CITY OF FOREST PARK

STATE OF GEORGIA

ORDINANCE NO. 15-13

AN ORDINANCE TO AMEND CHAPTER 2, BUILDING REGULATION AND CODE ENFORCEMENT, OF TITLE 8, PLANNING AND DEVELOPMENT, OF THE CODE OF ORDINANCES BY ENACTING ARTICLE Q, FORECLOSED AND VACANT PROPERTY REGISTRY; TO REPEAL ANY CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, in the interest of public safety, the City of Forest Park, Georgia ("City") finds that there is a need to establish a foreclosure and vacant real property ordinance 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 abandoned, vacant or foreclosed or where ownership has been transferred after foreclosure, the property values and quality of life of neighboring properties are negatively impacted; and

WHEREAS, improperly maintained and secured abandoned, vacant or 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; and difficulties also often arise in locating the person responsible for the condition of abandoned, vacant or foreclosed real property; and

WHEREAS, this foreclosure and vacant real property registry will require owners and agents to provide the City with official information for contacting a party responsible for bringing foreclosed and vacant real property into compliance with applicable provisions of the City Code and require necessary maintenance and security of such properties; and

WHEREAS, the City finds that there is a substantial need directly related to the public health, safety and welfare of its citizens to comprehensively address these concerns through the adoption of the provisions in this article.

NOW THEREFORE, be it ordained by the Governing Body of the City of Forest Park, Georgia:

Section 1. **That Chapter 2, Title 8 of the Code of Ordinances, City of Forest Park, Georgia is hereby amended by inserting the following text:**

"ARTICLE Q. – FORECLOSED AND VACANT PROPERTY REGISTRY.

Sec. 8-2-163. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(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 O.C.G.A. § 44-14-14 should that definition differ from the definition in this subsection.

(2) *Beneficiary* means a lender or other entity under a note secured by a deed of trust.

(3) *Department* means the Department of Planning, Building and Zoning of the City of Forest Park.

(4) *Director* means the Director of the Department of Planning, Building and Zoning of the City of Forest Park.

(5) *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, deed to secure debt, 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. The definition of "Foreclosed Real Property" shall have the same meaning as set forth in O.C.G.A. § 44-14-14, should that definition differ from the definition in this subsection.

(6) *Responsible Party* means the beneficiary that is pursuing foreclosure of a property subject to this chapter secured by a mortgage, deed of trust or similar instrument or a property that has been acquired by the beneficial interest at trustee's sale.

(7) *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 O.C.G.A. § 44-14-14 should that definition differ from the definition in this subsection.

(8) *Unoccupied* means a building which is not being used for a legal occupancy.

(9) *Unsecured* means a building or portion of a building that is open to entry by unauthorized persons without the use of tools.

(10) *Vacant Real Property* means real property that has one or more of the following conditions:

(a) Is intended for habitation, has not been lawfully inhabited for at least 60 days, and/or 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 O.C.G.A. § 44-14-14 should that definition differ from the definition in this subsection.

Sec. 8-2-164. – Registration of Foreclosed or Vacant Property.

(a) Owners or Agents of Foreclosed Real Property, that is not exempt from registration under Section 8-2-165, are required to register such property with the Department between 90 and 120 days after the property's transfer pursuant to a deed under power of sale or a deed in lieu of foreclosure. In no event shall owners or Agents of Vacant Real Property be required to register such property within 90 days of such property's transfer pursuant to a deed under power of sale or a deed in lieu of foreclosures.

(b) Owners or Agents of Vacant Real Property are required to register such property with the Department between 90 and 120 days after such property's transfer to the first subsequent transferee after such property has been acquired by foreclosure under power of sale or a deed in lieu of foreclosure or, if applicable, within 30 days of the notice by the Director of his or her belief such property is vacant. In no event shall owners or Agents of Vacant Real Property be required to register such property within 90 days of the real property's transfer to the first subsequent transferee after the Vacant Real Property has been acquired by foreclosure under a power of sale or deed in lieu of foreclosure.

(c) Registration shall be accomplished by registering with the clerk of the Department on the "Foreclosed or Vacant Property Registration Form" promulgated by the Georgia Department of Community Affairs. Such forms will be available for completion from the Department's clerk and will require the provision 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, tax parcel number, district/ward/zoning;

(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.

(d) The City may register an unoccupied building as a vacant building when the City takes ordinance enforcement action or action to abate an ordinance violation against the unoccupied building or the grounds upon which it is located. In such case, the City shall complete all forms required by this section.

(e) Owners or agents of Foreclosed Real Property that is not exempt from registration under Section 8-2-165 or Vacant Real Property shall be required to pay a one-time registration fee in an amount to be set by the City via resolution for each registered property, as identified by its tax parcel number. However, if the City registers

a vacant property as provided in subsection (b) above, the City may assess all registration costs against such property.

Sec. 8-2-165. – Exemption from registration.

(a) Registration of Foreclosed Real Property and payment of a registration fee pursuant to this article is not required of any transferee who acquires any real property by foreclosure under power of sale pursuant to the O.C.G.A. § 44-14-160 or acquires any real property pursuant to a deed in lieu of foreclosure if:
   (1) The deed under power of sale or deed in lieu of foreclosure contains the information specified in subsection (c)(1)-(5) of Section 8-2-164;
   (2) The deed is filed with the clerk of the Superior Court of Clayton County within 60 days of the transfer; and
   (3) Proof of the following is provided to the Department:
      (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.

(b) Registration is also not required for:
   (1) A building or structure containing multiple units with common ownership that has at least one unit occupied with evidence of utility usage; or
   (2) Property under active construction, rehabilitation, renovation or repair that has valid building permits.

Sec. 8-2-166. – Maintenance requirements.

(a) Doors, windows, areaways, and other openings are weather-tight and secured against entry by birds, vermin, and trespassers, and missing or broken doors, windows, and other openings are secure;

(b) The roof shall be adequately supported and maintained in weather-tight condition; the gutters, downspouts, scuppers and appropriate flashing are sound and tight, in good repair and adequate to remove the water from the building and will not admit moisture;

(c) The building storm drainage system is adequately sized and installed;

(d) The interior and exterior is maintained in good repair, structurally sound, sanitary and free from accumulation of debris, rubbish, garbage, boxes, lumber scrap metal or any other materials that may produce any health, fire or safety hazard or provide harborage for rodents or other animals;

(e) Every floor, wall, stair, ceiling or other interior structural support shall be safe, free of deterioration and capable of supporting loads associated with normal usage and shall be kept in sound condition and repair;

(f) Any plumbing fixtures shall be maintained with no leaking pipes, and all pipes for water shall either be completely drained or heated to resist being frozen;

(g) The foundation, basement, cellar and crawlspace walls are plumb, free from open cracks and breaks, shall be maintained in sound and watertight condition adequate to support the building and protected against the entry of rodents or other animals;

(h) The exterior walls are free of holes, breaks, and loose or rotting materials, and any other conditions which might admit rain or dampness to the interior portions of the walls or the interior spaces and any exposed metal and wood surfaces are protected against the entry of rodents or other animals;

(i) The cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features are safe, anchored, and in good repair;

(j) All balconies, porches, stoops, decks, verandas, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts, and similar features are in good repair;

(k) Chimneys and flues, cooling towers, smokestacks, and similar appurtenances are structurally safe, sound, functional, weather-tight and in good repair;

(l) Openings in sidewalks are safe for pedestrian travel;

(m) Accessory and appurtenant structures such as garages, sheds, and fences are free from safety, health, and fire hazards;

(n) The property on which a structure is located is clean, safe, and sanitary and does not threaten the public health or safety;

(o) The exterior of the property shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation (any dead or broken trees, tree limbs or shrubbery shall be cut and removed from the premises), trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned;

(p) The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure;

(q) Insofar as there is existing or previously existing landscaping, all visible front and side yards shall be maintained to the neighborhood standard at the time registration was required. If no landscaping previously existed at the property in front and visible side yards, installation is not required under this chapter. Landscape includes, but is not limited to, grass, turf stain, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch (unless applied in conjunction with reseeding of turf areas), indoor-outdoor carpet or any similar material;

(r) Maintenance includes but is not limited to regular watering, irrigation, staining, re-staining, cutting, pruning and mowing of required landscape and removal of all trimmings; and

(s) Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case, properties with pools and/or spas must comply with the minimum security fencing requirements of the State of Georgia.

(t) Adherence to this section does not relieve the beneficiary/responsible party of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property.

Sec. 8-2-167. – Security requirements.

(a) All points of possible ingress and egress on property subject to this section shall be secured to prevent unauthorized entry and maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other openings of such size that leave it accessible. Locking includes measures that require a key, keycard, tool or special knowledge to open or gain access. In the case of broken windows, securing means the re-glazing or boarding of the window. However, in the case of broken windows, boarding of such broken windows shall not exceed a period of 30 calendar days, unless the property owner is under investigation with the Office of the State Fire Marshal or any other state or

federal public safety-related governmental agency. The roof shall be adequately supported and maintained in weather-tight condition; the gutters, downspouts, scuppers and appropriate flashing are sound and tight, in good repair and adequate to remove the water from the building and will not admit moisture;

(b) The owner, responsible party/beneficiary or their designee shall perform monthly inspections to verify that the requirements of this chapter are being met.

(c) If the owner or responsible party/beneficiary does not have a property preservation or real estate owned section/department, a field service provider, property manager or their designee shall be contracted to perform the inspection to determine if the property is in compliance and to verify that the requirements of this section, and any other applicable laws, are being met.

Sec. 8-2-168. – Additional authority.

In addition to the enforcement remedies established in other sections of this code, the Director or his or her designee shall have the authority to require the responsible party/beneficiary of any property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all doors, windows or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

Sec. 8-2-169. – Updates to Registration.

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 (c)(1)-(5) of Section 8-2-164 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.

Sec. 8-2-170. – Removal from Registry.

(a) Any owner or agent of a vacant or foreclosed real property may apply to the City to remove a 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.

(b) Any application for removal allowed under subsection (a) of this section shall be granted or denied by the director 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.

Sec. 8-2-171. – Appeal Procedures.

(a) Any owner or agent aggrieved of any determination or decision of director in the administration of this Article may appeal to the Environmental Court of the City. All appeals hereunder must be taken within 30 days of the decision in question by filing with the director a written notice of appeal specifying the grounds thereof. Appeals must be postmarked by the 30th day after the date of the director's decision to be timely.

(b) The Director shall transmit the notice of appeal and all the papers constituting the record upon which the action appealed was taken to the environmental court clerk who shall schedule an appeal hearing within 60 days following the date of receipt of the written appeal by the director.

(c) The environmental court judge may call for further information to be provided within the next 30 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 environmental court judge deems appropriate.

(d) An appeal shall stay all proceedings in furtherance of the action appealed from unless the director certifies to the environmental court, after the notice of appeal has been filed, 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 environmental court judge on notice to the Director, and upon due cause shown.

(e) The environmental 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 director and may make such decision, requirement, or determination, as may be appropriate under the circumstances.

(f) Any appeals of the decisions of the environmental court judge shall be taken to the Superior Court of Clayton County by writ of certiorari.

Sec. 8-2-172. – Administration.

(a) The foreclosed 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 online.

(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 article.

(c) The Director may develop guidelines and forms, make recommendations and take such other steps as may be necessary to enforce the provisions of this article.

Sec. 8-2-173. – 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. Such nuisances may include, but not be limited to dangerous or diseased trees, graffiti, illegal dumping, inoperable exterior lighting, junk cars or any walls and buildings that may endanger persons or property.

Sec. 8-2-174. – City Action.

The City may take the following actions in relation to a vacant building. The building owner shall reimburse the City for all costs incurred by the City pursuant to this chapter.

(a) The City may inspect the premises of the vacant building each month.

(b) The City may take any other action required to secure the building. Any additional costs shall be charged to the owner of the property.

(c) The City may mow the lawn, landscape or grounds of any vacant building as needed if the plant growth violates City ordinances and the owner fails to timely cut the lawn. The owner shall pay the City for mowing the lawn at the City's standard billing rate.

(d) The City may remove garbage, debris, objects or other materials from a vacant property, and take any other actions authorized by law to remedy an ordinance violation.

(e) The City may conduct site inspections of the property upon which the vacant building is located as needed to ensure that the building is secure, the grounds are maintained and compliance with the terms of this chapter is achieved.

Sec. 8-2-175. – Certification of Unpaid Service Charges.

In the event the building owner fails to reimburse the City within 30 days of mailing of a bill by the City for costs incurred by the City pursuant to enforcement of this chapter against a vacant property, the City may certify such unpaid charges to the Clayton County auditor for collection with the next year's property taxes after 10 days' mailed notice to the property owner sent via first class U.S. mail to the owner's address as listed on the tax records at the Clayton County recorder's office.

Sec. 8-2-176. – Violations and Penalties.

(a) It shall be a violation of this article to:

(1) fail to register in accordance with applicable provisions of this article;
(2) fail to update a change in registry information;
(3) fail to maintain and secure properties subject to this section; or
(4) provide inaccurate or false information.

(b) Any owner or agent required but fails to register or update a change in registry information, maintain and secure property as required by this article or provide inaccurate or false information, upon citation or summons by an authorized City employee, and judgment or conviction of the violation in a court of competent jurisdiction, which includes the City environmental court, shall be subject to penalties not to exceed one thousand dollars ($1,000) per occurrence or for each month the violation remains."

Section 2. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section 4. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and 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 Mayor and 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 phrase, clause, sentence, paragraph or section 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 Mayor and 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 phrases, clauses, sentences, paragraphs or sections of this Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 5. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this 2nd day of NOVEMBER, 2015.

CITY OF FOREST PARK, GEORGIA

DAVID LOCKHART, MAYOR

TOMMY SMITH
COUNCILMEMBER, WARD ONE

DABOUZE ANTOINE
COUNCILMEMBER, WARD TWO

MAUDIE MCCORD,
COUNCILMEMBER, WARD THREE

LATRESA AKINS, MAYOR PRO-TEM
WARD FOUR

Linda Lord
LINDA LORD,
COUNCILMEMBER, WARD FIVE

ATTEST:

Mike Blackstock
City Clerk

(THE SEAL OF THE CITY OF
FOREST PARK, GEORGIA)

Approved as to form:

City Attorney