____
Second by: _____

FINAL VOTE AT ADOPTION:

Mayor Tim Meerbott	_____
Vice Mayor Sue Ellen Loyzelle	_____
Council Member Robert “BJ” Duncan	_____
Council Member Michael P. Callahan	_____
Council Member Roger Coriat	_____