

ORDINANCE NO. 2015-23

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 7 OF THE CITY OF GREENACRES CODE OF ORDINANCES, ENTITLED HEALTH, SANITATION AND NUISANCES, FOR THE INCLUSION OF A NEW ARTICLE VI TO BE ENTITLED "MORTGAGE FORECLOSURE REGISTRATION"; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS; the mortgage foreclosure crisis has had serious negative implications for all communities trying to manage the resulting property vacancies, decreases in property values, lack of maintenance, and other problems that stem from the financial crisis; and

WHEREAS; foreclosed homes quickly succumb to the forces of nature and the elements, grass and weeds grow, swimming pools become stagnant public health hazards, landscaping dies from lack of attention or grows out of control, windows are broken, exteriors suffer damage from normal wear-and-tear and vandalism, communities suffer, and these consequences have a negative impact first on neighboring residences and then on entire neighborhoods; and

WHEREAS; the conditions identified above negatively impact the City of Greenacres and blight neighborhoods; and

WHEREAS; the City of Greenacres is challenged to identify and locate owners or foreclosing parties who can correct negative impacts and maintain the properties that are in the foreclosure process or that have been foreclosed; and

WHEREAS; the City of Greenacres finds that neighborhoods should be protected from becoming blighted through the lack of adequate maintenance and

security of vacant properties or properties that are subject to mortgages that are in default; and

WHEREAS; the City of Greenacres has adopted property maintenance codes to regulate standards for the interior and exterior of structures and the condition of a property as a whole; and

WHEREAS; a foreclosed property registration process is necessary for the City of Greenacres to provide a monitoring mechanism and as additional enforcement for defaulted properties; and

WHEREAS; the City of Greenacres finds that the registration process would include properties that are in the foreclosure process or have already been foreclosed upon but are still bank owned ; and

WHEREAS; the City Council of the City of Greenacres has determined that the following additions to the City's code will promote and protect the health, safety and welfare of the residents of the City of Greenacres.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GREENACRES, FLORIDA, AS FOLLOWS:

Section 1. Chapter 7 of the Greenacres Code of Ordinance is hereby amended as follows:

ARTICLE VI: MORTGAGE FORECLOSURE REGISTRATION

Sec.7-200 Purpose and Intent

It is the purpose and intent of this article to establish a process to limit and reduce the deterioration of property located within the City of Greenacres, which property is in mortgage foreclosure, where ownership has been transferred to a lender or mortgagee by any legal method or where property is deemed to be

vacant or abandoned. It is further intended to establish a registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance or through abandoned and/or vacated properties which are subject to mortgages that are in default.

Sec.7-201 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning. Where the context will permit and no definitions are provided herein, the definitions provided in the Florida Building Code shall apply.

Abandoned real property means any real property that is vacant, or is under notice of default, or is pending a mortgage foreclosure, or notice of mortgagee's sale, or lien sale and/or properties that have been the subject of a mortgage foreclosure sale where title is retained by the mortgagee, and/or any properties transferred under a deed-in-lieu of foreclosure sale, a short sale or any other legal means.

Default means that the mortgagee has filed a foreclosure action or notice of default on the mortgage. A mortgage shall be considered in default at such time as the mortgagee declares said mortgage to be in default either by letter or notice to property owner, by recording a lis pendens, by commencing foreclosure proceedings, or by any other actions demonstrating a breach of a security covenant on a property.

Enforcement officer means any fulltime law enforcement officer, building code official, fire inspector or code enforcement officer employed or contracted by the City of Greenacres.

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 are not limited to: overgrown and/or dead vegetation; electricity, water or other utilities turned off; stagnant swimming pool; or statements by neighbors, passers-by, delivery agents or government agents.

Foreclosure means the judicial process by which a property, placed as security for a mortgage loan, after a judicial process, is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

Vacant means any building or structure that is not lawfully occupied or inhabited as evidenced by the conditions set forth in the definition of "evidence of vacancy" above.

Sec.7-202 Applicability

This article applies to occupied or abandoned and/or vacant property which is in default and located within the City of Greenacres, or which property is in or has been in mortgage foreclosure, or where ownership has been transferred to a lender or mortgagee by any legal method.

Sec.7-203 Inspection and registration of real property by mortgagee holding mortgages in default

(a) Within ten (10) days of the date any mortgagee declares its mortgage to be in default, the mortgagee shall register the real property with the City of Greenacres building department, or its designee, or the city's authorized representative. At the time of registration, a local property manager shall be

designated to inspect, maintain and secure the real property subject to the mortgage in default. A separate registration is required for each property.

(b) Any mortgagee who holds a mortgage on real property located within the City of Greenacres shall perform an inspection of the property within five (5) days of the registration pursuant to subsection (a) above.

(c) Property inspected pursuant to subsection (b) above that is occupied but remains in default, shall be inspected quarterly by the mortgagee or mortgagee's designee.

(d) Property which is found to be vacant, or which shows evidence of vacancy shall be inspected at least every sixty (60) days by the mortgagee or mortgagee's designee.

(e) Registration pursuant to this section shall contain at a minimum the name of the mortgagee, the mailing address of the mortgagee, e-mail address and telephone number of the mortgagee, and the name of the local property manager including said person's address, e-mail address, and telephone number. The local property manager shall be responsible to inspect, secure and maintain the property. The property manager named in the registration shall be located within twenty (20) miles of the City of Greenacres and available to be contacted by the city, Monday through Friday between 9:00 a.m. and 5:00 p.m., holidays and lunch hours excepted.

(f) This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the mortgagee as well as any properties transferred to the mortgagee under a deed in lieu of foreclosure.

(g) Properties subject to this section shall remain under the registration requirement, and the inspection, security, and maintenance standards of this

article as long as they remain vacant or subject to having been declared by a mortgagee to be in default.

(h) Any person or other legal entity that has registered a property under this article must report any change of information contained in the registration within ten (10) days of the change.

Sec.7-204 Annual Registration Fee

An annual registration fee in an amount approved by Resolution by the City Council of the City of Greenacres, per property, shall accompany the registration.

Sec.7-205 Enforcement

(a) Failure of the mortgagee and/or property owner of record to properly register or to modify the registration from time to time to reflect a change of circumstances as required by this article is a violation of this article and shall be subject to enforcement by any of the enforcement means available to the City of Greenacres.

(b) Pursuant to any Code Enforcement Board, Special Magistrate or judicial finding and determination, including any administrative proceeding, that any property is in violation of this article, the City of Greenacres may take the necessary action to ensure compliance and place a lien on the property for the cost of the work performed, including an administrative fee, to benefit the property and to bring it into compliance.

(c) Failure of the mortgagee and/or property owner of record to properly inspect and secure a property subject to this article, and post and maintain the signage noted in this section, is a violation of this article and shall be subject to enforcement by any of the enforcement means available to the City of

Greenacres. Pursuant to a Code Enforcement Board finding and determination, the City of Greenacres may take the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.

Sec.7-206 Maintenance Requirements

Properties subject to this article shall be maintained in accordance with all relevant city regulations, including the city's property maintenance code (Ordinance 2012-07, as amended).

Sec.7-207 Security Requirements

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

(b) A "secure manner" shall include, but not be limited to, the closure and locking of all windows, doors, gates and other openings of such size that could allow a child or adult to access the interior of the structure and pool area, if any. Broken windows or doors shall be secured by replacement, re-glazing or boarding. Boarding shall be accomplished in a neat manner and all wood and metal used shall be painted to match adjacent walls.

Sec.7-208 Posting of Property

(a) When a property subject to this article becomes vacant or abandoned, unless prohibited by recorded covenants and restrictions, it shall be posted with the name and twenty-four-hour contact telephone number of the local property manager. The posting shall be no less than eighteen (18) inches x twenty-four (24) inches and shall be of a font that is legible from a distance of forty-five (45)

feet. The posting shall contain the following language, at a minimum, with supporting information:

THIS PROPERTY IS MANAGED BY _____

AND IS INSPECTED ON A REGULAR BASIS.

THE PROPERTY MANAGER CAN BE CONTACTED

BY TELEPHONE AT _____ OR BY EMAIL AT _____

(b) The posting required in subsection (a) above shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.

Sec.7-209 Additional Authority

(a) If the Director of the Building Department or designee has reason to believe that a property subject to the provisions of this article is posing a serious threat to the public health, safety, and welfare, the Director or designee may bring the violations before the city's code enforcement board or a court of competent jurisdiction as soon as possible to address the conditions of the property.

(b) If there is a finding that the condition of the property is posing a serious threat to the public health safety and welfare, then the code enforcement board

or a court of competent jurisdiction may direct the city to abate the violations and charge the mortgagee with the cost of abatement.

(c) If the mortgagee does not reimburse the city for the cost of abatement within thirty (30) days of the city sending the mortgagee the invoice, then the city may lien the property with the cost of abatement, along with any and all administrative fees allowed by law to recover the administrative personnel services.

Sec.7-210 Provisions Supplemental

Nothing contained in this article shall prohibit the City of Greenacres from enforcing its codes by any other means, including, but not limited to, injunction, abatement or as otherwise provided by law or ordinance.

[All other portions of Chapter 7 to remain unchanged and are omitted for brevity]

Section 2. Repeal of Conflicting Ordinances.

All Ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Severability.

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property,

kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 4. Inclusion in Code.

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word “ordinance” may be changed to “Section”, “Article” or another word.

Section 5. Effective Date.

The provisions of this Ordinance shall become effective upon adoption.

Passed on the first reading this 5th day of October, 2015.

PASSED AND ADOPTED on the second reading this 19th day of October, 2015.

Voted

Samuel J. Ferreri
Mayor

Jonathan G. Pearce
Deputy Mayor

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Attest:

Denise McGrew
City Clerk

Lisa Rivera
Councilwoman, District I

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Peter Noble
Councilman, District II

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Judith Dugo
Councilwoman, District III

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Paula Bousquet
Councilwoman, District V

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Approved as to Form and Legal Sufficiency:

James D. Stokes
City Attorney