ORDINANCE NO. 2011-12

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PINECREST, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE V, CODE ENFORCEMENT, TO INCLUDE PROVISIONS RELATING TO THE REGISTRATION, MAINTENANCE AND SECURITY OF ABANDONED REAL PROPERTY PROVIDING FOR CONFLICT, SEVERABILITY, INCLUSION IN THE CODE OF ORDINANCES, AND AN EFFECTIVE DATE.

WHEREAS, the Village of Pinecrest recognizes an increase in the number of vacant and abandoned properties located throughout the Village; and

WHEREAS, the presence of vacant and abandoned properties can lead to a decline in property value, create attractive nuisances, and lead to general decrease in neighborhood and community aesthetic; and

WHEREAS, vacant and abandoned properties present a serious threat to the public health and safety of the community; and

WHEREAS, the presence of vacant and abandoned properties may discourage prospective buyers from purchasing real property within the Village; and

WHEREAS, many vacant and abandoned properties are the responsibility of lenders and trustees who fail to adequately secure and maintain such properties; and

WHEREAS, the Village has a vested interest in protecting the Village against the decay caused by vacant and abandoned properties and concludes that it is in the best interest of the citizens and residents to impose registration requirements on such properties located within the Village;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PINECREST AS FOLLOWS:

SECTION 1. Recitals.

The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

SECTION 2. Amendment and Adoption.

Note:
~~Strikethrough words~~ are deletions to the existing words in the Village of Pinecrest Code of Ordinances.
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The Amendments to the Code of Ordinances contained in this Ordinance are hereby amended or created and adopted as follows:

Article V, Code Enforcement

Sec. 2-132. Definitions.

The following definitions are hereby added to Section 2-132 of the Village of Pinecrest Code of Ordinances, Definitions, to be inserted in alphabetical order:

Abandoned real property means any property that is vacant and 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.

Evidence of vacancy means any condition that on its own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, 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.

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.

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

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

Sec. 2-174. Schedule of Civil Penalties

The following penalties are hereby added to the Village of Pinecrest Schedule of Civil Penalties, as referenced in the Village of Pinecrest Code of Ordinances, Section 2-174, Schedule of Civil Penalties:

Fines Schedule	First Offense	Second Offense	Additional Offenses
Failure to register real property pursuant to the requirements of Sec. 2-175 (e)	**$500.00**	**$1,000**	**$1,000**
Failure to properly secure real property pursuant to the requirements of Sec. 2-175 (g)	**$500.00**	**$1,000**	**$1,000**

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Division 4. Abandoned Real Property

Sec. 2-175 (a). Purpose and Intent.

It is the purpose and intent of the Village to establish a process for the registration of any property for which a lis pendens has been recorded in the public records of Miami-Dade County and for the maintenance and regulation of any abandoned real property located within the Village. It is the Village's further intent to specifically establish an abandoned residential property program as a mechanism to protect residential neighborhoods from any negative impacts through the lack of adequate maintenance and security of abandoned properties.

Sec. 2-175 (b). Applicability.

This Division shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the Village above and beyond any other state, county and/or local provisions for same.

Sec. 2-175 (c). Penalties; schedule of civil penalties.

Any person who shall violate the provisions of this Division 4 shall, upon conviction, be punished pursuant to the provisions and procedures of Article V of the Village of Pinecrest Code of Ordinances, Code Enforcement, and assessed a penalty as provided in Section 2-174. Schedule of Civil Penalties.

Sec. 2-175 (d). Public Nuisance.

All abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the Village.

Sec. 2-175 (e). Registration.

Upon the filing of a lis pendens or an action to foreclose upon a mortgage or other instrument of debt which debt is secured by the real property of a single-family dwelling unit, whether a house, townhouse, condominium or duplex, the holder or owner of said mortgage or other debt instrument, or the party bringing the foreclosure action, shall immediately register the dwelling unit with the Village of Pinecrest. The registration shall be on forms as designated by the Village Manager and shall be accompanied by the approved registration fee.

An annual registration and non-refundable fee of $150 is required for each property.

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Registration pursuant to this Division shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of the mortgagee, a facsimile number and e-mail address for the 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.

This Division 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.

Properties subject to this Division shall remain under the registration requirement, security and maintenance standards of this Division as long as they remain in default.

Any person or corporation that has registered a property under this Division must report any change of information contained in the registration in writing within ten (10) days of the change to the Village Manager or his or her designee.

Sec. 2-175 (f). Maintenance Requirements.

Properties subject to this Division shall be kept free of weeds over 12 inches in height, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law), abandoned vehicles, portable storage devices, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.

Front, side, and rear yards, including landscaping, shall be maintained in accordance with the Village's Code of Ordinances.

Yard maintenance shall include, but not be limited to grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscaping shall not include weeds over 12 inches in height, gravel, broken concrete, asphalt or similar material. Maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing of required ground cover and/or landscape and removal of all trimmings.

Pools and spas shall be maintained so that the water remains free and clear of pollutants and debris. Pools and spas shall comply with all requirements of the Village Code of Ordinances and Florida Building Code, as amended from time to time.

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Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of the Village Code and issuance of a citation or Notice of Violation/Notice of Hearing by a Village code compliance officer. Pursuant to a finding and determination by the Village's Special Master, the Village may take the necessary action to ensure compliance with this Division.

Sec. 2-175 (g). Security Requirements.

Properties subject to this Division shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by reglazing of the window.

If the property is owned by a corporation and/or mortgagee that is unable or unwilling to perform maintenance and inspections itself, a property management company shall be contracted to perform bi-weekly inspections to verify compliance with the requirements of this Division, and any other applicable laws.

The mortgagee shall inspect or have inspected the property on a bi-weekly basis to ensure that the property is in compliance with this Division. Upon the request of the Village Manager or his or her designee, the mortgagee shall provide a copy of required inspection reports.

Failure of the mortgagee and/or property owner of record to properly secure the property may result in a violation of the Village Code and issuance of a citation or Notice of Violation/Notice of Hearing by a Village code compliance officer. Pursuant to a finding and determination by the Village's Special Master, the Village may take the necessary action to ensure compliance with this Division.

Sec. 2-175 (h). Immunity of code compliance officer.

Any code compliance officer or any person authorized by the Village Manager or his or her designee shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this Division.

Sec. 2-175 (i). Additional Authority.

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The Village Manager, or his or her designee, shall have authority to require the mortgagee and/or owner of record of any property affected by this Division, to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably required to prevent a decline of the property.

Sec. 2-175 (j). Adoption of rules; expenditure of funds; declaration of Village purpose.

The Village Manager is authorized and empowered to adopt rules and regulations and expend Village funds as may be reasonably necessary and available to carry out the terms of this Division, the expenditure of such funds being declared a proper Village purpose.

SECTION 3. Inclusion in the Code of Ordinances.

It is the intention of the Village Council and it is hereby ordained that the amendments to the Code of Ordinances adopted by this Ordinance shall be included and become a part of the Code of Ordinances of the Village of Pinecrest. The sections of this Ordinance, as adopted, may be renumbered or re-lettered and the word "ordinance" may be changed to "section", "article", "division" or other appropriate word.

SECTION 4. Conflicts.

All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 5. 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 6. Effective Date

This Ordinance shall be effective immediately upon passage by the Village Council on second reading.

PASSED on first reading this 8th day of November, 2011.

PASSED AND ADOPTED on second reading this 13th day of December, 2011.

Cindy Lerner, Mayor

Attest:

Guido H. Inguanzo, Jr., CMC
Village Clerk

Approved as to Form and Legal Sufficiency:

Cynthia A. Everett
Village Attorney

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