ORDINANCE NO. OR 13-299

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF STOCKBRIDGE, GEORGIA (STOCKBRIDGE MUNICIPAL CODE) RELATING TO MORTGAGES, CONVEYANCES TO SECURE DEBT, AND LIENS; TO PROVIDE FOR VACANT AND FORECLOSED PROPERTY REGISTRIES; TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR GUIDELINES FOR VACANT AND FORECLOSED PROPERTY REGISTRIES; TO PROVIDE FOR EXEMPTIONS; TO PROVIDE FOR MAXIMUM FEES AND PENALTIES FOR REGISTRATION AND FAILURE TO REGISTER; TO PROVIDE FOR APPELLATE RIGHTS; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES AND PARTS OF ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

THE COUNCIL OF THE CITY OF STOCKBRIDGE HEREBY ORDAINS:

SECTION 1. Ordinance. That Title 9 of the current Code of Ordinances, City of Stockbridge (Stockbridge Municipal Code) regarding Licensing and Regulation be amended so as to add a new Chapter 9.80 entitled "Vacant and Foreclosed Property" to said Title 9 of the Stockbridge Municipal Code to read as follows:

Article I. – General.

9.80.010 – Short Title.

This Article shall be known as the "Stockbridge Vacant and Foreclosed Property Ordinance."

9.80.020 – Findings and Intent.

This ordinance is adopted in order to address the interest of public safety.

(a) The governing authority finds that there is a need to establish a foreclosure and vacant real property registry as a mechanism to protect property values in neighborhoods for all property owners.

(b) 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.

(c) Improperly maintained and secured foreclosed properties can become a hazard to the health and safety of persons who may come on or near the property and can adversely affect the aesthetic and economic attributes of communities. Difficulties also often arise in locating the person or entity responsible for the condition of

foreclosed real property. The governing authority finds that there is a substantial need directly related to the public health, safety, and welfare of the citizens of the City of Stockbridge to comprehensively address these concerns through the adoption of the provisions of this article.

(d) This foreclosure and vacant real property registry will require owners and agents to provide the City of Stockbridge with official information for contacting a party responsible for bringing foreclosed and vacant real property into compliance with applicable provisions of the Stockbridge Municipal Code.

9.80.030 – Definitions.

The following words, terms, and phrases shall, for the purposes of this ordinance and except where the context clearly indicates a different meaning, be defined as follows:

Agent. The term "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 Article.

Foreclosed Real Property. The term "foreclosed real property" means improved or unimproved real property for which a land disturbance permit has been issued by a county or municipal corporation and which is 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 owed 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 in this Article.

Street Address. The term "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 Article.

Vacant Real Property. The term "vacant real property" means real property that:

(1) 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

(2) 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 Article.

9.80.040 – Registration of Vacant or Foreclosed Property.

(a) Owners 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 Stockbridge City Planner 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 Article or state law.

(b) Any such owner or agent of foreclosed real property or vacant real property located within the jurisdiction of the City of Stockbridge is required to file with the City Planner a registration form in paper format. If the Georgia Department of Community Affairs ("DCA") has promulgated a standard vacant or foreclosed real property registry form the owner or agent shall use such form and the City shall only require the use of the standard form promulgated by the DCA. If the DCA has not promulgated a standard form, the City may create its own form, but such form shall only require submission of the following information:

(1) The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;
(2) The agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
(3) The real property's street address and tax parcel number;
(4) The transfer date of the instrument conveying the real property to the owner; and
(5) 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.

(c) Registration is required for all vacant or foreclosed real property unless otherwise exempted, pursuant to this Article, but is not required for vacant or foreclosed real property within 90 days of such real property's transfer:

(d) 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 subsection (b) of this section 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.

9.80.050 – Foreclosed and Vacant Real Property Exemptions.

(a) Registration or payment of any administrative fees of foreclosed real property pursuant to this Article and Georgia law is not required of transferees as described in subsection (b) of this section.

(b) 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:

(1) The deed under power of sale or deed in lieu of foreclosure contains the information specified in subsection (b) of section 9.80.040;
(2) The deed is filed with the clerk of superior court within 60 days of the transfer; and
(3) Proof of the following is provided to the office or the officer in charge of the City's foreclosed real property registry:

(A) A filing date stamp or receipt showing payment of the applicable filing fees; and
(B) The entire deed under power of sale or entire deed in lieu of foreclosure.

(c) 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 subsection (b) of section 9.80.040 within thirty (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.

9.80.060 – Removal from Registry.

(a) Any owner or agent of a vacant or foreclosed real property may apply to the City to remove the vacant or foreclosed real property from the City registry at such time as the real property no longer constitutes a vacant or foreclosed real property as defined herein.
(b) Any application for removal allowed under subsection (a) of this section shall be granted or denied by the City Planner within thirty (30) days, and if no such determination is made within thirty (30) days then the application for removal from the registry shall be deemed granted.

9.80.070 – Administrative Fees.

Any owner or agent of a vacant or foreclosed real property which is required to be registered with the City under this Article shall be required to make a payment for administrative fees that reasonably approximate the cost to the City of the establishment, maintenance, operation, and administration of the registry. The amount of the administrative fee shall be set by the City Council via resolution, but shall not exceed the maximum allowed by state law.

9.80.080 – Appeal Procedures.

(a) Any owner or agent aggrieved of any determination or decision of the City Planner or the City in the administration of this Article may appeal to the municipal court of

the City. All appeals hereunder must be taken within thirty (30) days of the decision in question by filing with the City Planner a notice of appeal specifying the grounds therefor.

(b) The City Planner shall forthwith transmit the notice of appeal and all the documentation constituting the record upon which the action appealed was taken to the municipal court clerk, who shall schedule an appeal hearing within sixty (60) days following the date the appealing party submits its completed written appeal to the City Planner as described in subsection (a) above.

(c) The municipal court judge 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 municipal court judge deems appropriate.

(d) An appeal shall stay all proceedings in furtherance of the action appealed from unless the City Planner certifies to the municipal court, after the notice of appeal is filed with the court, 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 municipal court judge on notice to the City Planner, and on due cause shown.

(e) The municipal court judge may, in conformity with the provisions of this Article, reverse or affirm, in whole or in part, or modify the decision, requirement, or determination of the City Planner appealed from by the owner or agent and may make such decision, requirement, or determination, as may be appropriate under the circumstances.

9.80.090 – Administration.

(a) The foreclosure and vacant real property registry is subject to the Open Records Act of the State of Georgia and the City may make such registry information available on line.

(b) 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.

9.80.100 – Nuisances.

Nothing in this Article shall be construed to impair, limit, or preempt in any way the power of the City 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.

9.80.110 – Penalties.

Any owner or agent required to register a vacant or foreclosed real property under this Article who fails to register or fails to update the information specified in subsection (a), of section 9.80.040 of this Article, may be fined in an amount allowed by state law and the Stockbridge Municipal Code.

SECTION 2. Intention of the Governing Body. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Stockbridge, Georgia (Stockbridge Municipal Code), and the sections of the ordinance may be renumbered to accomplish such intention.

SECTION 3. Approval of Execution. The Mayor is hereby authorized to sign all documents necessary to effectuate this Ordinance.

SECTION 4. Attestation. The City Clerk is authorized to execute, attest to, and seal any documents which may be necessary to effectuate this ordinance, subject to approval as to form by the City Attorney.

SECTION 5. Codification and Severability.

(a) It is hereby declared to be the intention of the City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were upon their enactment believed by the City Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the City Council that to the greatest extent allowed by law each and every section, paragraph, sentence, clause or phrase of this ordinance is severable from every other section, paragraph, sentence, clause or phrase of this ordinance. It is hereby further declared to be the intention of the City Council that to the greatest extent allowed by law no section, paragraph, sentence, clause, or phrase of this ordinance is mutually dependent upon any other section, paragraph, sentence, clause, or phrase of this ordinance.

(c) In the event that any section, paragraph, sentence, clause, or phrase of this ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional, or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional, or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance and that to the greatest extent allowed by law all remaining Sections, paragraphs, sentences, clauses, or phrases of the ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 6. Repeal of Conflicting Provision. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 7. Effective Date.

(a) Every ordinance adopted by the City Council shall be presented by the City Clerk to the Mayor within three days after its adoption.

(b) The Mayor shall within ten days of the adoption of an ordinance return it to the City Clerk with or without his approval, or with his disapproval. If the ordinance has been approved by the Mayor, it shall become law upon its return to the City Clerk; if the ordinance is neither approved nor disapproved, it shall become law on the eleventh day

after its adoption; if the ordinance is disapproved, the Mayor shall submit to the City Council through the City Clerk a written statement of the reasons or the veto. The City Clerk shall record upon the ordinance the date of its delivery to and receipt from the Mayor.

(c) Ordinances vetoed by the Mayor shall be presented by the City Clerk to the City Council at its next meeting and should the City Council then or at its next general meeting adopt the ordinance by an affirmative vote of the entire Council, it shall become law.

(d) The Mayor may disapprove or reduce any item or items of appropriation in any ordinance. The approved part or parts of any ordinance making appropriations shall become law, and the part or parts disapproved shall not become law unless subsequently passed by the City Council over the Mayor's veto as provided in this section. The reduced part or parts shall be presented to the City Council as though disapproved and shall not become law unless overridden by the Council as provided in subsection (c) of this section.

SO ORDAINED this 11th day of March, 2013.

Mark A. Alarcon
MARK A. ALARCON, Mayor

ATTEST:

Rhonda A Blackmon (SEAL)
RHONDA A. BLACKMON, City Clerk

APPROVED AS TO FORM:

William J. Linkous, III
WILLIAM J. LINKOUS, III, City Attorney
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