

ORDINANCE NO. 0-18-37

AN ORDINANCE, CREATING CHAPTER 83 OF THE MUNICIPAL CODE OF THE VILLAGE OF HANOVER PARK, AS AMENDED, TO BE ENTITLED, “REGISTRATION OF DEFAULTED MORTGAGE AND VACANT PROPERTY”; PROVIDING FOR PURPOSE, INTENT AND APPLICABILITY OF THE ORDINANCE REQUIRING THE REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY BY MORTGAGEES AND VACANT PROPERTY BY OWNERS; 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

WHEREAS, the Village President and Board of Trustees desires to protect the public health, safety, and welfare of the residents of the Village of Hanover Park and maintain a high quality of life for the residents of the Village through the maintenance of structures and properties in the Village; and

WHEREAS, the President and Board of Trustees recognizes properties with defaulted mortgages and subject to foreclosure action or foreclosed upon and vacant 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 President and 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 President and Board of Trustees recognizes that 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 President and Board of Trustees has a vested interest in protecting Village neighborhoods against decay caused by Registrable Property and concludes that it is in the best interest 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 Hanover Park, Cook and DuPage Counties, Illinois, as follows:

SECTION 1: That the President and 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; and 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.

SECTION 2: That the Municipal Code of the Village of Hanover Park, as amended, be and is hereby amended by adding a new Chapter 83 to read as follows:

CHAPTER 83 – REGISTRATION OF DEVAULTED MORTGAGE AND VACANT PROPERTY

Sec. 83-1. – Purpose and intent.

It is the purpose and intent of the President and Board of Trustees to establish a process to address the deterioration, crime, and decline in value of Village neighborhoods caused by property with defaulted 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 President and 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 Default or Defaulted, and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property Owners.

Sec. 83-2. – 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; and/or the presence of boards over doors, windows or other openings in violation of applicable code.

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.

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

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.

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

- (a) Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, building, structure, parcel of land, 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, Vacant or otherwise, including a mobile home park, in any capacity, including but not limited to, agent, executor, administrator, 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 the 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.

The Property Manager shall not be considered the Owner.

Property Manager means 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 in Default, is 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 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 “default/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 and any Default on the mortgage has been cured.

Annual Registration shall mean twelve (12) months from the date of the first action that requires registration, as determined by the Village, or its designee, and every subsequent twelve (12) 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, pool maintenance, and snow removal.

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

Sec. 83-3. – Applicability and jurisdiction.

This Chapter applies to Defaulted and Vacant property within the Village.

Sec. 83-4. – Establishment of registry.

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

Sec. 83-5. – Inspection and registration of defaulted mortgage.

- (a) Any Mortgagee who holds a mortgage on Real Property located within the Village shall perform an inspection of the property upon it being in Default or Defaulted by the mortgagor or prior to the issuance of a notice of Default.

- (b) Property inspected pursuant to subsection (a) above that remains in Default or Defaulted, 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 declares its mortgage to be in Default or Defaulted, the Mortgagee shall register the Real Property with the Village Foreclosure 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 in Default or Defaulted. A separate registration is required for each Defaulted property.
- (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 Annual Registration fee of four hundred dollars (\$400.00) for each Defaulted property. Subsequent Annual Registrations of Defaulted properties and fees in the amount of four hundred dollars (\$400.00) 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, and (3) 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 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 Defaulted mortgage and/or servicing on a 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 Defaulted property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, including but not limited to unregistered periods during the Foreclosure process shall be the responsibility of the Mortgagee at the time initial registration and/or Annual Registrations were required and are subject to enforcement per this Chapter. If the mortgage on a Registrable Property is sold or transferred, the new Mortgagee is subject to all the terms of this Chapter, and within ten (10) days of the transfer or sale shall update the existing 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 Defaulted property. The provisions of this section are cumulative with and in addition to other available remedies. Moreover, the Village is authorized and empowered to collect on the previous Mortgagee's non-payment of previous fees, fines, and penalties in any lawful manner.

- (g) If the Mortgagee sells or transfers the Defaulted 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, and within ten (10) days of the transfer, shall register the Defaulted property or update the existing registration. Any and all previously 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 new Owner of the foreclosed property and are due and payable with the updated registration. The previous Mortgagee will not be released from the responsibility of paying all previously unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Defaulted property. The provisions of this section are cumulative with and in addition to other available remedies. Moreover, the Village is authorized and empowered to collect on the previous Mortgagee's non-payment of previous fees, fines, and penalties in any lawful manner.
- (h) If the Defaulted property is not registered, or either the registration fee or the Annual Registration fee is not paid within thirty (30) days of when the registration or Annual Registration is required pursuant to this section, a late fee equivalent to ten percent (10%) of the 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. This section shall apply to the initial registration and registrations required by subsequent Owners of the Defaulted mortgage and/or Defaulted property. Registrations delinquent greater than thirty (30) days are also subject to additional fines as described herein.
- (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 Annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the mortgage is under Foreclosure or in Default or Defaulted. Until the mortgage or lien on the property in question is satisfied, or legally discharged, the desire to no longer pursue Foreclosure, the filing of a dismissal of lis pendens and/or summary of final judgment and/or certificate of title, voluntary or otherwise, does not exempt any Mortgagee holding the Defaulted mortgage, from all the requirements of this Chapter as long as the borrower is in Default.
- (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 Chapter 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 recover the cost of the outstanding obligation and any additional cost incurred to bring the property into compliance.

Sec. 83-6. – Maintenance requirements.

- (a) Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper circulars, flyers, 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 removal or painting over 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 is 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. 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).
- (g) 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 or notice of violation in accordance with the applicable code of the Village. Pursuant to a finding and determination by the Village Administrative Adjudication or a court of competent jurisdiction, the Village may take the necessary action to ensure compliance with this section.
- (h) In addition to the above, the property is required to be maintained in accordance with the applicable code(s) of the Village.

Sec. 83-7. – Security requirements.

- (a) Properties subject to these Sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- (b) 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 structure. Broken windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property or

structure must be repaired. Broken windows shall be secured by re-glazing of the window.

- (c) If a property is Registrable, and the property has become vacant or blighted, a Property Manager shall be designated by the Mortgagee or Owner to perform the work necessary to bring the property into compliance with the applicable code(s), and the Property Manager must perform regular inspections to verify compliance with the requirements of this Chapter, and any other applicable laws.
- (d) In addition to the above, the property is required to be secured in accordance with the applicable code(s) of the Village.
- (e) Failure of the Mortgagee and/or property Owner of record to properly inspect and secure a property subject to this Chapter shall be subject to enforcement by any of the enforcement means available to the Village. The Village may take the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.

Sec. 83-8. – Provisions supplemental.

Nothing contained in this Chapter shall prohibit the Village from enforcing its codes by any other means, including, but not limited to, injunction, abatement, or as otherwise provided by law or ordinance.

Sec. 83-9. – 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.

Sec. 83-10. – 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 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 a court of competent jurisdiction or the Village Administrative Adjudication 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, through its Administrative Adjudication or a court of competent jurisdiction, shall have the authority to recommend that the Mortgagee or Owner affected by this section, 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. The Village's Administrative Hearing Officer or Judge of a court of competent jurisdiction may consider any of the foregoing in setting authorized fines.

- (c) If the property is posing an imminent threat to the public health, safety, and welfare, then any court of competent jurisdiction may direct or the Village's Administrative Adjudication may recommend the Village to abate the condition or conditions constituting the threat and the Mortgagee or Owner may be subject to paying 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 within thirty (30) days of the Village sending the Mortgagee or Owner the invoice for the cost of securing the property or the abatement, then the Village may recover its costs in any manner provided by law. Further it is a violation of this Section to fail to reimburse the Village within the 30 days of sending the invoice.

Sec. 83-11. – Opposing, obstructing enforcement officer; penalty.

Whoever opposes obstructs or resists any Enforcement Officer or any person authorized by the enforcement office 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.

Sec. 83-12. – 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.

Sec. 83-13. – Penalties.

Unless otherwise provided for in this Chapter, a violation of this Chapter is declared unlawful. The violator shall be subject to a fine of not less than \$100.00 nor more than \$1,500. Each day each Section of this Chapter is violated shall constitute a separate violation.

SECTION 3: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof. The Board of Trustees hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 4: That except as to the amendments heretofore mentioned, all chapters, sections, subsections, and paragraphs of the Municipal Code of Hanover Park shall remain in full force and effect.

SECTION 5: This Ordinance shall, by authority of the Village Board of the Village of Hanover Park, be published in pamphlet form. From and after ten days after said publication, this Ordinance shall be in full force and effect.

ADOPTED this 2 day of November 2018, pursuant to a roll call vote as follows:

AYES: Prigge, Roberts, Porter, Kemper, Kunkel, Shahjahan

NAYS: None

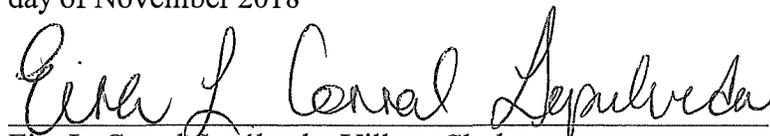
ABSENT: None

ABSTENTION: None

APPROVED by me this 2nd day of November 2018


Rodney S. Craig, Village President

ATTESTED, filed in my office, and
published in pamphlet form this 2nd
day of November 2018


Eira L. Corral Sepúlveda, Village Clerk