

BEFORE THE BOARD OF COUNTY COMMISSIONERS

MARTIN COUNTY, FLORIDA

ORDINANCE NUMBER _____

AN ORDINANCE OF MARTIN COUNTY, FLORIDA CREATING ARTICLE 29, REGISTRATION OF DEFAULTED PROPERTY OF PART 2, PROPERTY MAINTENANCE CODE OF CHAPTER 21, BUILDING AND HOUSING REGULATIONS, GENERAL ORDINANCES, MARTIN COUNTY CODE; REQUIRING THE REGISTRATION AND MAINTENANCE OF REAL PROPERTY IN DEFAULT; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY, APPLICABILITY, FILING WITH THE DEPARTMENT OF STATE, EFFECTIVE DATE, AND CODIFICATION.

WHEREAS, pursuant to Section 125.01, Florida Statutes, the Board of County Commissioners is authorized to adopt ordinances necessary for the exercise of its powers, and

WHEREAS, the Board of County Commissioners recognizes that properties encumbered by a mortgage that is in default, properties that are the subject of a foreclosure action or properties that have been foreclosed upon (hereinafter referred to as “Registrable Properties”) located throughout the unincorporated area of the County may have ongoing nuisance conditions such as overgrowth, accumulations of trash and debris, unsanitary conditions including vermin and insect infestations, and safety violations such as unsecured swimming pools and building code violations, and other violations of Martin County Code; and

WHEREAS, violations existing on such properties may spread vermin and disease, present attractive nuisances to children and other vulnerable populations, decrease the values of surrounding properties, create fire hazards, enhance hazardous conditions during storm events and otherwise threaten the health, safety and welfare of the community; and

WHEREAS, Registrable Properties are often vacant, and Mortgagees are often located out of state, which makes it difficult to notice the proper party of code violations, and may allow health and safety hazards resulting from such code violations to continue unabated; and

WHEREAS, the Board of County Commissioners has determined that there is a need to discourage owners and Mortgagees of Registrable Properties from allowing their properties to be abandoned, neglected or left unsupervised by establishing an ordinance for the Registration of Defaulted Mortgage Property.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, MARTIN COUNTY, FLORIDA, THAT:

Added language is underlined; deleted language is ~~struckthrough~~.

PART ONE: CREATION OF ARTICLE 29, REGISTRATION OF DEFAULTED PROPERTY, OF PART 2 OF CHAPTER 21, GENERAL ORDINANCES, MARTIN COUNTY CODE.

ARTICLE 29. - REGISTRATION OF DEFAULTED PROPERTY

Sec. 21.280. – 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.

Default shall mean that the mortgagor has not complied with the terms of the mortgage on the property. A Default is evidenced by the initiation of a Foreclosure Action.

Evidence of Vacancy means 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; disconnected utilities; accumulation of trash, junk or debris; abandoned vehicles or vessels; the absence of furnishings and/or personal items consistent with habitation or occupancy; the accumulation of newspapers, circulars, flyers and/or mail; an unsanitary swimming pool; the presence of boards or shutters over windows or doors; or the statements of neighbors, delivery agents or government agents.

Foreclosure Action shall mean the legal process by which a Mortgagee or other lien holder terminates or attempts to terminate a mortgagor's equitable right of redemption to obtain legal and equitable title to the real property subject to the lien. The filing of a Lis Pendens shall be deemed to be evidence of the initiation of a Foreclosure Action.

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, 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. No governmental entity shall be deemed to be a Mortgagee.

Owner shall mean every person, entity or Mortgagee, who alone or with others:

- (a) Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land, residential, non-residential, or agricultural in nature, vacant or otherwise, including but not limited to a mobile home park; or
- (b) Has legal care, charge or control of any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land, commercial, agricultural or residential in nature, vacant or otherwise, including but not limited to a mobile home park in any capacity, including but not limited to: agent, executor/executrix, personal representative,

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- administrator/administratrix, trustee or guardian of the estate of the holder of legal title; or
- (c) Is a Mortgagee in possession of any such property, or is a Mortgagee with actual control of access to such property by any means including, but not limited to, changing locks or putting on a lock box; or
- (d) Is an agent, trustee, or other person appointed by the courts and vested with possession or control of any such property.

A Property Manager shall not be considered the Owner.

Property Manager shall mean any party or entity designated by the Owner or Mortgagee as responsible for inspecting, maintaining and securing the property as required by this article.

Real Property shall mean any residential, non-residential or agricultural land, including buildings, structures, leasehold improvements and anything affixed to the land, or any portion thereof.

Registrable Property shall mean any Real Property, whether vacant or occupied, that is encumbered by a mortgage that is in default, is the subject of an ongoing foreclosure action, has been the subject of a foreclosure action upon which a judgment has been entered that is unsold or has been sold to the Mortgagee, or any properties transferred under a deed in lieu of foreclosure. The designation of any such property as Registrable shall remain in place until such time as the property is sold to a bona fide purchaser in an arm's length transaction, or the foreclosure action has been dismissed or discontinued and any default on the mortgage has been cured.

Registry shall mean a web-based electronic database of searchable real property records, used by Martin County to allow Mortgagees the opportunity to register defaulted properties and pay applicable fees.

Semi-Annual Registration shall mean six (6) months from the date of the first action that requires registration, and every subsequent six months thereafter.

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

Sec. 21.281. - Establishment of a Registry.

Sec. 21.281.A. Pursuant to the provisions of this article, a Martin County Defaulted Property Registry is hereby established for cataloging Registrable Properties within the unincorporated area of Martin County. Said registry shall contain all the information required by this article.

Sec. 21.281.B. The Martin County Defaulted Property Registry shall be maintained by an administrator contracted for such purpose by the County in accordance with the Martin County Purchasing Manual.

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Sec. 21.281.C. Upon the engagement of an administrator, the administrator shall publish notice in a paper of general circulation within the County once a week for two weeks that the Martin County Defaulted Property Registry is active. Such "Notice of Activation" is subject to review and approval by the County prior to publication and shall give Mortgagees a time certain, but no less than forty-five (45) business days, by which to complete an initial registration of all existing Registrable Properties.

Sec. 21.282. –Registration.

Sec. 21.282.A. Within the time set by the Notice of Activation of the Martin County Defaulted Property Registry, Mortgagees must register all their existing Registrable Properties on the Martin County Defaulted Property Registry, in compliance with the forms and process established by the administrator. A separate registration is required for each Registrable Property.

Sec. 21.282.B. Any Real Property which becomes a Registrable Property subsequent to the timeframe sent in the notice of activation shall be registered on the Martin County Defaulted Property Registry by the Mortgagee within ten (10) business days of the date the mortgage thereon is declared to be in Default or the occurrence of any other event which causes the Real Property to become a Registrable Property. A separate registration is required for each Registrable Property.

Sec. 21.282.C. Registration pursuant to this section shall contain, at a minimum, the address of the Registrable Property, the name of the Mortgagee, the mailing address of the Mortgagee, the name of the Property Manager and the Property Manager's mailing address, e-mail address and telephone number, and whether the property is vacant. A Property Manager must be designated in writing to inspect, maintain, and secure the Registrable Property.

Sec. 21.282.D. Within ten (10) days of a change in Mortgagee, the new Mortgagee shall either register the Registrable Property or update the existing registration to show the information required by subsection 21.282.C for the new Mortgagee. Strict compliance with this subsection will relieve a new Mortgagee of responsibility for unpaid fees, fines and penalties that may have accrued prior to the new Mortgagee's action on registration of the Registrable Property.

Sec. 21.282.E. Each registration is valid for a period of one (1) year from the date of registration. After the initial registration of a Registrable Property, registration must occur annually within ten (10) business days after the expiration of the previous registration to avoid late fees so long as it remains a Registrable Property.

Sec. 21.283. - Fees.

Sec. 21.283.A. A registration fee of two hundred dollars (\$200.00) for each Registrable Property shall be paid with each registration of each Registrable Property. All registration fees are non-refundable. Said fees shall be used to offset the costs of registration enforcement, code enforcement and related purposes set forth in this article.

Sec. 21.283.B. If the Registrable Property is not registered within thirty (30) days of when registration is required pursuant to section 21.282, a late fee equivalent to ten percent (10%) of the registration fee shall be imposed for every thirty (30) day period, or portion thereof, that the property is not registered. Late fees are due and payable with the registration.

Sec. 21.283.C. The Mortgagee who first declared the mortgage to be in default, and any subsequent Mortgagee who failed to register a Registrable Property, shall remain jointly and severally liable for all unpaid fees, fines and penalties for failure to register and/or re-register a Registrable Property regardless of any subsequent change in the status of the mortgage and/or the Registrable Property, including but not limited to a cure of the mortgage default, satisfaction of the mortgage, sale of the property or removal of the property from the Martin County Defaulted Property Registry.

Sec. 21.284. - Inspection Requirements.

Sec. 21.284.A. Any Mortgagee who holds a mortgage on Real Property located within the unincorporated area of Martin County shall, upon Default of said mortgage or other event which causes the Real Property to be a Registrable Property, perform an inspection of said property to determine if the property is occupied or vacant.

Sec. 21.284.B. Each Registrable Property shall be re-inspected every thirty (30) days by the Mortgagee or the Mortgagee's designee. If an inspection shows a change in circumstances, such as the property's occupancy status, the Mortgagee shall, within ten (10) business days of that inspection, update the occupancy status of the property on the Martin County Defaulted Property Registry. Said inspections shall continue for so long as the Real Property remains a Registrable Property.

Sec. 21.285. - Maintenance Requirements.

Sec. 21.285.A. Each Registrable Property is required to be maintained in compliance with the Martin County Code. Any Code violations regarding such properties are subject to enforcement by any of the enforcement means available to Martin County, including but not limited to the provisions of Chapter 1, Article 4, General Ordinances, Martin County Code.

Sec. 21.285.B. If a Registrable Property exhibits evidence of code violations the Property Manager designated by the Mortgagee shall be given notice pursuant to section 1.100.A.1, General Ordinances, Martin County Code, in addition to the required notice to the Owner.

Sec. 21.285.C. Nothing contained herein shall be construed to relieve any Owner from the responsibility for complying with any provision of the Martin County Code.

Sec. 21.286 – Violations.

Failure of a Mortgagee to properly register a Registrable Property with the Martin County Defaulted Property Registry, or to modify a registration to reflect a change of circumstances shall constitute a violation of this article and shall be subject to enforcement by any means available to Martin County, including but not limited to the provisions of Chapter 1, Article 4, General Ordinances, Martin County Code.

Sec. 21.287 – Suspension of the Registry.

Sec. 21.287.A. If at any time the position of administrator of the Martin County Defaulted Property Registry becomes vacant for any reason, the Martin County Defaulted Property Registry shall be suspended until such time as Martin County contracts with a new administrator.

Sec. 21.287.B. Upon the vacancy of the position of administrator, the County shall promptly publish notice in a newspaper of general circulation in the County once a week for two weeks that the Martin County Defaulted Property Registry is suspended.

PART TWO: CONFLICTING PROVISIONS.

Special acts of the Florida legislature applicable only to unincorporated areas of Martin County, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict except for ordinances concerning either adoption or amendment of the Comprehensive Plan.

PART THREE: SEVERABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstance by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstance.

PART FOUR: APPLICABILITY.

This ordinance shall be applicable throughout the unincorporated area of Martin County.

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PART FIVE: FILING WITH THE DEPARTMENT OF STATE.

The Clerk shall be and is hereby directed forthwith to scan this ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission.

PART SIX: EFFECTIVE DATE.

This ordinance shall take effect upon filing with the Office of Secretary of State.

PART SEVEN: CODIFICATION.

Provisions of this ordinance shall be incorporated in the Martin County Code of Ordinances, except that Parts 2 through 7 shall not be codified. The word “ordinance” may be changed to “article,” “section,” or other word, and the sections of this ordinance may be renumbered or re-lettered.

DULY PASSED AND ADOPTED THIS _____ DAY OF _____, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

CAROLYN TIMMANN, CLERK OF THE
CIRCUIT COURT AND COMPTROLLER

EDWARD V. CIAMPI, CHAIRMAN

APPROVED AS TO FORM & LEGAL
SUFFICIENCY:

SARAH W. WOODS, COUNTY
ATTORNEY

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