

ORDINANCE CREATING ARTICLE X (FORECLOSURE REGISTRATION) OF
CHAPTER 5 (BUILDINGS AND BUILDING REGULATION) OF THE CODE OF THE
CITY OF PEORIA

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article 7, Section 6 of the Illinois Constitution of 1970 and has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety and welfare of its citizens; and

WHEREAS, it is the purpose and intent of the City Council to establish a process to address the deterioration, crime, and decline in value of City of Peoria neighborhoods caused by property with foreclosing or foreclosed mortgages located within the City of Peoria, and to identify, regulate, limit and reduce the number of these properties located within the City of Peoria; and

WHEREAS, the City Council has determined that Owner-occupied structures are generally better maintained when compared to vacant structures, even with a diligent off-site property Owner; and

WHEREAS, 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; and

WHEREAS, it is the City Council's 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

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY
COUNCIL OF THE CITY OF PEORIA, ILLINOIS, as follows:**

SECTION 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. Creation of Article X. Chapter 5 of the Municipal Code of the City of Peoria shall be amended by the addition of Article X that will read as follows:

Sec. 5-543. - Definitions. For the purpose of this article, unless the context requires otherwise, the following terms shall be construed as herein defined:

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.

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.

Registrable Property shall mean any Real Property located in the City, whether vacant or occupied, that 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 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.

Sec. 5-544. – Registration Requirement

- a. Any Mortgagee who holds a mortgage on Real Property located within the City 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 as evidenced by~~ the filing of a Foreclosure Action. Within ten (10) days of the date any Mortgagee files a Foreclosure Action, the Mortgagee shall register the Real Property with the City, and, at the time of registration, indicate whether the property is Vacant. A separate registration is required for each parcel.
- b. 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 a local agent residing within 45 miles of the City of Peoria and said person's address, e-mail address, and telephone number, regardless of whether it is occupied or vacant.
- c. At the time of initial registration each registrant shall pay a non-refundable Semi-Annual Registration fee of three hundred dollars (\$300.00) for each Property. Subsequent non-refundable Semi-Annual Registrations of properties and fees in the amount of three hundred dollars (\$300.00) are due within ten (10) days of the expiration of the previous registration. The registration must be renewed every six months until the property is no longer owned by the entity who was required to register the property. Registrations are non-transferable and are not pro-rated.
- d. If the 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 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. ~~This assumes the property is still in default and foreclosure action is taking place.~~

- e. 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 Registrable Property.
- f. 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 twenty percent (20%) 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.
- g. 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.
- h. Properties subject to this section shall remain subject to the Semi-Annual Registration requirement as long as the property remains Registrable.
- i. 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 City.

Sec. 5-545. - Penalties.

- (a) Each day that Registrable Property not registered in accordance with the provisions of sections 5-544 of this article shall constitute a separate and distinct violation.
- (b) In addition to any of the penalties provided in this article, any person or entity committing an offense under sections 5-544 of this article, shall, upon conviction thereof, be fined \$500.00 for the first offense, and \$750.00 for the second and each subsequent offense in any 180-day period.
- (c) The intentional submission of false information on a registration statement or an amended registration statement filed pursuant to section 5-544 of this article shall be a violation punishable by a fine of not less than \$500.00 nor more than \$1,000.00. Each day that such

violation remains uncorrected by the owner(s) shall constitute a separate and distinct violation.

- (d) Violations of this ~~article~~ **Article** X on registration of Registrable Lots shall constitute an ordinance violation and shall not be pursued through the code hearing process set forth in Chapter 32 of the City of Peoria code.
- (h) In addition to fine penalties imposed for any violations, the corporation counsel of the City of Peoria may commence a court action to obtain injunctive relief against a Mortgagee who fails to comply.

SECTION 3. Effective Date. This ordinance shall be in full force and effect thirty (30) days after its passage and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this _____ day of _____, 2019.

APPROVED:

Jim Ardis, Mayor

ATTEST:

Beth Ball, City Clerk

EXAMINED AND APPROVED:

Corporation Counsel