



## Legislation Text

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### **PRINT ORDINANCE FROM ATTACHMENTS DUE TO SPACING ISSUES**

#### Title

AN ORDINANCE, CREATING TITLE 5, CHAPTER 9, OF THE VILLAGE CODE OF ORLAND PARK TO BE ENTITLED, “REGISTRATION OF FORECLOSING MORTGAGED PROPERTY”; PROVIDING FOR PURPOSE, INTENT AND APPLICABILITY OF THE ORDINANCE REQUIRING THE REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY BY MORTGAGEES; PROVIDING FOR PENALTIES AND ENFORCEMENT, AS WELL AS THE REGULATION, LIMITATION AND REDUCTION OF REGISTRABLE REAL PROPERTY WITHIN THE VILLAGE; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE

#### Body

WHEREAS, the Village Board of Trustees desires to protect the public health, safety, and welfare of the citizens of the incorporated area of the Village of Orland Park 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 subject to foreclosure action or foreclosed upon properties (hereinafter referred to as “Registrable Properties”) located throughout the Village 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 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 President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

#### SECTION 1

The Board of Trustees finds that the implementation of the following changes and additions 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 regulations and laws.

(a) That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon the adoption hereof.

(b) That the Board of Trustees does hereby amend the Village Code by creating Title 5, Chapter 9 entitled “Registration of Foreclosing Mortgaged Property” to read as follows:

**“TITLE 5. CHAPTER 9. REGISTRATION OF FORECLOSING MORTGAGED PROPERTY**

**5-9-1: PURPOSE AND INTENT:**

It is the purpose and intent of the Board of Trustees to establish a process to address the deterioration, crime, and decline in value of Village neighborhoods caused by property with foreclosing or foreclosed mortgages located within the Village, and to identify, regulate, limit and reduce the number of these properties located within the Village. It has been determined that Owner-occupied structures are generally better maintained when compared to vacant structures, even with a diligent off-site property Owner. Vacant structures or structures owned by individuals who are economically strained and unable to meet their mortgage obligations are often not properly or diligently maintained, which contribute to blight, declined property values, and have a negative impact on social perception of the residential areas where they are located. It is the Board of Trustees’ further intent 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 Foreclosure or Foreclosed, and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property Owners.

**5-9-2: 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, zoning inspector, 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.

**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 as the assignee or owner.

**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, located in the Village limits.

**Registrable Property** shall mean any Real Property located in the Village, whether vacant or occupied, that is encumbered by a mortgage 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 "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; or

**Registry** shall mean a web-based electronic database of searchable Real Property records, used by the Village to allow Mortgagees and Owners the opportunity to register properties and pay applicable fees as required in this Chapter.

**Semi-Annual Registration** shall mean six (6) months from the date of the first action that requires registration, as determined by the Village, 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, and pool maintenance.

**Vacant** shall mean any parcel of land in the Village that contains any building or structure that is not lawfully occupied.

### **5-9-3: APPLICABILITY AND JURISDICTION:**

This Chapter applies to Foreclosing, and Foreclosed property within the Village.

#### **5-9-4: ESTABLISHMENT OF A REGISTRY AND INITIAL REGISTRATION:**

Pursuant to the provisions of Section 5-9-5, the Village, or its designee, shall establish a registry cataloging each Registrable Property within the Village, containing the information required by this Chapter. Any Owner or Mortgagee of Registrable Property, otherwise subject to registration on the effective date of this Chapter, shall register the Real Property with the Village Registry within six (6) months of the effective date of this Code Chapter or within thirty (30) days of notification by the Village of the registration requirements of this Chapter.

#### **5-9-5: INSPECTION AND REGISTRATION OF REAL PROPERTY UNDER FORECLOSURE:**

(a) Any Mortgagee who holds a mortgage on Real Property located within the Village shall perform an inspection of the property upon default by the mortgagor as evidenced by the filing of a Foreclosure Action.

(b) Property inspected pursuant to subsection (a) above that remains in Foreclosure 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 files a Foreclosure Action, the Mortgagee shall register the Real Property with the Village 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 under a Foreclosure Action when legally possible. A separate registration is required for each property under a Foreclosure Action, regardless of whether it is occupied or vacant.

(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) for each property. Subsequent non-refundable Semi-Annual renewal registrations of properties and fees in the amount of three hundred dollars (\$300) 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, (3) post-closing counseling and Foreclosure intervention limited to Owner-occupied persons in Default, which may not include cash and mortgage modification assistance, and (4) for any related purposes as may be adopted in the policy set forth in this Chapter. Said fees shall be deposited to a special account in the Village's Finance Department which is dedicated to the cost of implementation and enforcement of this Ordinance, and fulfilling the purpose and intent of this Chapter. None of the funds provided for in this Section shall be utilized for the legal defense of Foreclosure Actions.

(f) If the mortgage and/or servicing on a Registrable 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 Registrable Property.

(g) If the Mortgagee sells or transfers the Registrable 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 Foreclosed Property.

(h) If the Foreclosing or Foreclosed 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 Registrable Property.

(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 by any of the enforcement means available to the Village.

(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) Registration of foreclosure property does not alleviate the Mortgagee and/or Owner from obtaining all required licenses, permits and inspections required by applicable code or State Statutes. Acquisition of required licenses, permits and inspections or registration of rental property does not alleviate the requirement for the property to be registered under this Section. Mortgagee and/or Owner is expected to update the status of the property in the event of a Mortgagee managed rental.

#### **5-9-6: MAINTENANCE AND SECURITY REQUIREMENTS:**

Mortgagees and Owners of properties subject to this Chapter are required to maintain the property in accordance with applicable Village Codes and Ordinances.

#### **5-9-7: 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.

**5-9-8: 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.

**5-9-9: 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 and immediate 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, and may bring the violations before the Village Prosecutor or the Board of Trustees as soon as possible to address the conditions of the property. Nothing herein shall limit the Village from abating any nuisance or unsafe condition by any other legal means available to it.

(b) The Village Police Department, Code Enforcement Officer, Board of Trustees or Village Prosecutor 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 and immediate threat to the public health, safety, and welfare, then the Village Police Department, Code Enforcement Officer, Board of Trustees or Village Prosecutor may direct the Village to 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 directed by the Village Police Department, Code Enforcement Officer, Board of Trustees or Village Prosecutor, 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 of five hundred dollars (\$500.00) to recover the administrative personnel services. In addition to filing a lien the Village may pursue financial penalties against the Mortgagee or Owner.

(e) The Village may contract with an entity to implement this Chapter, and, if so, any reference to the Code Enforcement Officer herein shall include the entity the Village contracts with for that purpose.

**5-9-10: OPPOSING, OBSTRUCTING ENFORCEMENT OFFICER; PENALTY:**

Whoever opposes obstructs or resists any Enforcement Officer or any person authorized by the Village Board of Trustees 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.

**5-9-11: 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.

**5-9-12: PENALTIES:**

Unless otherwise provided for in this Chapter, a violation of this Chapter is declared unlawful, and the violator shall be fined according to the fine schedule located in Appendix B for each offense.

**5-9-13: AMENDMENTS:**

Registration fees and penalties outlined in this Chapter may be modified by ordinance amending this Chapter, passed and adopted by the Board of Trustees.”

SECTION 2

“APPENDIX B - FINE SCHEDULE” of the Orland Park Village Code is hereby amended to provide as follows:

“Title & Chapter	Ordinances	Fine Ranges
Title 5 Chapter 9 - Registration of Foreclosing Mortgaged Property	5548 / 5-9-13	\$250 - \$1,000”

SECTION 3

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 4

All ordinances or parts of ordinances in conflict herewith, are hereby repealed and replaced.

SECTION 5

It is the intention of the Board of Trustees, that the provisions of this Ordinance shall become and be made a part of the Village Code of Ordinances; and that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word “ordinance” may be changed to “section”, “chapter”, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6

This Ordinance shall become effective immediately upon adoption and publication in the manner provided by law. It is ordered that publication of this Ordinance be made by duplication thereof in pamphlet form, said pamphlets to be deposited in the Office of the Village Clerk for general distribution.