

ORDINANCE 16-06-04

**AN ORDINANCE AMENDING THE VILLAGE CODE
TO ESTABLISH A REGISTRY TO
REDUCE HARMS AND COSTS OF VACANT
AND FORECLOSED RESIDENTIAL BUILDINGS AND PROPERTIES**

WHEREAS, the Village of Round Lake Beach recognizes that there are a number of residential buildings and properties in the Village that are indefinitely vacant, unlawfully occupied and/or in foreclosure or foreclosed upon; and

WHEREAS, such buildings are public nuisances in that they contribute to the decrease in value of surrounding properties, precipitate disinvestment by neighboring owners, undermine the aesthetic character and good order of the neighborhood and the Village, interfere with the use and enjoyment of other premises within the neighborhood, and have other undesirable effects; and

WHEREAS, such buildings are further detrimental to the public health, safety, and welfare, are often neglected and unsecured, create conditions that invite criminal activity, foster an unsafe and unhealthy environment for children, pose danger to police officers or firefighters entering the premises in time of emergency, and diminish neighbors' sense of well-being; and

WHEREAS, often times, the foreclosing party or building owners are not located in close proximity to the Village and/or provide no contact information to the Village, rendering it difficult to communicate with the proper party and thereby insure minimum property maintenance standards and security are maintained; and

WHEREAS, registration of vacant buildings, abatement of nuisances, enforcement of codes and implementation of a maintenance plan will discourage property owners from allowing their properties to remain indefinitely vacant, unlawfully occupied, unsupervised and/or in a state of disrepair; and

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

WHEREAS, the Village Board finds that the implementation of this Ordinance will assist the Village in protecting neighborhoods from the negative impact and conditions that occur as a result of vacancy, absentee ownership and lack of compliance with existing Village Ordinances, regulations and laws.

WHEREAS, the Village of Round Lake Beach, as a home rule municipality, is empowered pursuant to Article VII, Section 6a of the Illinois Constitution of 1970 to enact legislation pertaining to its government and affairs; and

WHEREAS, the definition, prohibition, and abatement of public nuisances pertain to the government and affairs of the Village of Round Lake Beach; and

WHEREAS, the Village has the statutory power to define, prohibit, and abate public nuisances pursuant to 65 ILCS 5/11-60-2 of the Illinois Municipal Code; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND VILLAGE BOARD OF THE VILLAGE OF ROUND LAKE BEACH, LAKE COUNTY, ILLINOIS in the exercise of its home rule powers as follows:

SECTION 1: The above-stated recitals are incorporated by this reference.

SECTION 2: A new Section 8-1-1-9 of the Village Code is hereby adopted as follows:

8-1-1-9 Vacant and Foreclosed Building and Property Registry

A. PURPOSE AND INTENT

It is the purpose and intent of this Section to protect the public health, safety and welfare by:

1. Establishing a program for the identification, registration and regulation of residential buildings which are or become Registrable Properties on or after the effective date of this Section.
2. Identifying owners and persons responsible for Registrable Properties.
3. Communicating and enforcing code requirements to insure adequate maintenance, security and protection of Registrable Properties.
4. Providing for the administration, inspection, enforcement, imposition of penalties and abatement of nuisances.
5. Serving as a key strategic tool in the Village's efforts to improve the housing stock, revitalize neighborhoods, and implement the Comprehensive Plan.

B. DEFINITIONS

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

Registrable Property – means,

1. Any property that is vacant or unoccupied for more than 30 days.

2. Any real property located in the Village, whether vacant or occupied, that is encumbered by a mortgage in default, is subject to a pending foreclosure action by the Mortgagee, is subject to an application for a tax deed or a pending tax assessor's lien sale, 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 property as Registrable Property shall remain in place until such time as the property is sold to an unrelated bona fide purchaser in an arm's length transaction or the foreclosure action has been dismissed and any default under the terms of the mortgage has been cured.
3. Properties which are not required to be registered are: (i) Properties that are the subject of an active building permit for repair or rehabilitation in which the owner is progressing diligently to complete the repair or rehabilitation; (ii) Properties that are not in a state of disrepair or deterioration and are actively being marketed for sale, lease or rent and are actively being maintained and monitored by the owner; (iii) Properties in which the owner is on vacation or attending to personal or business matters; (iv) Other reasons that can be articulated in writing and based on reliable and substantiated evidence.

Accessible Property/Structure – means a property that is accessible through a compromised/breached gate, fence, wall, etc., or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Applicable Codes – means includes but is not limited to the Village Code, as well as ordinances enacted by other units of government and the State of Illinois.

Annual Registration — means to submit a complete registration packet on an annual basis in the format requested by the Village, including complete contact information of all relevant parties, an action plan and timeline for maintenance and repairs, an annual fee, and any other required information.

Blighted Property – means:

1. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing;
2. Properties whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties;
3. Properties cited for a public nuisance pursuant to the Village Code;
4. Properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate

minimum health and safety standards or are not being maintained as required by the Village Code.

Building – means any structure occupied or intended for supporting or sheltering any occupancy.

Boarded Building – means any Building which has had, in a manner intended to be temporary or permanent, any or all windows or doors which were present for the purpose of light, ventilation or egress, some material whether opaque, solid or transparent, affixed to such windows or doors, from the interior or exterior of the Building, for the purpose of securing or preventing access or damage to the Building or its components.

Default – means that the mortgagor has not complied with the terms of the mortgage relative to the property, or the promissory note, or other evidence of the debt, referred to in the mortgage.

Enforcement Officer – means any inspector, law enforcement officer, public works official, or other person authorized by the Village to enforce the Village Code or the laws and regulations of the State of Illinois.

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 or unoccupied. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; past due utility notices or bills and/or disconnected utilities; accumulation of trash junk or debris; abandoned vehicles auto parts 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 that the property is vacant or unoccupied; or the presence of boards over doors, windows or other openings

Foreclosure — means the legal process by which a Mortgagee, or other lien holder, terminates 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. This definition shall include, but is not limited to, public notice of default, a deed-in-lieu of foreclosure, sale to the Mortgagee or lien holder, certificate of title and all other processes, activities and actions, by whatever name, associated with the described process. The 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 — means the creditor, including but not limited to, trustees; mortgage service 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.

Owner – means any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds the legal or beneficial title to any Building, facilities, equipment or premises subject to the provisions of this chapter.

Public Nuisance — means a Building with a physical condition that is/has been:

1. Regarded as a public nuisance at common law, under the Illinois Compiled Statutes, or under the Village of Round Lake Beach municipal code;
2. Considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, swimming pools, excavations, and unsafe fences or structures;
3. Unsanitary sewerage or plumbing facilities;
4. Designated by the Village as unsafe for human habitation or use;
5. Manifestly capable of being a fire hazard, or manifestly unsafe or insecure as to endanger life, limb or property;
6. Unsanitary, is littered with rubbish or garbage or which has an uncontrolled growth of weeds;
7. Dangerous, in a state of dilapidation, deterioration or decay; faulty construction; open or vacant and the doors, windows, or other openings are boarded up or secured, by any means other than conventional methods used in the design of the building or permitted for new construction of similar type; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and dangerous to anyone on or near the premises.

Property Management Entity – means an individual (including the owner, if applicable), property manager, property maintenance company or similar entity responsible for the maintenance of Registrable Properties.

Real Property — means any improved residential land, Buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Village limits. Developed lots are considered improved land.

Unoccupied Building — means a Building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises, including Buildings ordered vacated by the Village pursuant to authority granted by the Municipal Code or other laws and ordinances. The Village may consider these factors when determining if a Building is unoccupied:

1. Substantially all lawful residential or business activity has ceased;

2. The total percentage of unoccupied space to occupied space;
3. If the Building is substantially devoid of contents;
4. Lack of utility services;
5. Building is subject to a Foreclosure action;
6. Presence or recurrence of uncorrected code violations.

Vacant – means any parcel of land in the Village that contains any Building or structure that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of "Evidence of Vacancy" above which is without a lawful tenant, or a lawful occupant or without a certificate of occupancy. Vacant property does not mean property that is temporarily unoccupied while the residents are away on vacation, personal matters or business, or is not intended by the Owner to be left vacant, so long as the period does not exceed thirty (30) days.

C. ESTABLISHMENT OF A REGISTRY

Pursuant to the provisions of this Section, the Village or its designee shall establish a registry cataloging each Registrable Property within the Village, containing the information required by this Section.

D. REGISTRATION OF DEFAULTED MORTGAGE REAL PROPERTY

1. Upon the default of the mortgagor, any Mortgagee who holds a mortgage on Real Property located within the Village shall, within fifteen (15) calendar days, inspect and register the property with the Village or its designee. Alternatively, Mortgagees may choose to file an Appeal of Determination as provided for within this Section.
2. Registration pursuant to this Section shall be completed either on a form or in another manner as proscribed by the Village or its designee and which shall include at least all of the following:
 - a) A report if the Building is Vacant, Unoccupied or occupied;
 - b) Complete contact information for the Mortgagee or a third party servicer;
 - c) Complete contact information, including a twenty-four hour contact phone number of the individual or company responsible for the abatement of nuisance conditions, code compliance, and any expenditures in connection therewith;
 - d) A plan of action and timeline to, as applicable, (i) remove unsightly boarding and secure the Building from unlawful entry, (ii) meet and maintain all applicable codes, (iii) declare the intent to occupy or to extend

- the vacancy, (iv); declare the intent to rehabilitate and repair, demolish, sell and/or rent the property.
- e) Voluntary scheduling of an inspection by a Village Enforcement Officer;
 - f) Other information as requested by the Village or its designee;
 - g) A non-refundable, non-prorated fee of \$130.00.
3. A separate registration is required for each property, whether it is found to be Vacant, Unoccupied or occupied.
 4. Mortgagees who have existing Registrable Property on the effective date of this ordinance have twenty-one (21) calendar days from the effective date to register the property with the Village or its designee and to have it inspected. Alternatively, Mortgagees may choose to file an Appeal of Determination as provided within this Section.
 5. If the mortgage of a Registrable Property is sold, assigned or transferred and/or if the Mortgagee which comes into title of a foreclosed real property sells or transfers the property to a related person or entity and/or it is not an arms' length transaction, the new Mortgagee is subject to all the terms of this Section and within ten (10) of the transfer must register the property and pay a registration fee in accordance with this Section. Any previously unpaid annual registration fees are the responsibility of the new owner of the Registrable Property and are due and payable with its initial registration.
 6. All registration fees must be paid directly by the Mortgagee, its Servicer, or the Owner. Registration fees may not be paid by third parties without the consent of the Village or its designee.
 7. For as long as a property is a Registrable Property:
 - a) It shall be inspected by the Mortgagee or its designee monthly for occupancy status and code compliance;
 - b) Any changes in occupancy status, contact information and/or ownership must be reported with ten (10) days to the Village or its designee;
 - c) The property shall be registered annually and the required information shall be provided to the Village or its designee, a voluntary inspection shall be scheduled with a Village Enforcement Officer and a non-refundable registration fee of \$130.00 shall be paid;
 - d) It shall be subject to compliance with the Village Code, State statutes and regulations and shall be subject to penalties for any violations.
 8. So long as the borrower is in default under the terms of the mortgage, the Mortgagee shall comply with the requirements of this Section until such time as the Mortgagee provides written notice to the Owner and the Village that the mortgage has been reinstated or released.

9. Failure of the Mortgagee to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this Section is a violation of this Section.
10. Properties registered in compliance with this Section are not required to duplicate a registration if the property is also vacant or unoccupied.

E. REGISTRATION OF VACANT PROPERTY

1. Every Owner of Vacant Property shall register the property with the Village or its designee, either on forms or in another manner as proscribed by the Village within fifteen (15) days of the property becoming Vacant. Alternatively, Owners may choose to file an Appeal of Determination as provided for within this Section.
2. Owners who have Vacant Property on the effective date of this ordinance have twenty-one (21) calendar days from the effective date to register the property with the Village, or its designee, on forms or other in another manner as proscribed by the Village.
3. Registration pursuant to this Section shall be completed either on a form or in another manner as proscribed by the Village or its designee and which shall include at least all of the following:
 - a) A report if the Building property is Vacant, Unoccupied or occupied;
 - b) Complete contact information for the Owner;
 - c) Complete contact information, including a twenty-four hour contact phone number of the individual or company responsible for the abatement of nuisance conditions, code compliance, and any expenditures in connection therewith;
 - d) A plan of action and timeline to, as applicable, (i) remove unsightly boarding and secure the Building from unlawful entry, (ii) meet and maintain all applicable codes, (iii) declare the intent to occupy or to extend the vacancy, (iv); declare the intent to rehabilitate, demolish, sell and/or rent the property.
 - e) Voluntary scheduling of an inspection with a Village Enforcement Officer;
 - f) Other information as requested by the Village or its designee;
 - g) A non-refundable, non-prorated fee of \$130.00.
4. A separate registration is required for each property.
5. The Owner of the property shall provide the following information:
 - a) If the property is owned by multiple natural persons, then the required information shall be that of one person who has legal authority to act on behalf of the other Owners.

- b) If the property is owned by a corporation, whether foreign or domestic, then the required information shall be that of a registered agent and of an officer who has authority to act on behalf of the corporation.
 - c) If the property is owned by a partnership, then the required information shall be that of the managing partner who has legal authority to act on behalf of the partnership.
 - d) If the property is owned by a trust then the required information shall be that of the trustee or beneficiary who has legal authority to act on behalf of the trust.
 - e) If the property is owned by a real estate investment trust, then the required information shall be that of the general partner or an officer who has legal authority to act on behalf of the REIT.
 - f) If the property is owned by an unincorporated association or any other legal entity not mentioned above, then the required information shall be that of a person who has legal authority to act on behalf of that association or entity.
6. For as long as a property is a Registrable Property:
- a) Any changes in occupancy status, contact information and/or ownership must be reported with ten (10) days to the Village or its designee;
 - b) The Owner shall be required to register the property annually to provide all information requested in the format provided by the Village or its designee to voluntarily schedule an inspection by a Village Enforcement Officer, and to pay a non-refundable registration fee;
 - c) It shall be subject to compliance with all applicable codes and relevant enforcement penalties.
7. Failure of the Owner to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this Section is a violation of this Section.
8. Properties registered in compliance with of this section are not required to duplicate a registration if the property is also in default under a mortgage.

F. DETERMINATION OF REGISTRABLE PROPERTIES

1. After the effective date of this Section, the Village shall continually evaluate all residential Buildings within Village and make a determination for each as to whether the building is a Registrable Property.
2. For Buildings determined to be Registrable Properties, the Village or its designee shall send a written Notice of Determination by United States Mail with proper postage prepaid to the Owner(s) of record to the address where the last property tax bill was sent according to the records of Lake County,

Illinois. Failure to receive the notice shall not excuse a Mortgagee or Owner from complying with this ordinance.

3. The notice shall contain or specify:
 - a) A statement to schedule within twenty-one (21) calendar days of the date of the notice an inspection of the interior, exterior, surrounding yards and property to determine the extent of compliance with Village property, building, health, fire and plumbing codes.
 - b) A statement of the obligations as an owner of Registrable Property.
 - c) The registration form to be completed by the Owner.
 - d) A notice of the right to appeal the determination.

G. APPEAL OF DETERMINATION

1. An Owner of a Building determined by the Village to be a Registrable Property as provided for in this ordinance may appeal that determination to the Administrative Adjudication Hearing Officer. Such appeal shall be in writing and shall be filed with the Village within fifteen (15) calendar days of the date of a default, vacancy or Notice of Determination. The filing of an appeal stays the owner's obligation to register a Building as required by this Section. The appeal shall contain a complete statement of the reasons the Owner disputes the Village's determination, shall set forth specific facts in support thereof and shall include all evidence the Owner relies upon to support the appeal. The Hearing Officer shall decide the appeal on the basis of facts presented by the Owner in his or her written appeal and the Village's written determination. The appeal shall be scheduled for hearing at the next Administrative Adjudication Hearing date which is at least seven (7) days after the Village receives the appeal.
2. The burden is upon the Owner to present sufficient evidence to persuade the Hearing Officer that had the evidence been known to the Village at the time the Village made the determination, the Village would more likely than not have determined that the Building was not a Registrable Property within the meaning of this Section.
3. The Hearing Officer or his or her designee shall send written notice of his decision to the Owner within fifteen (15) calendar days of the hearing. The Hearing Officer may, but is not required to, seek additional information from the Owner. The Hearing Officer may, upon written notice thereof to the Owner, take up to ten (10) additional calendar days to decide the appeal if he or she determines that such additional time is required for consideration of the appeal.
4. An Owner who wishes to challenge the applicability of this Section to his or her building without the Village's determination as to whether a property is a

Registrable Property, shall set forth specific facts to support non-applicability in writing to the Village. In the event the Village determines that the Building is a Registrable Property, the Owner shall have the right to appeal the Village's determination to the Hearing Officer as provided for herein.

H. MAINTENANCE REQUIREMENTS

1. Registrable Properties shall avoid all appearances of being abandoned and shall be maintained in compliance with all applicable Village codes and which include, but are not limited to, those requirements set forth below.
 - a) Properties subject to this Section shall be kept free of weeds; overgrown brush; dead vegetation; trash; junk; debris; building materials; any accumulation of newspaper circulars, flyers or 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.
 - b) The property shall be maintained free of graffiti or similar markings by removing or painting over it with an exterior grade paint that matches the color of the exterior structure.
 - c) Front, side, and rear yards, including landscaping, shall be maintained in accordance with the applicable code(s) at the time registration was required.
 - d) Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
 - e) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
 - f) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s).
2. Registrable Properties subject to this Section shall be maintained in a secure manner so as not to be accessible to unauthorized persons. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or Building. Broken windows, doors, gates and other

openings of such size that may allow a child to access the interior of the property or Building must be repaired. Broken windows shall be secured by re-glazing of the window.

3. It is the policy of the Village that boarding is a temporary solution to prevent unauthorized entry into a Vacant Building and that boarded buildings are a public nuisance. A Vacant Building may not remain boarded for longer than four (4) months unless an extension of that time is part of a plan approved by the Village.

I. ENFORCEMENT AND PENALTIES

1. Adherence to this Section does not relieve any Owner or other person, legal entity or agent from any other obligations set forth in any applicable code(s), which may apply to the property. Failure of the Mortgagee and/or Owner to properly maintain the property may result in a violation of the applicable code(s) and issuance of a citation in accordance with the applicable code of the Village or as allowable by state or federal law. Pursuant to a finding and determination by an authorized Enforcement Officer, the Village may take the necessary action to ensure compliance with this section. Any unpaid fees or violations will be recorded as liens against the Property.
2. Registration shall not preclude action by the Village to demolish or to take other action against the Building pursuant to other provisions of the Village Code or the Illinois Municipal Code or other laws. This shall also include the right of the Village to secure and take remedial actions to the Building and the Property when it is in the best interest of the public safety and welfare. The Village may impose other legal or equitable remedies including, but not limited to, injunctive relief, application to a court of competent jurisdiction for a receiver, demolition, or condemnation, contracting for the repair or purchase of the premises, or foreclosure of any lien the Village may have thereon.
3. An occupancy permit shall not be issued until the Village has certified the Building is in full compliance with all codes, and payment has been made in full of all fines and fees imposed pursuant to this Section.
4. The Village may enforce this Chapter in its Administrative Adjudication System or through the Court System. Administrative Adjudication shall be conducted in accordance with the provisions of the Village Code, as it may be amended.
5. Failure to properly register a Registrable Property will result in a fine of \$25 per day. Each day a violation occurs shall be a separate offense.

SECTION 3: Any ordinance in conflict with this Ordinance is repealed to the extent of such conflict.

SECTION 4: If any portion of this Ordinance is invalid, the invalid portion shall be stricken and the remainder shall be in full force and effect.

SECTION 5: This Ordinance shall be in full force and effect from and after its passage, approval and publication

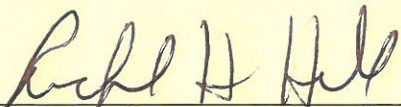
PASSED AND APPROVED this 27th day of June, 2016.

AYES: 4 (TRUSTEES BUTLER, BENES, VALADEZ, WALLACE)

NAYS: 0

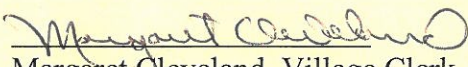
ABSTAIN: 0

ABSENT: 2 (TRUSTEES HUSK AND MOUNT)



Richard H. Hill, Mayor
Village of Round Lake Beach

ATTEST:



Margaret Cleveland, Village Clerk