

RESOLUTION 19-16

**TO ADOPT COCHISE COUNTY ZONING REGULATIONS ARTICLE 25 FORECLOSURE
REGISTRY AND AMENDMENTS TO ARTICLE 2 DEFINITIONS**

WHEREAS, A.R.S. 11-801 et. seq. gives the Cochise County Board of Supervisors the authority to adopt Zoning Regulations to address land use; and

WHEREAS, Cochise County has adopted Zoning Regulations as permitted by law;
and

WHEREAS, Zoning Regulations were originally adopted in Cochise County by the Board of Supervisors in 1975 with major revisions adopted in 1984, 1999, 2008, 2013, and 2016; and

WHEREAS, on June 12, 2019 the Planning and Zoning Commission held a duly noticed public hearing of these proposed amendments to the Zoning Regulations, and recommended approval of the amendments set forth in "Exhibit A" hereto, adding Article 25 to the Zoning Regulations and modify certain definitions, which establish a Foreclosure Registry in Cochise County; and

WHEREAS, on June 25, 2019, the Board of Supervisors held a duly noticed public hearing of these proposed amendments to the Zoning Regulations and found them to be in the public interest.

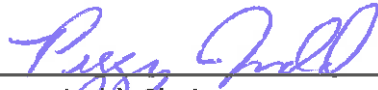
NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Cochise County, Arizona that the Cochise County Zoning Regulations shall be amended as contained in Exhibit A, Article 25 FORECLOSURE REGISTRY and amendments to Article 2 DEFINITIONS, is hereby adopted.

RESOLUTION 19-116

Re: To Adopt the Cochise County Subdivision Regulations, 2019 Edition

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ADOPTED by the Cochise County Board of Supervisors this 25 day of June, 2019.



Peggy Judd, Chairman
Cochise County Board of Supervisors

ATTEST:



Arlethe G. Rios
Clerk of the Board

APPROVED AS TO FORM:



Britt W. Hanson
Chief Civil Deputy County Attorney

ARTICLE 25

FORECLOSURE REGISTRY/ REAL PROPERTY REGISTRATION SYSTEM

2501 PURPOSE AND INTENT

The purpose and intent of this Article is to establish a program to reduce the amount of deteriorating real property located within the County and real property suffering from blight or creating nuisances caused by the lack of adequate maintenance. The program includes a property registration requirement designed to assist in accomplishing the intent and purpose of this Article.

2501.1 INSPECTION, REGISTRATION AND DESIGNATION

- A. Except as otherwise provided in this Article, any mortgagee who holds a mortgage on specified property upon which a notice of default event has taken place shall inspect that property or cause it to be inspected in accordance with this section. If the inspection reveals that the property is not being occupied by the mortgagor or by persons with the mortgagor's consent, the mortgagee shall register the property on forms to be provided by the County. In connection with that registration, the mortgagee shall also designate in writing a property manager to inspect, maintain and secure the property. A separate inspection, registration and designation is required for each specified property.
- B. Mortgagees have a duty to maintain the registration current, update it as necessary and re-register annually so long as the property remains a specified property.
- C. Registration pursuant to subsection 'A' of this section shall contain, at a minimum, the following information:
 - 1. The name and mailing address of the mortgagee and the physical address of the mortgagee if the mailing address is a post office box.
 - 2. A contact name and phone number for purposes of contacting the mortgagee.
 - 3. The name, address and phone number of the property manager.
 - 4. The current occupancy status of the property.
- D. Any property manager designated pursuant to this section must be:
 - 1. A duly-licensed property management company or property preservation company;
 - 2. A department or section of a mortgagee that is devoted to property management or preservation; or

- E. Except as otherwise provided herein, compliance with this Article with respect to any specified property shall be the joint responsibility of the mortgagee and the property manager, as well as the property owner.

2501.4 WAIVED INSPECTION AND MAINTENANCE

- A. A mortgagee's obligation under this Article regarding inspection and maintenance of a specified property may be waived by the County if the mortgagee demonstrates to the satisfaction of the County that the circumstances set forth below exist:
 - 1. The mortgage documents either expressly prohibit the mortgagee and its agents from entering the property for purposes required herein or do not authorize entry to protect the mortgagee's interests in the property; and
 - 2. There is a reasonable possibility, based on articulable evidence, that:
 - a. The obligor under the mortgage or an authorized occupant of the premises will report the entry as a trespass; or
 - b. The obligor under the mortgage will assert against the mortgagee, whether in a foreclosure proceeding or otherwise, a claim that the entry is a breach of the mortgage documents or constitutes an illegal or unauthorized entry on the property.

2501.5 LIMITATIONS AND EFFECT

- A. Nothing in this Article:
 - 1. Requires a mortgagee or its agent or employee to violate any criminal law, any court order, or to violate an automatic stay in a bankruptcy proceeding.
 - 2. Creates a duty or obligation that is owed to, or runs in favor of, any person other than the County and those employees or agents acting on the County's behalf.
 - 3. Creates or implies a cause of action in favor of, or available to, any person other than the County.
- B. No act by a mortgagee or its officers, employees, agents or contractors in compliance with this Article, and no omission of an act required by this Article on the part of a mortgagee or its officers, employees, agents or contractors, shall be deemed or interpreted to:
 - 1. Make the mortgagee, for any purpose, a "mortgagee in possession" of property subject to a mortgage.
 - 2. Create a duty or obligation that is owed to, or runs in favor of, any person other than the County and those employees or agents who are acting in the County's behalf.

Proposed Amendments to Chapter 2 DEFINITIONS of the Cochise County Zoning Regulations.

1. "Default" with respect to a mortgage, means that the obligor under the mortgage has breached or is in default of a repayment or other obligation in connection with that mortgage and has been notified by the mortgagee.
2. "Foreclosure" means the process by which real property placed as security for the repayment of a loan is to be sold to satisfy the debt concerning which the borrower has defaulted and includes proceedings under deeds of trust.
3. "Mortgage" means a first mortgage or other first-priority security interest in real property that is placed as security for the repayment of a loan and includes a first deed of trust.
4. "Mortgagee" means any person or firm who holds a first-priority mortgage or other first-priority security interest in real property to secure a loan, whether as the mortgagee of a mortgage or the beneficiary of a deed of trust.
5. "Notice of default event," with respect to a mortgage, means that a default regarding that mortgage has occurred and either:
 - a. A notice of breach or notice of default and election to sell has been provided to the obligor and has been recorded in the Cochise County Recorder's Office; or
 - b. An action for judicial foreclosure has been commenced regarding that mortgage by the filing of a complaint or petition for foreclosure in a court of competent jurisdiction.
6. "Responsible party" means an owner, lessee, mortgagee, property manager, cotenant or occupant of all specified properties, including buildings, grounds, lots or premises.
7. "Specified property" means any parcel of real property with a structure that is vacant within the County that is subject to a mortgage and concerning which a notice of default event has occurred. For purposes of the inspection requirement set forth in Section 2501.01 of this Article and for that purpose only, the term also includes a parcel of real property that appears to be vacant. Once a parcel is determined not to be vacant or is no longer vacant, it is not considered "specified property" until it qualifies again under this definition.
8. "Vacant," with respect to real property and "vacant real property" mean real property and improvements that are not presently occupied by persons lawfully entitled thereto. The term does not include real property that is unoccupied by reason of the temporary absence of lawful occupants who intend to return and resume occupancy.