

FIRST READING: June 13, 2013
SECOND READING: June 27, 2013
PUBLISHED: June 6, 2013
PUBLISHED: June 20, 2013

**A RESOLUTION FOR A REGISTRY
OF VACANT AND FORECLOSED REAL PROPERTY**

A RESOLUTION TO CREATE A NEW CHAPTER 15.100 ENTITLED "HALL COUNTY VACANT AND FORECLOSED PROPERTY" OF TITLE 15 – "BUILDINGS AND CONSTRUCTION" OF THE OFFICIAL CODE OF HALL COUNTY, GEORGIA FOR THE PURPOSE OF PROVIDING FOR GUIDELINES AND PROCEDURES FOR CREATING A REGISTRY OF FORECLOSED REAL PROPERTY AND VACANT REAL PROPERTY; TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR THE REGISTRATION OF VACANT OR FORECLOSED PROPERTY; TO PROVIDE FOR EXEMPTIONS FOR FORECLOSED AND VACANT PROPERTY; TO PROVIDE FOR THE REMOVAL FROM THE REGISTRY OF PROPERTY NO LONGER CONSIDERED VACANT OR FORECLOSED; TO PROVIDE FOR ADMINISTRATIVE FEES, APPEAL PROCEDURES, ADMINISTRATION OF REGISTRY AND A PENALTY FOR FAILURE TO REGISTER VACANT OR FORECLOSED REAL PROPERTY; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTTVE DATE; TO REPEAL ALL RESOLUTIONS AND ORDINANCES AND PARTS OF RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, the Board of Commissioners of Hall County finds that this Resolution is in the interest of public safety and here is a need to establish a registry of foreclosed and vacant real property as a mechanism to protect property values in neighborhoods for all property owners; and

WHEREAS, due to the lack of adequate maintenance and security of properties that are foreclosed or where ownership has been transferred after foreclosure, the property values and quality of life of neighboring properties are negatively impacted; and

WHEREAS, difficulties also often arise in locating the person responsible for the condition of foreclosed real property.

WHEREAS, the Board of Commissioners of Hall County finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through the adoption of the provisions in this Resolution; and

WHEREAS, a registry of foreclosed and vacant real property will require owners and agents to provide Hall County with official information for contacting a party responsible for bringing foreclosed and vacant real property into compliance with applicable provisions of Official Code of Hall County, Georgia; and

WHEREAS, the Board of Commissioners of Hall County adopted by resolution on June 27, 1996, to become effective July 1, 1996, the codification of Resolutions, General Resolutions and Ordinances passed by the Board of Commissioners of Hall County as "The Official Code of Hall County, Georgia" 1996 edition published by Municipal Code Corporation; and further provided for the adoption and incorporation of any Resolution, General Resolution or Ordinance passed subsequent to July 1, 1996, to automatically become a part of The Official Code of Hall County, Georgia; and

WHEREAS, pursuant to the provisions of O.C.G.A. 44-14-14 and for Hall County to be in compliance with O.C.G.A. 44-14-14, Hall County desires to establish a registry of foreclosed and vacant property; and

WHEREAS, the Board of Commissioners of Hall County desires to create a new Chapter for the Official Code of Hall County, Georgia, being Chapter 15.100 entitled "HALL COUNTY VACANT AND FORECLOSED PROPERTY" of Title 15 of the Official Code of Hall County, Georgia;" and

WHEREAS, said Chapter would set forth the guidelines and procedures for creating a registry of foreclosed real property and vacant real property; to provide for definitions; to provide for the registration of vacant or foreclosed property; to provide for exemptions for foreclosed and vacant property; to provide for the removal from the registry of property no longer considered vacant or foreclosed; to provide for administrative fees, appeal procedures, administration of registry and a penalty for failure to register vacant or foreclosed real property;

NOW, THEREFORE, BE IT RESOLVED by the authority of the Board of Commissioners of Hall County as follows:

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Chapter 15.100 entitled "HALL COUNTY VACANT AND FORECLOSED PROPERTY" of Title 15 of the Official Code of Hall County, Georgia is hereby adopted as set forth in Exhibit "A," a copy of which is attached hereto and made a part hereof as if Exhibit "A" were originally set forth in this Resolution.

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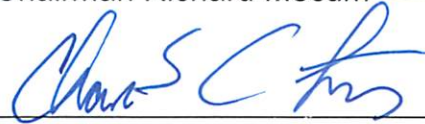
All Resolutions, or Ordinances, or parts thereof, in conflict with the terms of this Resolution are hereby repealed, but it is hereby provided that any resolution, ordinance or law, which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, which shall be liberally construed to be in favor of Hall County, is hereby adopted as part hereof.

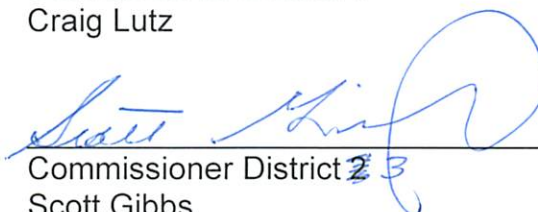
If any paragraph, sub-paragraph, sentence, clause, phrase, or any portion of this Resolution shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Resolution as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Resolution not so held to be invalid. It is hereby declared to be the intent of the Board of Commissioners to provide for separable and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.


This Resolution is hereby adopted this 27th day of June, 2013, to become effective upon the 27th day of June 2013, the public health, safety and general welfare demanding it.

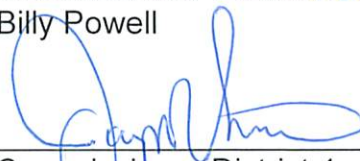
HALL COUNTY BOARD OF COMMISSIONERS


Chairman Richard Mecum


Commissioner District 1
Craig Lutz


Commissioner District ~~2~~ 3
Scott Gibbs


Commissioner District ~~3~~ 2
Billy Powell


Commissioner District 4
Jeffrey Stowe



ATTEST:
Clerk, Melissa McCain
June/July 2013



EXHIBIT "A"

CHAPTER 15. 100
HALL COUNTY VACANT AND FORECLOSED PROPERTY

Section 15.100.010	Short title
Section 15.100.020	Definitions
Section 15.100.030	Registration of Vacant or Foreclosed Property
Section 15.100.040	Foreclosed and Vacant Real Property Exemptions
Section 15.100.050	Removal from Registry
Section 15.100.060	Administrative Fees
Section 15.100.070	Appeal Procedures
Section 15.100.080	Administration
Section 15.100.090	Nuisances
Section 15.100.100	Penalties

Section 15.100.010 Title

This Chapter shall be known as the "Hall County Vacant and Foreclosed Property"

Section 15.100.020 Definitions

1. "**Agent**" means an individual with a place of business in this state in which he or she is authorized to accept inquiries, notices, and service of process on behalf of a vacant or foreclosed real property owner. The definition of "agent" shall have the same meaning as set forth in the Official Code of Georgia Annotated, Section 44-14-14 should that definition differ from the definition in this Chapter.
2. "**Foreclosed real property**" means improved or unimproved real property held pursuant to a judicial or nonjudicial foreclosure of a mortgage, deed of trust, security deed, or other security instrument securing a debt or obligation owned to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor or shall have the same meaning as set forth in the Official Code of Georgia Annotated, Section 44-14-14, should that definition differ from the definition of this Chapter.

3. **Street address** means the street or route address. Such term shall not mean or include a post office box. The definition of 'street address' shall have the same meaning as set forth in the Official Code of Georgia Annotated, Section 44-14-14 should that definition differ from the definition in this Chapter.
4. **Vacant Real Property** means real property that:
 - A. Is intended for habitation, has not been lawfully inhabited for at least 60 days, and has no evidence of utility usage within the past 60 days; or
 - B. Is partially constructed or incomplete, without a valid building permit.

Such term 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. The definition of “**vacant real property**” shall have the same meaning as set forth in the Official Code of Georgia Annotated, Section 44-14-14 should that definition differ from the definition in this Chapter.

Section 15.100.030 Registration of Vacant or Foreclosed Property

1. Owner or agents of foreclosed real property or vacant real property, including foreclosed real property and vacant real property which is also residential rental property, are required to register such property with the Hall County Marshal's office, within thirty (30) days of such property becoming foreclosed or vacant real property by following the provisions of this Section unless otherwise exempted by this Chapter or state law.
2. Any such owner or agent of foreclosed real property or vacant real property located within the jurisdiction of Hall County is required to obtain from and file with the Hall County Marshal's Office, a registration, and shall submit the following information:
 - A. The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;
 - B. The agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
 - C. The real property's street address and tax parcel number;

- D. The transfer date of the instrument conveying the real property to the owner; and
 - E. 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.
3. Registration is required for all vacant or foreclosed real property unless otherwise exempted, pursuant to this Chapter, but is not required for vacant or foreclosed real property within 90 days of such real property's transfer:
- A. Pursuant to a deed under power of sale or deed in lieu of foreclosure; or
 - B. To the first subsequent transferee after the vacant real property has been acquired by foreclosure under power of sale pursuant to the Official Code of Georgia Annotated, Section 44-14-160, or acquired pursuant to a deed in lieu of foreclosure.
4. Any owner or agent required to register any vacant or foreclosed real property pursuant to this Article or to Georgia law shall also be required to update the information with the Hall County Marshal's Office specified in Subsection 15.100.030 within 30 days after any change in such required information regardless of whether the information provided to the registry was in the Deed Under Power of Sale or Deed in Lieu of Foreclosure.

Section 15.100.040 Foreclosed and Vacant Real Property Exemptions.

- 1. Registration or payment of any administrative fees of foreclosed real property pursuant to this Chapter and Georgia law is not required of transferees as described in Subsection 15.100.040(2) of this Section.
- 2. Any transferee who acquires any real property by foreclosure under power of sale pursuant to the Official Code of Georgia Annotated, Section 44-14-160 or acquires any real property pursuant to a deed in lieu of foreclosure and:
 - A. The deed under power of sale or deed in lieu of foreclosure contains the information specified in Section 15.100.030 of this Chapter;

- B. The deed is filed with the clerk of the superior court within 60 days of the foreclosure sale or transfer of the deed in lieu of foreclosure; and
- C. Proof of the following is provided to the Hall County Marshal's Office, the office in charge of the Hall County foreclosed real property registry:
 - 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.
 - iii. Any owner or agent required to register any vacant or foreclosed real property pursuant to this Article or to Georgia law shall also be required to update the information specified in **Section 15.100.030** of this Chapter within 30 days after any change in such required information regardless of whether the information provided to the registry was in the Deed Under Power of Sale or Deed in Lieu of Foreclosure.

Section 15.100.050 Removal from Registry

1. Any owner or agent of a vacant or foreclosed real property may apply to the Hall County Marshal's Office to remove a vacant or foreclosed real property from the Hall County, Georgia registry at such time as the real property no longer constitutes a vacant or foreclosed real property.
2. Any application for removal allowed under Subsection 15.100.050(1) of this Section shall be granted or denied by the Hall County Marshal's Office within 30 days, and if no such determination is made within 30 days then the application for removal from the registry shall be deemed granted.

Section 15.100.060 Administrative Costs.

Any owner or agent of a vacant or foreclosed real property which is required to be registered with the Hall County Marshal's Office under this Chapter shall be required to make a payment of \$100.00 for such registration as administrative costs to Hall County for the establishment, maintenance, operation, and administration of the registry.

Section 15.100.070 Appeal Procedures.

1. Any owner or agent aggrieved of any determination or decision of the Hall County Marshal's Office or Hall County in the administration of this Chapter may appeal to the Hall County Commission. All appeals hereunder must be taken within thirty (30) days of the decision in question by filing with the Hall County Marshal's Office, a notice of appeal specifying the grounds thereof.
2. The Hall County Marshal's Office shall forthwith transmit to the notice of appeal and all the papers constituting the record upon which the action appealed was taken to the Hall County Commission Clerk who shall schedule an appeal hearing within sixty (60) days following the date the appealing party submits its completed written appeal with subsection 15.100.070(1) above.
3. The Hall County Commission may call for further information to be provided within the next thirty-five (35) days following the hearing and may continue the hearing for the purpose of receiving such information or for such other proceedings and reasons as the Hall County Commission deems appropriate.
4. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Hall County Marshal's Office certifies to the Hall County Commission, after the Notice of Appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed except by order of the State or Superior Court of Hall County on notice to the Hall County Marshal's Office and on due cause shown.
5. The Hall County Commission may, in conformity with the provisions of this Chapter, reverse or affirm, in whole or in part, or modify the decision, requirement, or determination of the Hall County Marshal's Office appealed from by the owner or agent and may make such decision, requirement, or determination, as may be appropriate under the circumstances.

6. Further appeal from the decision of the Hall County Commission may be had to the Hall County Magistrate's Court in accordance with O.C.G.A. §44-14-14(j). Appeal to the Magistrate's Court shall be filed within 30 days of the written decision of the Hall County Board of Commissioners.

Section 15.100.080 Administration.

1. The foreclosure and vacant real property registry is subject to the Open Records Act of the State of Georgia and Hall County may make such registry information available online.
2. Registration information shall be deemed prima facie proof of the statements contained therein in any court proceeding or administrative enforcement proceeding in connection with the enforcement of this Chapter.

Section 15.100.090 Nuisances.

Nothing in this Chapter shall be construed to impair, limit, or preempt in any way the power of Hall County to enforce any applicable codes, as defined in state law, or to define or declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Section 15.100.100 Penalties.

Any owner or agent required to register a vacant or foreclosed real property under this Chapter with the Hall County Marshal's Office who fails to register or fails to update the information specified in Section 15.100.030 Registration of Vacant or Foreclosed Property, may be fined up to \$1,000.00 per occurrence.