

ORDINANCE NO. 18-43

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING ARTICLE IV OF CHAPTER 2-9 OF THE MANATEE COUNTY CODE RELATING TO REGISTRATION OF REAL PROPERTY IN FORECLOSURE; AMENDING PURPOSE AND INTENT; AMENDING DEFINITIONS; AMENDING REGISTRATION OF REAL PROPERTY IN FORECLOSURE; AMENDING REQUIREMENTS FOR REAL PROPERTY IN FORECLOSURE; AMENDING ENFORCEMENT AND PUNISHMENT PURSUANT TO FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 125.01, Florida Statutes, authorizes the Board of County Commissioners of Manatee County to exercise regulatory powers that are not inconsistent with general or special law; and

WHEREAS, in 2014 the Board of County Commissioners of Manatee County determined that it was in the best interest of the public health, safety and welfare of the residents of unincorporated Manatee County to adopt Ordinance No. 14-19 providing for the registration of vacant real property in the process of foreclosures; and

WHEREAS, while the number of foreclosures of real property located within the unincorporated area of Manatee County is no longer increasing, foreclosures continue to occur; and

WHEREAS, since the enactment of Ordinance No. 14-19, Manatee County has continued to experience code violation issues with real property that is in foreclosure, but nevertheless occupied by the property owner; and

WHEREAS, even when real property in the process of foreclosure is occupied by the property owner, some property owners fail to maintain the property and ignore code violations; and

WHEREAS, real property in the process of foreclosure that is not properly maintained is unsightly, unsafe and has a negative impact on the community; and

WHEREAS, the Board of County Commissioners of Manatee County finds that real property may remain in the foreclosure process for months or years prior to foreclosure sale or other resolution of the foreclosure proceedings, and that such properties may become vacant or abandoned at any time during the foreclosure proceedings, often without warning or notice; and

WHEREAS, the Board of County Commissioners of Manatee County desires to exercise regulatory powers pursuant to Section 125.01, Florida Statutes, by amending the procedures and requirements for the registration of real property in the process of foreclosure; and

WHEREAS, it is the intent and purpose of this ordinance to better protect and preserve public safety, security, and quiet enjoyment of occupants, abutters, and neighborhoods by identifying properties in the process foreclosure, requiring all mortgagees, including lenders, trustees, and service companies, to register properties that have been foreclosed upon or are the subject of foreclosure actions or proceedings, and regulating the maintenance of properties that have been foreclosed upon or are the subject of foreclosure actions or proceedings, to prevent blighted and unsecured residences; and

WHEREAS, the Board of County Commissioners of Manatee County finds and determines that it is in the best interest of the County and the residents of the County to amend the procedures and requirements for the registration of real property in the process of foreclosure designated in Article IV of Chapter 2-9 of the Manatee County Code.

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

Section 1. Article IV of the Manatee County Code is hereby amended to effect textual changes, as follows:

ARTICLE IV. - REGISTRATION OF ~~VACANT~~ REAL PROPERTY IN FORECLOSURE

Section 2. Section 2-9-32 of the Manatee County Code is hereby amended to effect textual changes, as follows:

Sec. 2-9-32. - Purpose and Intent.

The purpose and intent of this ~~article chapter~~ is to establish procedures and requirements for the identification, registration and maintenance of real property located within the unincorporated area of the county that is ~~vacant and in the process of~~ subject to foreclosure proceedings to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of properties that either are vacant or may become vacant.

Section 3. Section 2-9-33 of the Manatee County Code is hereby amended to effect textual changes, as follows:

Sec. 2-9-33. - 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:

- (a) *Agent* means any person with legal authority to represent and act on behalf of the owner through a written agreement, power of attorney, or other similar document.

- (b) *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, accumulation of abandoned personal property, disconnected utility services, a stagnant or green swimming pool, statements by neighbors, delivery agents, or government agents, empty storefronts, the absence of furnishings and/or personal items consistent with occupancy, and real estate signs, among other evidence that the property is vacant.
- (c) *Foreclosure* means the legal process by which real property, placed as a security for a real estate loan or other debt, is prepared for sale by the lender, a mortgagee or other lien holder to satisfy the debt if the borrower/mortgagor defaults. This definition shall include all processes, activities and actions, by whatever name, associated with the described process, 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 to the real property subject to the mortgage or lien. This process commences with the filing of a civil action in court and a notice of lis pendens in the official records of the county, and may include, but is not limited to, transfer by deed, sale to the mortgagee or lien holder, certificate of title, and all other activities and actions associated with the described process. The process is not concluded until the property obtained by the mortgagee, lien holder, or designee, through a certificate of title or any other means, is sold to a non-related bona fide purchaser to satisfy the debt or lien.
- (d) *Inspection* means a physical investigation at close viewing of the real property and the exterior of any structures located thereon ~~pledged as security for the real estate loan,~~ and includes a viewing of any interior portions of the structure which are visible from the exterior of the structure to obtain evidence of vacancy and/or verify compliance with this article and other applicable codes or laws. However, an inspection does not require entry into any structure for purposes of viewing the interior of such structure.
- (e) *Local* means within fifty (50) driving miles of the real property in question or within the geographic boundaries of Manatee and Sarasota Counties, whichever is greater.
- (f) *Mortgagee* means ~~a~~ the creditor, including but not limited to trustees, 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. This includes any person, business, or legal entity that holds a lien on or an interest in real property to secure the repayment of a debt by the owner of the real property subject to the lien or interest. For the purpose of this article only, the term "mortgagee" does not apply to governmental entities.
- (g) *Owner* means the owner of record of any real property as determined by the official records of the county.
- (h) *Property management company* means a property manager, property maintenance company, or other similar entity responsible for the management and maintenance of real property.

- (i) *Real property ~~or property in foreclosure~~* means ~~a parcel of~~ real property located within the unincorporated area of the county that:
 - (1) is under a current notice of default and is the subject of a foreclosure action or proceeding;
 - (2) is the subject of a foreclosure sale where the title was retained by the mortgagee involved in the foreclosure; and/or
 - (3) has been transferred under a deed in lieu of foreclosure or sale to the mortgagee.
- (j) *Registration* means a process of providing information about ~~vacant~~ real property in foreclosure to the county as provided in this article ~~chapter~~.
- (k) *Securing* means such measures as may be directed by the county so that real property is not accessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/locking gates, the repair or boarding of doors, windows, or other openings of such size that may allow a child to access the interior of any structure.
- (~~l~~k) *Vacant* means any building or structure that is not legally occupied ~~by the property owner, a tenant or renter under a lease agreement with the property owner or agent, or any other person with the written permission or consent of the property owner or agent.~~ A building or structure occupied or possessed by persons without legal authority to do so is vacant for the purposes of this article.
- (~~m~~) *Vacant real property ~~in foreclosure~~* means any real property that is vacant, ~~is in the process of foreclosure, and~~ or that shows evidence of vacancy.

Section 4. Section 2-9-34 of the Manatee County Code is hereby amended to effect textual changes, as follows:

Sec. 2-9-34. - Applicability.

- (a) This ~~chapter~~ article shall apply within the unincorporated area of Manatee County.
- (b) The requirements of this article shall not apply to individual residential units in condominium ownership in accordance with Chapter 718, Florida Statutes, or other individual residential units in common-interest communities where all exterior elements and common areas are jointly owned and maintained by a community association.

Section 5. Section 2-9-35 of the Manatee County Code is hereby amended to effect textual changes, as follows:

Sec. 2-9-35. - Registration of ~~vacant~~ real property in foreclosure.

- (a) Within ten (10) days of filing a lis pendens or an action to foreclose upon a mortgage or similar instrument that secures debt upon real property, the mortgagee or its designee shall register the subject real property with the county. If a lis pendens has been filed

~~or an action to foreclose upon a mortgage or similar instrument that secures debt upon real property has been instituted prior to the effective date of this section, the mortgagee or its designee shall register the subject real property with the county within sixty (60) days of the effective date of this section, if not yet registered. Any mortgagee that holds a mortgage on any vacant real property in foreclosure located within the unincorporated area of the county shall perform an inspection of the property that is the security for the mortgage and shall register the vacant real property with the county upon commencement of foreclosure by said mortgagee on said property. A separate registration is required for each parcel of vacant real property simultaneous with the recording of a notice of lis pendens in the public records of the county in any civil action to foreclose on a mortgage, lien, or similar instrument that secures debt upon vacant real property in foreclosure located within the unincorporated area of the county. If any real property in foreclosure located within the unincorporated area of the county becomes vacant after commencement of foreclosure, the mortgagee shall perform an inspection of the property and shall register the vacant real property with the county no later than thirty (30) days after such vacancy occurs.~~

- ~~(b)~~ Registration requires the mortgagee to certify that the real property subject to registration has been inspected within the preceding thirty (30) days and state whether the property was found to be vacant. The mortgagee must also designate and retain a local property management company to be responsible for inspecting, maintaining and securing the real property in foreclosure in accordance with this article.
- ~~(c)~~ Registration pursuant to this section shall contain, at a minimum, the names, mailing addresses, e-mail addresses, and telephone numbers of the owners, the occupants (if any, and if known), mortgagee, the chief executive officer of the mortgagee or said officer's designee, and a local property management company designated as required by this section. The mortgagee and the local property management company shall be responsible for ensuring that the local property management company inspecting, maintaining, and securing the vacant real property in foreclosure subject to the mortgage in compliance with the requirements of this article chapter. The local property management company named designated in the registration shall be available to be contacted by the county between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding holidays.
- ~~(d)~~ The mortgagee shall pay a regulatory fee for each parcel of vacant real property in foreclosure at the time of registration.
- ~~(e)~~ Any mortgagee that registers vacant real property in foreclosure as provided in this section shall report any change of information contained in the registration to the county within ten (10) days of the change.
- ~~(f)~~ The registration provided in this section and the requirements to register for vacant real property in foreclosure set forth in this chapter article shall remain in effect until the foreclosure is concluded and the real property is sold to a bona fide purchaser. Once the real property is no longer in foreclosure or is sold to a bona fide purchaser, the

mortgagee shall provide proof of sale or written notice of termination of the foreclosure or lis pendens proceedings to the county.

- (g-f) Failure of the mortgagee to inspect or register any ~~vacant~~ real property in foreclosure or to provide any required information or change of information shall constitute a violation of this section.

Section 6. Section 2-9-36 of the Manatee County Code is hereby amended to effect textual changes, as follows:

Sec. 2-9-36. – Maintenance and security ~~R~~requirements for ~~vacant~~ real property in foreclosure.

- (a) Any ~~vacant~~ real property in foreclosure subject to this article ~~chapter~~ shall be maintained in compliance with all applicable codes and ordinances, including, but not limited to, the Manatee County Code of Ordinances, the Manatee County Land Development Code, and the Florida Building Code.
- (b) Any vacant real property in foreclosure subject to this article ~~chapter~~ shall be maintained in a secure manner and not accessible to unauthorized persons. ~~A secure manner includes, but is not limited to, closure and locking of windows, doors, gates, and other openings of such size that may allow a child to access the interior of any structure on the real property.~~
- (c) The mortgagee shall be responsible for causing ~~or~~ the local property management company ~~named~~ designated in the registration shall to inspect ~~the vacant~~ real property in foreclosure ~~on a monthly basis~~ to ensure ~~said the real~~ property is in compliance with this section. Upon request by the county, the mortgagee ~~or the local property management company~~ shall provide a copy of any inspection reports to the county.
- (d) Failure of the property owner, the mortgagee, or the local property management company ~~named~~ designated in the registration to maintain any ~~vacant~~ real property in foreclosure or to secure vacant real property in foreclosure shall constitute a violation of this section. Failure of the mortgagee or the local property management company ~~named~~ designated in the registration to inspect any ~~vacant~~ real property in foreclosure or to provide any required reports shall constitute a violation of this section.
- (e) Vacant real property in foreclosure shall be posted with the name and 24-hour contact telephone number of the local property management company designated in the registration. The posting shall be clearly visible from the street but not readily accessible to vandals. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY:

TO REPORT ANY PROBLEMS OR CONCERNS CALL:

Section 7. Section 2-9-37 of the Manatee County Code is hereby amended to effect textual changes, as follows:

Sec. 2-9-37. – Enforcement and Penalties.

- (a) The county may enforce the provisions of this article by any means available to the county under the Manatee County Code of Ordinances or as may be available under state law, including but not limited to Chapter 162 and Any violation of this chapter may be enforced as provided in Section 125.69, Florida Statutes. In addition, the county may bring suit to restrain, enjoin, or otherwise prevent a violation of or mandate compliance with this chapter article.
- (b) The county shall have the authority to inspect properties subject to this article for compliance and to issue notices for any violations. The county shall have the discretion to determine when and how such inspections are to be made, provided that its policies are reasonably calculated to ensure that this article is enforced. The administrative official and code enforcement officers shall have the right to enter upon real property subject to this article in the discharge of official duties to make an inspection or enforce the provisions of article.
- (c) The penalties for violation of this article shall be as set forth in the code enforcement method asserted by the county under chapter 2-7 of the Manatee County Code of Ordinances or as may be available under state law, including but not limited to the Violations of this chapter may be enforced as provided in Chapter 162 and Section 125.69, Florida Statutes.
- (d) Each day a violation continues shall be considered a separate offense.

Section 8. Section 2-9-38 of the Manatee County Code is hereby amended to effect textual changes, as follows:

Sec. 2-9-38. –Regulatory fees.

The board, by resolution, may impose regulatory fees for the registration of ~~vacant~~ real property in foreclosure as provided in this ~~article~~ ~~chapter~~. Any regulatory fees shall not exceed the cost of the regulatory activity required for the registration of such property and shall be used and expended solely for the regulatory purpose of such registration activity as provided in this chapter.


Section 9. If any section, subsection, sentence, clause, provision or word of this Ordinance is held invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of County Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 10. Pursuant to Section 125.68(1), Florida Statutes, the Codifier shall codify the substantive amendments to the Manatee County Code contained in Section 1 through Section 8 of this Ordinance as provided therein, and shall not codify any other sections not designated for codification.

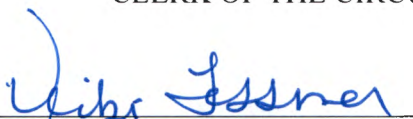
Section 11. This Ordinance shall take effect on the 1st day of January, 2019.

October DULY ADOPTED with a quorum present and voting this 23rd day of
2018.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: 
Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: 
Deputy Clerk



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

October 24, 2018

Honorable Angelina Coloneso
Clerk of the Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

Attention: Vicki Tessmer

Dear Ms. Coloneso:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Manatee County Ordinance 18-43, which was filed in this office on October 24, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

From: [Ords Admin](#)
To: [Vicki Tessmer](#)
Subject: RE: Manatee County, FL Code of Ordinances - 1981(10428) OrdLink/OrdBank
Date: Thursday, October 25, 2018 8:44:05 AM
Attachments: [image002.png](#)

We have received your files.

Thank you and have a nice day,

Ords Administrator

ords@municode.com

1-800-262-2633

P.O. Box 2235

Tallahassee, FL 32316

When available, please send all documents in WORD format to Ords@municode.com. However, if WORD format is not available, we welcome any document format including PDF.

NB

municode

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From: Vicki Tessmer <vicki.tessmer@ManateeClerk.com>
Sent: Wednesday, October 24, 2018 3:14 PM
To: County Ordinances <CountyOrdinances@dos.myflorida.com>
Cc: Ords Admin <ords@municode.com>
Subject: Manatee County Ordinance 18-43

Sender Full Name:	Vicki Tessmer
Sender Phone number:	941-741-4081
County Name:	Manatee
Ordinance Number:	18-43

Vicki Tessmer
Supervisor, Board Records, Tax Deeds, and VAB
For Angelina "Angel" Coloneso
Clerk of the Circuit Court and Comptroller of Manatee County
www.manateeclerk.com
vicki.tessmer@manateeclerk.com
941-741-4081

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From: ords@municode.com
To: [Vicki Tessmer](mailto:Vicki_Tessmer); tammy.larsen@mymanatee.org
Subject: Manatee County, FL Code of Ordinances - 1981(10428) Supplement 105
Date: Thursday, October 25, 2018 12:44:17 PM
Attachments: [ATT00001.bin](#)
[ATT00002.bin](#)

****THIS IS AN AUTOMATICALLY GENERATED EMAIL****

Below, you will find the material that we have received/recorded to your account. This material is being considered for inclusion in your next/current update, Supplement 105

Document	Adopted Date	Recorded	Recorded Format
Ordinance No. 18-29	8/2/2018	8/8/2018	Word
Ordinance No. 18-30	8/21/2018	8/24/2018	Word
Ordinance No. 18-31	8/21/2018	8/24/2018	Word
Ordinance No. 18-32	8/21/2018	8/24/2018	Word
Ordinance No. 18-41	9/11/2018	9/17/2018	Word
Ordinance No. 18-43	10/23/2018	10/25/2018	Word



Update the internet version of your Code more often than a printed supplement. We can update the Internet quarterly, monthly, even weekly.



We can post newly enacted ordinances in the online Code after each meeting.