

**ORDINANCE # 832**

**AN ORDINANCE AMENDING CHAPTER 8, BUILDINGS  
AND BUILDING REGULATIONS,  
ARTICLE VIII VACANT DWELLING UNITS,  
BY REPLACING THE EXISTING SECTION NUMBERS WITH  
NEW SECTION NUMBERS 8-245 THROUGH 8-259  
TO DEFINE ABANDONED PROPERTY, PROVIDE FOR  
INSPECTION AND REGISTRATION OF ABANDONED, VACANT,  
AND PROPERTIES IN FORECLOSURE,  
TO PROVIDE FOR MAINTENANCE AND SECURITY REQUIREMENTS,  
ABATEMENT PROVISIONS, FEES, COSTS, PENALTIES AND APPEALS.**

**THE CITY OF GROSSE POINTE WOODS ORDAINS:**

**ARTICLE VIII. ABANDONED AND FORECLOSED STRUCTURES**

**Sec. 8-245. Definitions.**

The following terms shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning:

*Abandoned* means a property that is vacant and subject to one of the following situations: (1) is under a current complaint for foreclosure or notice of foreclosure, notice of trustee's sale, or pending tax sale; (2) property that has been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure; (3) any properties transferred under a deed in lieu of foreclosure.

*Accessible property* means a property that is accessible through a compromised or breached gate, fence, wall, or other means.

*Accessible structure* means a structure or building that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.

*Agreement* means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after a sale, trade, transfer, or exchange.

*Assignment of rents* means an instrument that transfers the beneficial interest under a mortgage from one lender or entity to another.

*Beneficiary* means a lender under a note secured by a mortgage, or a beneficiary's assignee.

*Buyer* means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale or similar document.

*Building Official* means the Building Official of the City of Grosse Pointe Woods or his or her designee.

*Dangerous building* means any building or structure that is in violation of any condition referenced in the 2006 International Property Maintenance Code as adopted by Section 8-54 of this Code.

*Days* means consecutive calendar days.

*Deed in lieu of foreclosure* means a recorded document that transfers ownership of a property from the trustor to the holder or a mortgage upon consent of the beneficiary of the mortgage.

*Default* means the failure to fulfill a contractual obligation of any kind.

*Distressed* means a property that is under a current notice of default or notice of trustee's sale or pending tax assessor's lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

*Evidence of vacancy* means any condition that on its own or combined with other conditions would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or personal items consistent with residential habitation, or statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

*Foreclosure* means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor defaults.

*Local* means within 40 road/driving miles distance of the subject property.

*Mortgage* means an instrument by which title to real estate is pledged to a third party trustee or beneficiary as security for a real estate loan.

*Neighborhood standard* means those conditions that are present on a simple majority of properties within a three-hundred-foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, and any other abandoned property within the three-hundred-foot radius, shall not be counted toward the simple majority.

*Out-of-area* means in excess of 40 road/driving miles distance of the subject property.

*Owner* means any person, co-partnership, association, corporation, fiduciary or other entity having a legal or equitable title or any interest in any real property, excluding governmental agencies.

*Owner of record* means the person having recorded title to the property.

*Property* means any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

*Residential building* means any improved real property, or portion thereof, situated in the city, designed or permitted to be used for dwelling purposes, including any buildings or structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as residential whether or not it is legally permitted or zoned for such use.

*Secure* or *secured* means such measures as may be directed by the City of Grosse Pointe Woods Building Official or his or her designee that render the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining padlocking of gates, repair or boarding of doors, broken windows or other openings. In the case of broken windows, securing means the reglazing or boarding of the window. In addition, secure or secured means closing and locking windows, doors (walk-through, sliding and garage), gates and any other opening of such size that may allow a person to access the interior of a property or structure(s).

*Trustee* means the person, firm, or corporation holding a mortgage on a property, sometimes referred to as the lender or mortgagee, or a trustee's assignee.

*Trustor* means a borrower under a mortgage, who pledges property to a trustee as security for the payment of a debt, sometimes referred to as a mortgagor, or a trustor's assignee.

*Vacant* means a building or structure that is not legally occupied, and exhibits evidence of vacancy.

#### **Sec. 8-246. Inspection and Registration Required.**

Upon default by the trustor, any beneficiary or trustee, who holds a mortgage on a property located within the city, shall perform an inspection of the property that is the security for the mortgage, to the extent permitted by law or under the mortgage within five days after either (1) filing a complaint for foreclosure (if foreclosure is by judicial action) or (2) publishing a notice of foreclosure (if foreclosure is by advertisement). If the property is found to be vacant or shows evidence of vacancy, it is deemed abandoned and the beneficiary/trustee shall register the property within ten days of the inspection with the City of Grosse Pointe Woods Building Department on forms provided by the city.

If the property is occupied but remains in default, it shall be inspected monthly, to the extent permitted by law and the mortgage, by the beneficiary/trustee or his designee, until (1) the

trustor or other party remedies the default or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall register the property within ten days of that inspection with the Building Official on forms provided by the city.

In either case the registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee and, in the case of a corporation or out-of-area beneficiary/trustee, the local property management company responsible for the security, maintenance, and marketing of the property.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1 of each year and must be received no later than January 31 of the year due. Registration fees will not be prorated.

This section shall also apply to properties that have 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. Such properties shall be registered with the city in accordance with the terms of this section upon transfer even if occupied at the time of transfer.

Properties subject to this article shall remain under the requirements and standards of this Article as long as they remain vacant.

A person, firm, or corporation that has registered a property under this Article must report any change of information contained in the registration to the Building Official within ten days of the change.

#### **Sec 8-247. Maintenance Requirements.**

Vacant and abandoned properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry bush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circular, flyers, notices, and 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 vacant or abandoned.

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.

Front, side and rear yards shall be landscaped and maintained to the neighborhood standard at the time registration was required. Landscape includes, but is not limited to, grass, 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, indoor-outdoor carpet or any similar material.

Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning, and mowing of required landscape, and removal of all trimmings as required by Chapter 46 of this Code.

Pools and spas shall be either kept in working order so the water remains clear and free of pollutants or debris, or drained and kept dry, or drained and covered. In any case, properties with pools or spas must comply with the minimum security fencing requirements of the current State of Michigan building code.

Adherence to this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any covenants, conditions, and restrictions or homeowners' association rules and regulations which may apply to the property, and does not relieve the beneficiary/trustee or property owner of general obligations regarding property maintenance found in this Code.

**Sec. 8-248. Security Requirements.**

Properties subject to this section shall be secured so as not to be accessible to unauthorized persons.

If the property is owned by a corporation or out-of-area beneficiary/trustee/owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this Article and any other applicable laws are being met.

**Sec. 8-249. Additional Authority.**

In addition to the enforcement remedies established in this Article or other chapters of this Code, the Building Official or his or her designee shall have the authority to require the beneficiary/trustee/owner or owner of record of any property affected by this Article to implement additional maintenance or security measures including but not limited to securing any/all door, window, 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 or potential vandalism of the property, or further secured the property as defined by this Article.

**Sec. 8-250. Fees.**

The annual fee for registering an abandoned residential property shall be set by city council resolution.

**Sec. 8-251. Failure To Secure And Maintain.**

If a property has not been maintained or secured, the city or its contracted agent, may maintain or secure the property and assess costs to the owner, beneficiary or trustee.

**Sec. 8-252. Re-occupancy.**

A property subject to this Article may not be occupied until all outstanding costs, assessments or liens owed to the city have been paid in full and a Certificate of occupancy or approval is issued in accordance with section 8-61 of the city code.

**Sec. 8-253. Violation/Abatement.**

Violations of this Article may be enforced as allowed in this Code, and shall be treated as a strict liability offense regardless of intent. Alternatively, at the sole discretion of the city, the city may issue to the beneficiary/trustee/owner or owner of record a notice to abate. The notice to abate shall include:

- (1) The nature and location of the violation;
- (2) The time within which the violation must be abated;
- (3) Notice that the city may act to abate the violation if it is not abated by the owner within a reasonable time stated in the notice, which may not exceed fifteen (15) days;
- (4) Notice that the cost of such action by the city, plus an administrative fee, shall be a personal debt of the owner, which may be assessed as a lien against the property until paid; and
- (5) Notice that any refusal to allow the city to abate an uncorrected violation shall be a separate violation.

**Sec. 8-254. Authorization For City Abatement.**

Upon failure of a beneficiary/trustee/owner or owner of record to abate a violation as ordered in a notice to abate, the city may abate the nuisance. This abatement may be performed by the city, by a contract vendor, or by other means determined by the city.

**Sec. 8-255. Administrative Fees.**

The fees necessary for the administration of this Article shall be established from time to time by city council resolution. Such administrative fees shall be assessed for the City's time involved in the following:

- (1) Notice to abate;
- (2) Search warrant;
- (3) Contact request or warning of abatement action;
- (4) Warning letter;
- (5) Civil infraction preparation;
- (6) Additional inspections;

- (7) Vehicle removal;
- (8) Attorney fees;
- (9) Denied entry.

**Sec. 8-256. Charge for Costs.**

When the city has abated a cited nuisance, the cost of abatement, plus any applicable administrative charges as established by city council resolution, shall be billed to the property owner or beneficiary/trustee. Such billing shall be a debt of the owner or beneficiary/trustee to the city, which may be assessed as a lien against the property, including interest thereon, until paid.

**Sec. 8-257. . Non-foreclosed Vacant Property.**

If a property is not in foreclosure but is otherwise vacant as defined by this Article, the owner shall comply with all of the following:

- (1) Maintain the property in accordance with section 8-246.
- (2) Register the property in accordance with section 8-246.
- (3) Pay the fee identified pursuant to section 8-249 herein.
- (4) Keep the property secure in accordance with sections 8-246 and 8-247 herein.
- (5) Not permit re-occupancy until all outstanding costs, assessments and liens owed to the city are paid in full.
- (6) If the owner leases or lets the property, the owner shall comply with section 8-208 of the city code in addition to these requirements herein.

**Sec. 8-258. Penalty.**

In the event a violation is pursued as a civil infraction, violations are subject to the fines found in Sec. 2.813 plus other penalties applicable under this Code.

**Sec. 8-259. Appeals.**

Any person aggrieved by any of the requirements of this Article may appeal in accordance with the procedures applicable to Municipal Civil infractions or abatement actions.

**First Reading:** 6-21-10  
**Second Reading:** 7-12-10  
**Published in GPN:** 7-01-10  
**Adopted:** 7-12-10  
**Effective:** 8-01-10