

ORDINANCE NO. 2020- 07

AN ORDINANCE PROVIDING FOR THE REGISTRATION OF DEFAULT AND VACANT PROPERTIES AND BUILDINGS WITHIN THE VILLAGE

The Village Board of the Village of Sturtevant, Racine County, Wisconsin, hereby creates Section 10.15 of the Code of Ordinances of the Village of Sturtevant relating to the registration of default and vacant properties and buildings within the Village:

10.15 Registration of Default and Vacant Properties and Buildings within the Village.

10.15.1 Findings; purpose and scope; definitions.

(1) Findings

The Village Board of the Village of Sturtevant finds that a significant relationship exists among properties in the foreclosure/default property process, the prevalence of blight and abandoned buildings, increased calls for police service, higher incidences of fires, both accidental and intentional, and decline and disinvestment in neighborhoods. Property owners involved in foreclosure and default have less incentive to maintain their properties, and properties in foreclosure have a higher incidence of building code violations than properties not in foreclosure. The foreclosure process may also result in abandonment of properties. Abandoned buildings may become havens for vandalism, arson, and drug crimes, can drain valuable governmental resources, and may create a significant reduction in quality of life for the surrounding neighborhood. Registration, inspection, and aggressive monitoring of properties in the foreclosure process help to stabilize and improve affected neighborhoods, and aid in code enforcement efforts and public safety. A mortgagee that does not register, inspect, secure, and maintain, as required in this section, places an undue and inappropriate burden on the taxpayers of the city and poses an increased risk to public health, safety and welfare.

(2) Purpose and scope:

The purpose of this section is to establish a registration program, that may be administered by a third by contract, to monitor all real properties pending foreclosure to identify at-risk properties and to regulate the securing and maintenance of abandoned properties in foreclosure. This section is intended to reduce and prevent neighborhood blight; to ameliorate conditions that threaten public health, safety, and welfare; to promote neighborhood stability and occupancy by preserving the condition and appearance of properties; and to maintain property values and assessments. It is declared to be a matter of public policy and an exercise of the village's police power that mortgagees initiating foreclosure proceedings against a property are required to register such status with the village. The registration process will give the village the means of contacting those responsible for the foreclosure process proceedings and mortgages at issue,

those responsible for the securing and maintenance of property under foreclosure and abandoned property as required in this section, and those responsible for the property inspections required in this section. The purpose of the registration fee is to partially recover administrative costs associated with this registry. Nothing in this section shall be construed as waiving, relieving, or otherwise excusing and owner of property from complying with applicable building codes and ordinances. The owner shall at all times comply with applicable building codes and ordinances, and the owner shall at all times remain responsible and liable therefor. Nothing in this section is intended to affect the right to foreclose as provided by state law,

(3) Definitions.

Abandoned Property: means any real property that is in mortgage default, bank owned/REO, or is vacant as a result of the relinquishment of occupancy, possession, or control by a mortgagor and those claiming by, through, or under the mortgagor, including tenants, whether or not the mortgagor relinquished equity and title. A property may be deemed abandoned when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property is abandoned including but not limited to:

- a) Violation of the weed regulations as set forth in Chapter 10 of this Code or the weed regulations as set forth in WIS. Stats. §66.0407 and §66.0517
- b) Accumulation of newspapers, circulars, flyers, or mail
- c) Past-due utility notices.
- d) Accumulation of junk, litter, trash, or debris
- e) Absence of window treatments, such as blinds, curtains, or shutters.
- f) Absence of furnishings and personal items.
- g) Statements by neighbors, delivery agents, or similarly situated persons that the property is vacant.
- h) Violation of the minimum standards for buildings, structures set forth in chapter 14 of this code.
- i) Any items specified in Wis. Stats. §846.102(2).
- j) Broken or open doors or windows or the exterior of a building's structure otherwise is not secured from the elements or entry by trespassers.
- k) Graffiti has not been removed from the buildings, structures, or equipment on the property as may be required by 9.105 of this code.
- l) The buildings, structures, or premises are otherwise dilapidated, deteriorated, or

create a dangerous condition.

- m) Snow and/or ice have been allowed to accumulate and remain on the public walk abutting the property contrary to Chapter 8 of this code.
- n) Any real property located in the village, whether vacant or occupied, that is encumbered by a mortgage in default, that is subject to an ongoing foreclosure action by the mortgage or trustee, that is subject to an ongoing foreclosure action by the mortgage or trustee, that is subject to an application for a tax deed or pending tax assessor's lien sale, or that has 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.

Accessible structure means a building that is accessible through a compromised door, wall, window, roof or similar building feature and that is unsecured in a manner that allows to interior space by unauthorized persons.

Agent means a person or entity, including a servicing company, acting on behalf of the mortgagee regarding the mortgage loan, the foreclosure proceedings, or the mortgaged property, including the inspection, maintenance and securing duties required in this section, except that an attorney shall not be deemed to be an agent if the attorney is retained solely to represent the mortgagee or agent in connection with the foreclosure proceedings in court.

Property Maintenance or Building Inspector means a property maintenance/grounds or building inspector authorized to act on behalf of the village or the authorized representative thereof.

Clerk means the clerk of the village or the authorized representative thereof.

Foreclosure means the process prescribed by Wis. Stats. Chapter §846 and the process for nonjudicial sale authorized by a power of sale clause in a mortgage.

Mortgage means a written instrument creating a lien on real property whereby the property is used as security or collateral for performance of an act or payment of funds. For purposes of this section, mortgage also includes a land contract.

Mortgagee means the person or entity that lends money to a borrower for the purpose of purchasing a piece of real property or the person or entity to which the mortgage has been granted or assigned, excluding governmental entities.

Mortgagor means the person or entity that obtained a mortgage to purchase or refinance a piece of real property.

Occupied property means a residential property with a structure on which any person, including an owner, operator, or tenant, but not a trespasser, lives, sleeps, cooks, or otherwise maintains actual possession.

Person means any person, firm, organization, or corporation

Real estate owned or REO is a property owned by a lender, such as a bank, that has not been successfully sold at a foreclosure auction.

Residential property means a property used in whole or in part for residential purposes, including single-family, two-family, and multifamily dwelling, mixed-use commercial and residential structures.

Servicing company means a person or entity that provides services to the mortgagee or to an agent of a mortgagee, including debt servicing, collection of payments, administration of escrow and insurance accounts, managing loss mitigation, foreclosing, and securing and managing properties on behalf of the mortgagee or the mortgagee's agent.

10.15.2 Registration

1) Registration

1) Registration required

a) Within five working days of filing the court foreclosure proceedings against a residential property, the mortgagee or agent shall register the property in the name of the mortgagee with the clerk on a form or by electronic process prescribed by the property maintenance or building inspector of the village regardless of occupancy. There shall be a fee paid for the registration every six months (from date of initial filing) and the fee shall be as stated by the Village Municipal Code but shall be no less than \$300 per registration. This form or electronic process shall include all of the following:

- i. information identifying the property by address and tax key number
- ii. The mortgagor of record and the mortgagee of record
- iii. the register of deeds recording document number for the mortgage being foreclosed and the date of recording.
- iv. The current owner of the note or instrument secured by the mortgage, and the registered agent and registered office for that owner.
- v. The date of recording of the lis pendens for commencement of the foreclosure proceedings.
- vi. The case number of the foreclosure action and the plaintiff in the foreclosure proceedings.
- vii. The servicing company or other agent acting on behalf of the mortgagee, and the registered agent and registered office for that servicing company or agent.
- viii. Contact information for a person with the mortgagee or agent who will be responsible for inspecting, securing, and maintaining vacant property as required under this section.

b) A mortgagee or agent for a residential property in foreclosure proceedings for whom the proceedings were initiated prior to the effective date of this section and who remains subject to the foreclosure proceedings shall register with the village within 30 days of the effective date of this section. The mortgagee or agent shall be subject to the requirements of this section, except for the initial inspection under subsection (4)(a).

2) Amendment. Within 20 days of a change in information for the registration of a property, including a change in ownership of the mortgage or a change in agent, serving company of contact person, the mortgagee or the mortgagee's agent shall file an amended registration with the clerk on a form or by an electronic process prescribed by the property maintenance or building inspector.

3) Termination of registration.

a) To terminate a registration, the mortgagee or the mortgagee's agent shall file a registration termination with the clerk on a form or by an electronic process prescribed by the property maintenance or building inspector within ten days of either of the following, whereupon the duties of the mortgagee or the agent under this section shall cease:

i) A court-confirmed sale of the property in foreclosure with the deed having been issued in the foreclosure proceedings, in a non-arm's length transaction, and the deed or evidence of the deed having been recorded in the register of deeds office.

ii) A court order dismissing the foreclosure proceedings and a discharge of the lis pendens having been recorded in the register of deeds office.

b) The mortgagee or agent shall provide in the in the termination filing the register of deeds recording information for one of the following:

i) The deed or the evidence of the deed, as provided in subsection (3)(a)(i).

ii) The lis pendens discharge, as provided in subsection (3)(a)(ii).

c) If the court dismisses the foreclosure proceedings due to a discharge or satisfaction of the mortgage, the mortgagee or agent shall also provide with the termination filing the register of deeds recording information for the discharge or satisfaction of the mortgage.

4) Inspection of abandoned property.

a) Initial inspection. Whenever a mortgagee or agent initiates foreclosure proceedings against a property, the mortgagee or agent shall cause a physical inspection to be made of the property not later than 30 days from the date of filing of the foreclosure proceedings. One or more photographs shall be taken of the property accurately portraying the condition of the exterior premises. Photographs shall be dated and preserved.

b) Periodic Inspections. The mortgagee or agent shall perform a reinspection of the property subject to the foreclosure proceedings at least once every 30 days following the initial inspection until a registration termination is filed. One or more photographs shall be taken at each reinspection and shall be dated and preserved.

c) Records. A mortgagee or agent shall maintain written records, including photographs, of any inspection or reinspection required by this section, and, in the case of abandoned property, records of actions taken under subsection (6). Written records and photographs of inspection and reinspection shall be made available, to the property maintenance or building inspector upon request.

5) Notification of abandoned property. If inspection of the property required under subsection (4) shows the property is abandoned, or if the mortgagee or agent otherwise becomes aware of abandonment, the mortgagee or agent shall file notification of the abandoned property within five business days on a form r by an electronic process prescribed by the property maintenance or building inspector or village authorized representative, that includes a description of the external condition of the property and whether there is an accessible structure on the property. The notification filing shall identify the person authorized by the mortgagee to enter upon the property and to conduct repairs or maintenance and secure access, as required in subsection (6).

6) Duty to secure, maintain, and post abandoned property.

a) The property maintenance duties of a mortgagee or agent with an abandoned property shall be limited to the following:

i) Ensuring that there are no accessible structures on the premises.

ii) Ensuring that there are no conditions upon the property presenting an immediate risk to public health, safety, or welfare, including:

a. Removing or abating fire hazards

b. removing or containing potentially toxic materials and explosives.

c. Securing the perimeters of swimming pools, ponds, or other bodies of water

d. Maintaining public walkways and thoroughfares free from ice, snow, mud and other debris consistent with the requirements of Chapter 8 of this code.

e. Eliminating weeds and other plant growth consistent with the requirements of Chapter 10 of this Code or the weed regulations set

forth in Wis. Stats §66.0407 and §66.0517.

b) A mortgagee or agent shall include a statement in the abandonment notification identifying action taken or planned to be taken to comply with the requirements of subsection (6)(a).

c) Upon filing notification of the abandoned property or at the time that notification is required to be made, and until there has been a registration termination filed regarding the abandoned property, the property maintenance or building inspector or authorized representative may make a finding that the condition of the property constitutes an immediate threat to public health, safety, and welfare and, upon such finding, may issue a written order to the mortgagee or agent, or both, to abate the condition. Upon failure to comply with the property maintenance or building inspector or authorized representative's order within ten days, the mortgagee or agent, or both, shall be responsible and shall be subject to a penalty in the same manner and to the same extent as the owner of the property under any applicable building, health, fire, zoning, or public nuisance or property maintenance ordinance within this Code.

d) The minimum requirements of a mortgagee or agent for preservation and protection of a residential property, absent a specific order of the property maintenance or building inspector or authorized representative to abate a condition of the premises, shall be consistent with 24 CFR 203.377 and the rules, regulations and other requirements published by the Federal Housing Administration (FHA) of the United States Clerk of Housing and Urban Development for the preservation and protection of single-family residential properties secured by FHA loans, as those requirements may be amended by FHA mortgagee letters or otherwise, and as applied by the FHA to the State of Wisconsin, including guidelines related to winterization and heating systems. The property maintenance or building inspector or authorized representative may issue a written order to the mortgagee or agent, or both jointly and severally, to abate and for repayment to the village of the reasonable costs incurred by the village related to the abatement conditions that are subject to the FHA guidelines specified in this subsection, or which are subject to an order under subsection (6)© and which threaten public health, safety, and welfare.

e) A mortgagee or agent, upon receiving information or determining that the residential property is abandoned, and until the property is no longer abandoned, shall post and maintain signs affixed or adjacent to all entrances to the building indicating:

i) The name, address, telephone number, and if available, an electronic mail address or other information necessary to receive communications by other electronic means at which a person may be contacted of the agent authorized by the mortgagee to be responsible for maintenance and management of the property

ii) That no trespassing is allowed upon the premises without consent of the agent.

7. Fees

a) The fee for registration of property pending foreclosure shall be as set forth in the fee

schedule established by the village board of trustees and shall be due upon registration.

b) The registration form and fee may be transmitted electronically or by any other means to be determined by the property maintenance or building inspector or authorized representative. The annual registration shall be valid from the date the property was initially obligated to register pursuant to the governing ordinance, the registration form is completed and filed with the clerk or authorized representative and the registration fee is received by the clerk or authorized representative.

c) There shall be no fee for filing an amended registration or for filing a registration termination.

d) If the foreclosing or foreclosed property is not registered, or if the registration fee is not paid within 30 days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent of the semi-annual registration fee shall be charged for every thirty-day period, or portion thereof, the property is not registered and shall be due and payable with the registration.

8. Violation

a) It shall be a violation:

- i) Failure to register. For any mortgagee or agent to fail to register as required under subsection (1), to fail to file an amendment as required under subsection (2), or to fail to file a termination as required under subsection (3).
- ii) Failure to inspect. For any mortgagee or agent to fail to inspect or reinspect a property as required under subsection (4).
- iii) Failure to notify regarding abandoned property. For any mortgagee or agent to fails to provide notification of an abandoned property as required under subsection (5).
- iv) Failure to secure and maintain abandoned property. For any mortgagee or agent having a duty to register abandoned property to fail to secure and maintain the property as required under subsection (6).
- v) Failure to maintain records or to post signage. For any mortgagee or agent to fails to maintain or provide records required in subsection (4), or to post signage as required in subsection (6).

b) Any mortgagee or agent who violates this section shall be jointly and severally responsible.

c) Each and every day that an offense continues constitutes a separate offense

10.15.3 Penalties

a) Failure to register or to file amendment. Any mortgagee or agent who violates

subsection (8)(a)(i) shall forfeit not less than \$500.00 nor more than \$2,000.00 plus legal and court costs.

b) Failure to inspect. Any mortgagee or agent who violates subsection (8)(a)(ii) shall forfeit not less than \$300.00 nor more than \$1000.00 plus legal and court costs.

c) Failure to notify regarding abandoned property. Any mortgagee or agent who violates subsection (8)(a)(iii) shall forfeit not less than \$500.00 nor more than \$2,000.00 plus legal and court costs.

d) Failure to secure and maintain abandoned property. Any mortgagee or agent who violates subsection (8)(a)(iv) shall forfeit not less than \$1,000.00 nor more than \$2,500.00 plus legal and court costs.

e. Failure to maintain records or to post signage. Any mortgagee or agent who violates subsection (8)(a)(v) shall forfeit not less than \$250.00 nor more than \$500.00 plus legal and court costs.

Dated at Sturtevant, Wisconsin, this 1st day of Sept, 2020.

VILLAGE OF STURTEVANT

By: 
Jayme Hoffman, President

Attest: 
Amanda Ingle, Clerk

RESOLUTION 2020-43

**A RESOLUTION BY THE VILLAGE BOARD OF THE VILLAGE OF STURTEVANT
ADOPTING AND APPROVING BOND AND REGISTRATION FEE AMOUNTS
PERTAINING TO NEWLY ADOPTED SECTION 10.15 OF THE CODE OF ORDINANCES**

WHEREAS, the Village Board recently adopted Ordinance 2020-07 creating Section 10.15 of the Code of Ordinances, pertaining to the registration of foreclosure and abandoned properties and buildings within the Village; and,

WHEREAS, the new Section creates several potential violations, necessitating the addition of new bond amounts to the Village’s bond schedule, and also creates a property registration requirement, necessitating a fee for such registration; and,

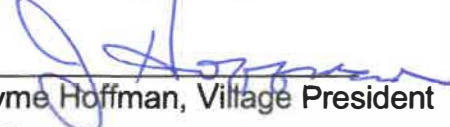
WHEREAS, as required by state statute, the Village Municipal Court Judge was notified of, and concurs with, the proposed forfeiture bond amounts.


NOW THEREFORE, the Village Board of the Village of Sturtevant, Racine County, Wisconsin does, pursuant to Section 25.04 of the Municipal Code, hereby resolve that:

1. The first offense base bond amounts, to which allowable costs and court costs shall be added, shall be \$1,000 for violations of subsections 10.15(D)(9)(a) through 10.15(D)(9)(d), and \$250 for first offense violations of 10.15(D)(9)(e), and, for all second and subsequent offenses, shall be the maximum base amounts allowed by the ordinance for the particular subsections violated; and,
2. The semi-annual registration fee for properties required to be registered by Section 10.15 shall be \$300 for a six-month period; and
3. That these amounts shall remain in effect until revised by the Village Board.

Adopted by the Village Board of the Village of Sturtevant, Racine County, Wisconsin, this 1st day of September, 2020.

VILLAGE OF STURTEVANT

By 
Jayme Hoffman, Village President

Attest 
Amanda Ingle, Village Clerk