

VILLAGE OF ROUND LAKE

2018-O-34

**AN ORDINANCE ESTABLISHING A FORECLOSURE AND
VACANT PROPERTY REGISTRATION PROGRAM**

WHEREAS, the Village of Round Lake Board of Trustees desires to protect the public health, safety, and welfare of the citizens of the Village of Round Lake and maintain a high quality of life for the citizens of the Village through the maintenance of structures and properties in the Village; and

WHEREAS, the Board of Trustees recognizes properties with defaulted mortgages and subject to foreclosure action or foreclosed upon and vacant properties (hereinafter referred to as “Registrable Properties”) located throughout the Village of Round Lake lead to a decline in community and property value; create nuisances; lead to a general decrease in neighborhood and community aesthetic; create conditions that invite criminal activity; and foster an unsafe and unhealthy environment; and

WHEREAS, the Board of Trustees has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; and

WHEREAS, the Board of Trustees recognizes in the best interest of the public health, safety, and welfare a more regulated method is needed to discourage Registrable Property Owners and Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Board of Trustees has a vested interest in protecting neighborhoods against decay caused by Registrable Property and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of Registrable Property located within the Village of Round Lake to discourage Registrable Property Owners and Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised.

NOW THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE VILLAGE OF ROUND LAKE:

SECTION ONE: The Board of Trustees hereby finds and determines that the facts set forth in the preamble hereto are true and correct and hereby adopts same as part of this Ordinance.

That Title 15- Buildings and Construction, be Amended by adding the following Chapter 15.64 into said Title 15 of Round Lake’s Municipal Code, as follows:

15.64 FORECLOSURE AND VACANT PROPERTY REGISTRATION PROGRAM

15.64.10 Purpose and intent.

The purpose of this chapter is to establish a registration program as a mechanism to help protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties that are in default or defaulted, and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property owners.

15.64.20 Definitions.

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

“Default” shall mean that the mortgagor has not complied with the terms of the mortgage on the property, or the promissory note, or other evidence of the debt, referred to in the mortgage.

“Enforcement officer” shall mean any law enforcement officer, building official, code enforcement officer, fire inspector, building inspector, or other person authorized by the village to enforce the applicable code(s).

“Evidence of vacancy” shall mean any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; past due utility notices and/or disconnected utilities; accumulation of trash, junk or debris; abandoned vehicles, auto parts and/or materials; the absence of furnishings and/or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail; statements by neighbors, passers-by, delivery agents or government agents; and/or the presence of boards over doors, windows or other openings in violation of applicable code.

“Foreclosure or foreclosure action” shall mean the legal process by which a mortgagee, or other lien holder, terminates or attempts to terminate a property owner's equitable right of redemption to obtain legal and equitable title to the real property pledged as security for a debt or the real property subject to the lien. The legal process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

“Mortgagee” shall mean 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.

“Owner” shall mean every person, entity, or mortgagee, who alone or severally with others, has legal or equitable title to any real property as defined by this chapter; has legal care, charge, or control of any such property; is in possession or control of any such property; and/or is vested with possession or control of any such property. The property manager shall not be considered the owner.

“Property manager” shall mean any party designated by the owner as responsible for inspecting, maintaining and securing the property as required in this chapter.

“Real property” shall mean 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.

“Registrable property” shall mean:

- (a) Any real property located in the village, whether vacant or occupied, that is encumbered by a mortgage in default, is subject to an ongoing foreclosure action by the mortgagee or trustee, has been the subject of a foreclosure action by a mortgagee or trustee and a judgement has been entered, or 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. The designation of a “default/foreclosure” property as “registrable”

shall remain in place until such time as the property is sold to a non-related bona fide purchaser in an arm's length transaction or the foreclosure action has been dismissed and any default on the mortgage has been cured; or

- (b) Any property that is vacant for more than thirty (30) days or any cancellation of utility or service, whichever occurs first.

“Semi-annual registration” shall mean six (6) months from the date of the first action that requires registration, or its designee, and every subsequent six (6) months. The date of the initial registration may be different than the date of the first action that required registration.

“Utilities and services” shall mean any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all village codes. This includes, but is not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance, and snow removal.

“Vacant” shall mean any parcel of land that contains any building or structure that is not lawfully occupied.

15.64.30 Establishment of a registry.

There is hereby established a registry, cataloging each registrable property containing the information required by this chapter.

15.64.40 Inspection and registration of defaulted mortgage.

- (a) Any mortgagee who holds a mortgage on real property located within the village shall perform an inspection of the property upon it being in default or defaulted by the mortgagor or prior to the issuance of a notice of default.
- (b) Property inspected pursuant to subsection (a) above that remains in default or defaulted, shall be inspected every thirty (30) days by the mortgagee or mortgagee's designee. If an inspection shows a change in the property's occupancy status the mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.
- (c) Within ten (10) days of the date any mortgagee declares its mortgage to be in default or defaulted, the mortgagee shall register the real property with the registry, and, at the time of registration, indicate whether the property is vacant, and if so shall designate in writing a property manager to inspect, maintain and secure the real property subject to the mortgage in default or defaulted. A separate registration is required for each defaulted property.
- (d) Initial registration pursuant to this section shall contain at a minimum the name of the mortgagee, the mailing address of the mortgagee, e-mail address, telephone number and name of the property manager and said person's address, e-mail address, and telephone number.
- (e) At the time of initial registration each registrant shall pay a non-refundable semi-annual registration fee of three hundred dollars (\$300.00) for each defaulted property. Subsequent semi-annual registrations of defaulted properties and fees in the amount of three hundred dollars (\$300.00) are due within ten (10) days of the expiration of the previous registration. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to defaulted properties, and (3) for any related purposes as may be deemed appropriate by the village.

- (f) If the defaulted mortgage and/or servicing on a property is sold or transferred, the new mortgagee is subject to all the terms of this chapter. Within ten (10) days of the transfer, the new mortgagee shall register the property or update the existing registration. The previous mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee's involvement with the defaulted property.
- (g) If the mortgagee sells or transfers the defaulted property in a non-arm's length transaction to a related entity or person, the transferee is subject to all the terms of this chapter. Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the mortgagee was at the time registration was required, including but not limited to unregistered periods during the foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee's involvement with the defaulted property.
- (h) If the defaulted 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.
- (i) 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 or by any other legal means.
- (j) Properties subject to this section shall remain subject to the semi-annual registration requirement, and the inspection, security, and maintenance standards of this section as long as the property remains defaulted.
- (k) Failure of the mortgagee and/or property owner of record to properly register or to modify the registration to reflect a change of circumstances as required by this ordinance is a violation of this chapter and shall be subject to enforcement.
- (l) If any property is in violation of this chapter, the village may take the necessary action to ensure compliance with and/or place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to the property into compliance.
- (m) Properties registered as a result of this section are not required to be registered again pursuant to the real property that is vacant section.

15.64.50 Inspection and registration of real property that is vacant.

- (a) Any owner of vacant property shall within ten (10) days after the property becomes vacant, or within ten (10) days after assuming ownership of the property, whichever is later, register the real property with the village registry.
- (b) Initial registration pursuant to this section shall contain at a minimum the name of the owner, the mailing address of the owner, e-mail address, and telephone number of the owner, and if

applicable, the name and telephone number of the property manager and said person's address, e-mail address, and telephone number.

- (c) At the time of initial registration each registrant shall pay a non-refundable semi-annual registration fee of three hundred dollars (\$300.00) for each vacant property. Subsequent semi-annual registrations of vacant properties and fees in the amount of three hundred dollars (\$300.00) are due within ten (10) days of the expiration of the previous registration. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to vacant properties, and (3) for any related purposes as deemed appropriate by the village.
- (d) If the property is sold or transferred, the new owner is subject to all the terms of this chapter. Within ten (10) days of the transfer, the new owner shall register the vacant property or update the existing registration. The previous owner(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that owner's involvement with the vacant property.
- (e) If the vacant property is not registered, or either the registration fee or the semi-annual Registration fee is not paid within thirty (30) days of when the registration or semi-annual Registration is required pursuant to this section, a late fee shall be equivalent to ten percent (10%) of the semi-annual registration fee shall be charged for every thirty (30) day-period, or portion thereof, the property is not registered and shall be due and payable with the registration. This section shall apply to the initial registration and registrations required by subsequent owners of the vacant property.
- (f) Properties subject to this section shall remain subject to the semi-annual registration requirement, and the inspection, security, and maintenance standards of this section as long as the property is vacant.
- (g) Failure of the owner to properly register or to modify the registration to reflect a change of circumstances as required by this ordinance is a violation of this chapter and shall be subject to enforcement by any of the enforcement means available.
- (h) If any property is in violation of this chapter, the village may take the necessary action to ensure compliance with and place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to the property into compliance.
- (i) Properties registered as a result of this section are not required to be registered again pursuant to the Defaulted mortgage property section.

15.64.60 Maintenance requirements.

- (a) Properties subject to this chapter shall be kept in compliance with the village's property maintenance code of chapter 15.28.
- (b) Failure of the mortgagee, owner, and transferees to properly maintain the property as required by this chapter may result in a violation of the applicable code(s) and issuance of a citation or notice of violation in accordance with the applicable code.

15.64.70 Security Requirements.

- (a) Properties subject to this chapter shall be maintained in a secure manner in accordance with the village's property maintenance code of chapter 15.28.
- (b) If a property is registrable, and the property has become vacant or blighted, a property manager shall be designated by the mortgagee and/or owner to perform the work necessary to bring the property into compliance with the applicable code(s), and the property manager must perform regular inspections to verify compliance with the requirements of this chapter, and any other applicable laws.
- (c) Failure of the mortgagee and/or property owner of record to properly inspect and secure a property subject to this chapter, is a violation and shall be subject to enforcement by any of the enforcement means available. The village may take the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.

15.64.80 Provisions supplemental.

The provisions of this chapter are cumulative with and in addition to other available remedies. Nothing contained in this chapter shall prohibit the village from collecting on fees, fines, and penalties in any lawful manner; or enforcing its codes by any other means, including, but not limited to, injunction, abatement, or as otherwise provided by law or ordinance.

15.64.90 Public Nuisance.

All registrable property is at risk of being a public nuisance and if vacant or blighted can constitute a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of the village.

15.64.100 Additional Authority.

- (a) If the enforcement officer has reason to believe that a property subject to the provisions of this chapter is posing a serious threat to the public health, safety, and welfare, the code enforcement officer may temporarily secure the property at the expense of the mortgagee or owner. Nothing herein shall limit the village from abating any nuisance or unsafe condition by any other legal means available to it.
- (b) The village shall have the authority to require the mortgagee or owner affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard or other measures as may be reasonably required to help prevent further decline of the property.
- (c) 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 village may abate the violations and charge the mortgagee or owner with the cost of the abatement.
- (d) If the mortgagee or owner does not reimburse the village for the cost of temporarily securing the property, or of any abatement within thirty (30) days of the village sending the mortgagee or owner the invoice then the village may lien the property with such cost, along with an administrative fee as determined by the village to recover the administrative personnel services. In addition to filing a lien the village may pursue financial penalties against the mortgagee or owner.

15.64.110 Opposing, obstructing enforcement officer, penalty.

Whoever opposes obstructs or resists any enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this chapter shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

15.64.120 Immunity of enforcement officer.

Any enforcement officer or any person authorized by the village to enforce the sections here within shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this chapter.

15.64.130 Amendments.

Registration and penalty fees outlined in this chapter may be modified by ordinance, passed and adopted.

15.64.140 Severability.

It is hereby declared to be the intention of the village that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

SECTION TWO: This ordinance shall not be held to repeal a former ordinance as to any offense committed against the former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatsoever affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred to any right accrued to claims arising before this ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceedings, as far as practicable.

SECTION THREE: That if any part or parts of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the remaining parts of this ordinance. The Village Board hereby declares that they would have passed the remaining parts of this ordinance, if they had known that such part or parts thereof would be declared unconstitutional.

SECTION FOUR: The Village Clerk of the Village of Round Lake is directed hereby to publish this ordinance in pamphlet form.

SECTION FIVE: This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form.

APPROVED:


Daniel A. MacGillis, Village President

ATTEST:



Deborah Perlini, Village Clerk

PASSED: November 19, 2018

APPROVED: November 19, 2018

AYES: Trustees Foy, Frye, Kraly, Mandelman, Newby, Patel

NAYS: None

ABSENT: None

ABSTAIN: None

PUBLISHED IN PAMPHLET FORM: November 19, 2018