

ORDINANCE NO. 2020-15

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 AMENDMENT OF ARTICLE VI "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 continued 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 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 Mortgage Foreclosure Registration enacted on October 19, 2015 requires lenders that declare a mortgage to be in default to register the property and pay an annual fee until the property is no longer in foreclosure or owned by the lender; and

WHEREAS, the annual mortgage foreclosure registration has provided a monitoring mechanism as well as additional enforcement for defaulted properties; and

WHEREAS, with the continued mortgage foreclosure crises and increased volume of mortgages being sold off by lenders in bulk in order to have the most up to date information in the registration the City of Greenacres finds that a bi-annual registration requirement will allow the City to have the most current information available; 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 Code of Ordinances of the City of Greenacres, Florida is hereby amended at Section 7-201. Definitions. by adding the new definition of "Mortgagee", "Real Property" and "Semi-Annual Registration", providing that "Mortgagee", "Real Property" and "Semi-Annual Registration" shall be placed within the list of definitions in alphabetical order and shall hereafter read as follows:

Sec.7-201 Definitions

Mortgagee means the creditor, including but not limited to, trustees; mortgage servicing companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement; or any other person or entity with the legal right to foreclose on the Real Property, excluding governmental entities as assignee or owner.

Real Property means any residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the City limits.

Semi-Annual Registration means six (6) months from the date of the first action that requires registration, as determined by the City, or its designee, and every subsequent six (6) months the property is Registrable. The date of the initial registration may be different than the date of the first action that required registration.

Section 2. Chapter 7, Article VI, is hereby amended as follows:

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[Sections 7-200 and 7-202 to remain unchanged and are omitted for brevity. Section 7-201 amended in Section 1.]

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, of a foreclosure filing,~~ the mortgagee shall register the real property with the City of Greenacres building department, or its designee, or the city's authorized representative. If At the time of registration the property is vacant, 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 Semi-Annual Registration Fee

- (a) ~~An~~ A non-refundable semi-annual ~~annual~~ registration fee in an amount approved by resolution by the City Council of the City of Greenacres, per property, shall accompany the registration.
- (b) Each individual property on the Registry that has been registered for twelve (12) months or more prior to the Effective Date shall have thirty (30) days to renew the registration and pay the non-refundable Semi-Annual Registration fee. Properties registered less than twelve (12) months prior to the Effective Date shall renew the registration every six (6) months from the expiration of the original registration renewal date and shall pay the non-refundable Semi-Annual Registration fee.
- (c) If the Foreclosing or Foreclosed Property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the Semi-Annual Registration fee shall be charged for every thirty-day period (30), or portion thereof, the property is not registered and shall be due and payable with 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~~ Special Magistrate 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.

[Sections 7-206 through 7-208 to remain unchanged and are omitted for brevity]

Sec.7-209 Additional Authority

- (a) If the Building Official ~~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~~ Special Magistrate 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~~ Special Magistrate 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.

[Sections 7-210 through 7-299 to remain unchanged and are omitted for brevity]

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Section 3. 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 4. 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 5. 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 6. Effective Date.

The provisions of this Ordinance shall become effective upon adoption.

Passed on the first reading this 16th day of November, 2020.

PASSED AND ADOPTED on the second reading this 7th day of December,
2020.

Voted

Joel Flores
Mayor

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Judith Dugo
Deputy Mayor

Attest:

Quintella Moorer
City Clerk

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John Tharp
Council Member, District I

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Peter Noble
Council Member, District II

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Jonathan G. Pearce
Council Member, District IV

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Paula Bousquet
Council Member, District V

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia
City Attorney