



CITY OF LONG BEACH **ORD-34**

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 4th Floor Long Beach, CA 90802 (562) 570-5237 Fax: (562) 570-6205

September 20, 2011

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare Ordinance amending Long Beach Municipal Code Chapter 18.24 relating to the City's Foreclosure Registry Program read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

On January 4, 2011, the City Council adopted Chapter 18.24 of the Municipal Code establishing a "Foreclosure Registry Program" in the City. Chapter 18.24 provides the City with the ability to better track and monitor properties involved in the foreclosure process, and requires lenders/trustees of vacant properties to maintain their properties so that they do not become a blight or nuisance in the community.

Since the implementation of Chapter 18.24, staff has been tracking Notices of Default (NOD) for residential properties in the City. Since February 2011, an estimated 1,500 NODs have been recorded, and of those, approximately 700 have been registered through the City's Foreclosure Registry Program. The current program requires that staff inspect all registered properties, and document existing conditions. If the property is not maintained, appropriate violation notices are sent. Failure to comply results in the issuance of an Administrative Citation, and the property is then placed into the City's Long-Term Boarded and Vacated Building Program per Chapter 18.21 of the Long Beach Municipal Code. In addition, the current regulations provide for monetary penalties of up to \$1,000 a day for properties that have chronic maintenance issues. Over the last six months, notices advising lenders and trustees of the registry requirements have been issued to all entities that have filed a NOD against residential properties. Under the current ordinance, lenders and trustees must register the property only if it is vacant or abandoned. At this point, there is no way to determine if these residential properties are vacant without a field visit by a member of City staff.

Staff recognizes that, in addition to vacant residential properties, many occupied properties involved in the foreclosure process are not being adequately maintained. The proposed amendments to Chapter 18.24 would require that both vacant and occupied properties be registered with the City at or near the time that a NOD is recorded against the property. The amended ordinance would, therefore, require that all properties registered with the City as part of the program, whether vacant or occupied, pay the annual registration fee of \$155. This fee provides cost recovery for an initial inspection to determine whether or not

the property is in compliance with the City's property maintenance standards. Hence, every residential property in the foreclosure process will be inspected for Code compliance. The above-mentioned fee has been established by a separate resolution, as part of the City's Master Fee Resolution.

In addition, the amended ordinance would provide for a penalty for all lenders and/or trustees that do not properly register their properties with the City. The penalties would be imposed in accordance with the provisions of Chapter 9.65 of the Long Beach Municipal Code "Administrative Citations and Penalties." The penalty structure under Chapter 9.65 would allow the City to impose a fine of \$100 for a first violation, \$200 for a second violation, and \$500 for a third and any subsequent violations occurring within a one-year period.

This matter was reviewed by Assistant City Attorney Michael Mais on August 24, 2011 and Budget Management Officer Victoria Bell on September 2, 2011.

TIMING CONSIDERATIONS

City Council action on this matter is not time critical.

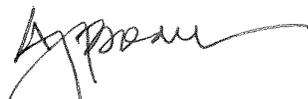
FISCAL IMPACT

Any revenues received as a result of this action will be deposited into the General Fund (GP) in the Department of Development Services (DV) to cover the cost of a Code Enforcement inspection and evaluation for each registered property. There will not be an impact on local jobs as a result of the recommended action.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

AJB:AR:LR:wa
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Attachments: City Council Ordinance
City Council Ordinance Redline Version

APPROVED:



PATRICK H. WEST
CITY MANAGER

Chapter 18.24

Foreclosure Registry Program

18.24.010 Purpose.

It is the intent of the City Council, through the adoption of this Chapter, to establish a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of vacant ~~or~~, abandoned or foreclosed upon residential real properties; to establish ~~ana vacant~~, abandoned or foreclosed upon residential property registration program and to set forth guidelines for the maintenance of vacant, abandoned or foreclosed upon residential real properties.

18.24.020 Definitions.

Certain words and phrases in this Chapter are defined, when used herein, as follows:

Abandoned. Any residential building, structure or real property that is vacant or occupied by a person without a legal right of occupancy, and subject to a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessor's Lien Sale and/or any residential real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or any residential real property conveyed via a deed in lieu of foreclosure sale.

Accessible Property. ~~Real~~Residential real property that is accessible to the public, either in general, or through an open and unsecured door, window, gate, fence, wall, or the like.

Agreement. Any written instrument that transfers or conveys title to residential real property from one owner to another after a sale, trade, transfer or exchange.

OFFICE OF THE CITY ATTORNEY
 ROBERT E. SHANNON, City Attorney
 333 West Ocean Boulevard, 11th Floor
 Long Beach, CA 90802-4664

OFFICE OF THE CITY ATTORNEY
 ROBERT E. SHANNON, City Attorney
 333 West Ocean Boulevard, 11th Floor
 Long Beach, CA 90802-4664

1 Assignment of Rents. An instrument that transfers the beneficial
 2 interest under a deed of trust from one lender or entity to another.

3 Beneficiary. A lender participating in a residential real property
 4 transaction that holds a secured interest in the residential real property in
 5 question identified in a deed of trust.

6 Buyer. Any person, partnership, association, corporation, fiduciary
 7 or other legal entity that agrees to transfer anything of value in
 8 consideration for residential real property via an “agreement” as that term
 9 is defined in this Section.

10 Dangerous Building. Any residential building or structure
 11 reasonably deemed by qualified City staff to represent a violation of any
 12 provision specified in ~~the~~ Long Beach Municipal Code Section 18.02.050.

13 Days. Calendar days.

14 Deed of Trust. An instrument whereby an owner of residential real
 15 property, as trustor, transfers a secured interest in the real property in
 16 question to a third party trustee, said instrument relating to a loan issued
 17 in the context of a real property transaction. This definition applies to any
 18 and all subordinate deeds of trusts including, but not limited to a second
 19 trust deed or third trust deed.

20 Deed in Lieu of Foreclosure. A recorded instrument that transfers
 21 ownership of real property between parties to a particular deed of trust as
 22 follows – from the trustor (i.e, borrower), to the trustee upon consent of the
 23 beneficiary (i.e., lender).

24 Default. The material breach of a legal or contractual duty arising
 25 from or relating to a deed of trust, such as a trustor’s failure to make
 26 payment when due.

27 Distressed. Any residential building, structure or real property that
 28 is subject to a current Notice of Default and/or Notice of Trustee’s Sale,

OFFICE OF THE CITY ATTORNEY
 ROBERT E. SHANNON, City Attorney
 333 West Ocean Boulevard, 11th Floor
 Long Beach, CA 90802-4664

1 pending Tax Assessors Lien Sale and/or any residential real property
 2 conveyed via a foreclosure sale resulting in the acquisition of title by an
 3 interested beneficiary of a deed of trust, and/or any residential real
 4 property conveyed via a deed in lieu of foreclosure/sale, regardless of
 5 vacancy or occupancy by a person with no legal right of occupancy.

6 Enforcement Official. The City Manager, the Director of
 7 Development Services, and/or any employee or agency of the City of Long
 8 Beach designated and/or charged with enforcing the Long Beach
 9 Municipal Code, including but not limited to, applicable codes adopted by
 10 reference therein.

11 Evidence of Vacancy. Any residential real property condition that
 12 independently, or in the context of the totality of circumstances relevant to
 13 that real property, would lead a reasonable enforcement official to believe
 14 that a property is vacant or occupied by a person without a legal right of
 15 occupancy. Such real property conditions include, but are not limited to:
 16 overgrown or dead vegetation; accumulation of newspapers, circulars,
 17 flyers or mail; past due utility notices or disconnected utilities;
 18 accumulation of trash, junk or debris; the absence of window coverings
 19 such as curtains, blinds or shutters; the absence of furnishings or personal
 20 items consistent with residential habitation; and/or statements by
 21 neighbors, passersby, delivery agents, or government employees that the
 22 property is vacant.

23 Foreclosure. The process by which real property subject to a deed
 24 of trust is sold to satisfy the debt of a defaulting trustor (i.e., borrower).

25 Local. Within forty (40) road or driving miles distance from the
 26 subject building, structure or real property in question.

27 Neighborhood Standard. The condition of residential real property
 28 that prevails in and through the neighborhood where an abandoned

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 ROBERT E. SHANNON, City Attorney
 333 West Ocean Boulevard, 11th Floor
 Long Beach, CA 90802-4664

1 building, structure or real property is located. When determining the
 2 neighborhood standard no abandoned or distressed building, structure or
 3 real property shall be considered.

4 Notice of Default. A recorded instrument that reflects and provides
 5 notice that a default has taken place with respect to a deed of trust, and
 6 that a beneficiary intends to proceed with a trustee’s sale.

7 Out of Area. In excess of forty (40) road or driving miles of the
 8 subject property.

9 Owner. Any person, partnership, association, corporation, fiduciary
 10 or other legal entity having recorded title to the property as reflected in the
 11 official records of the County Recorder of Los Angeles County.

12 Owner of Record. The person holding recorded title to the
 13 residential real property in question at any point in time when Official
 14 Records are produced by the Los Angeles County Registrar/Recorder’s
 15 office.

16 Property. Any unimproved or improved residential real property, or
 17 portion thereof, situated in the City of Long Beach, including buildings or
 18 structures located on said real property, regardless of condition.

19 Residential Building. Any improved real property, or portion
 20 thereof, designed or permitted to be used for dwelling purposes, including
 21 buildings and structures located on such improved real property. This
 22 includes any real property being offered under any circumstances for sale,
 23 trade, transfer, or exchange as “residential,” whether or not said property
 24 is legally permitted and zoned for such use.

25 Securing. Such measures as may be directed by a code
 26 enforcement official that assist in rendering real property inaccessible to
 27 unauthorized persons, including but not limited to repairing fences and
 28 walls, chaining/padlocking gates, the repairing or boarding of doors,

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ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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windows or other such openings.

Trustee. Any person, partnership, association, corporation, fiduciary or other legal entity holding a deed of trust securing an interest in real property.

Trustor. Any owner/borrower identified in a deed of trust, who transfers an interest in real property to a trustee as security for payment of a debt by that owner/trustor.

Vacant. Any building, structure or real property that is unoccupied or occupied by a person without a legal right of occupancy.

18.24.030 Registration.

A. ~~Each beneficiary and trustee who holds a deed of trust on a property located within the City of Long Beach shall perform an inspection of the property in question prior to recording a Notice of Default or similar instrument with the Los Angeles County Registrar/Recorder's Office. If the property is found to be vacant or shows evidence of vacancy, as defined by this Chapter, it is hereby deemed to be abandoned~~Not later than ten (10) days after recording a notice of default on any residential property located in the City of Long Beach which is subject to a deed of trust, the beneficiary, or its trustee, shall register the property with the Development Services Department of the City of Long Beach on forms provided by the City.

B. ~~Within thirty (30) days of identification of any vacant or abandoned property, the beneficiary and trustee must register the property with the City of Long Beach Development Services Department on specified forms.~~

C. ~~If the property is occupied but distressed, the trustee and beneficiary or a designee shall inspect the property on a monthly basis until:~~

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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~~1. the trustor or another party remedies the default; or
2. the property is found to be vacant or shows evidence of vacancy, deemed abandoned and is rendered subject to the requirements set forth in Subsection 18.24.030.B.~~

~~D. The registration pursuant to Subsection 18.24.030.B~~this Section shall be renewed annually until such time as:

1. the foreclosure process is complete or the notice of default has been rescinded or withdrawn;

2. the Trustor has surrendered the property to the beneficiary as evidenced by either a letter from the trustor addressed to the beneficiary confirming such surrender, or by the trustor's delivery of the keys to the property to the beneficiary or its agent.

3. the beneficiary has obtained possession of the property under the Code of Civil Procedure Section 1161 or 1161a or 1161b, as applicable, following completion of the foreclosure proceeding.

If a subsequent notice of default is issued for the same property after being withdrawn or rescinded, the registration requirement set forth in this Section shall be reinstated.

C. The registration pursuant to this Section shall contain the identity of the beneficiary and trustee, the direct mailing address of the beneficiary and trustee and, in the case of a corporate or out of area beneficiary or trustee, the local property management company, if any, responsible for the security, maintenance and marketing of the property in question.

~~E. The registration pursuant to Section 18.24.030.B shall be renewed annually.~~

FD. An annual registration fee as set by the City Council by resolution shall accompany the submission of each registration form. The

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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fee and registration shall be valid for one (1) year from the date of registration. Registration fees will not be prorated. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 15th of the year due.

~~G. This Section shall also apply to properties that have been the subject of a foreclosure sale wherein title has been transferred to the beneficiary of a deed of trust involved in the foreclosure, and to any properties transferred under a deed in lieu of foreclosure or sale.~~

~~H. Properties subject to this Chapter shall remain subject to the annual registration requirement, security and maintenance standards of this Chapter as long as they remain vacant.~~

E. Any person, partnership, association, corporation, fiduciary or other legal entity that has registered a property under this Chapter must make a written report to the City of Long Beach Development Services Department of any change of information contained in the registration form within ten (10) days of the change.

F. The duties/obligations specified in this Chapter shall be joint and several among and between all trustees and beneficiaries and their respective agents.

18.24.035 Penalty/fine for failure to timely register a property with the City.

A. Notwithstanding any other provision of this Chapter or Chapter 9.65 to the contrary, the City may, after fifteen (15) days written notice to the beneficiary or its trustee, impose a fine/penalty on a beneficiary or its trustee for its failure to timely register a property with the City under this Chapter. The amount of such fines and/or penalties shall be established by the City Council by resolution.

B. The imposition of a fine/penalty for failure to register a property shall be in accordance with the provisions and procedures set

1 forth in Chapter 9.65 of the Long Beach Municipal Code: "Administrative
2 Citations and Penalties."

3 C. Any failure to pay fines or penalties imposed pursuant to this
4 Chapter may be remedied by the City in accordance with Section 9.65.140
5 of this Code, or any successor section thereto.

6 18.24.040 Maintenance required.

7 It is declared a public nuisance for any person, partnership,
8 association, corporation, fiduciary or other legal entity, that owns, leases,
9 occupies, controls or manages any property subject to the registration
10 requirement contained in Section 18.24.030-~~B~~, to cause, permit, or
11 maintain any property condition contrary to any provision of this Chapter.
12 Consequently, the following maintenance requirements as to any property
13 subject to the registration requirement contained in Section 18.24.030-~~B~~
14 are adopted:

15 A. Any property subject to this Chapter must comply with the
16 requirements of the Long Beach Municipal Code Chapter 18.20 entitled
17 "Unsafe Buildings or Structures."

18 B. In addition, the property shall be kept free of weeds, dry
19 brush, dead vegetation, trash, junk, debris, building materials, any
20 accumulation of newspaper, circular, flyers, notices (except those required
21 by federal, state or local law), discarded personal items including, but not
22 limited to, furniture, clothing, large and small appliances, printed material
23 or any other items that give the appearance that the property is
24 abandoned.

25 C. The property shall be maintained free of graffiti, tagging or
26 similar marking. Any removal or painting over of graffiti shall be with an
27 exterior grade paint that matches the color of the exterior of the structure.

28 D. Visible front and side yards shall be landscaped and

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 maintained to the neighborhood standard.

2 E. Landscaping includes, but is not limited to, grass, ground
3 covers, bushes, shrubs, hedges or similar plantings, decorative rock or
4 bark or artificial turf/sod designed specifically for residential installation.

5 F. Landscaping does not include weeds, gravel, broken
6 concrete, asphalt, plastic sheeting, mulch, indoor-outdoor carpet or any
7 other similar material.

8 G. Pools and spas shall be kept in working order so that water
9 remains clear and free of pollutants and debris, or alternatively shall be
10 drained and kept dry. In either case, properties with pools and/or spas
11 must comply with the minimum security fencing requirements of the State
12 of California.

13 H. Adherence to this Section does not relieve the beneficiary/
14 trustee or property owner of obligations set forth in any portion of the Long
15 Beach Municipal Code or in any Covenants, Conditions and Restrictions
16 and/or Home Owners Association rules and regulations which may apply
17 to the property.

18 The sole exception to these maintenance requirements shall, within
19 the sole reasonable discretion of the Director of Development Services or
20 designee, apply to property subject to the registration requirement
21 contained in Section 18.24.030-~~B~~ that is under construction and/or repair,
22 not less than three (3) business days per week, undertaken in compliance
23 with all applicable laws, including but not limited to, City permitting
24 requirements.

25 18.24.050 Security requirements.

26 A. Properties subject to this Chapter shall be maintained in a
27 secure manner so as not to be accessible to unauthorized persons.

28 B. Secure manner includes, but is not limited to, closing and

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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locking of windows, doors (walk-through, sliding, and garage), gates and any other opening that may allow access to the interior of the property and/or structure(s). In the case of broken windows, “securing” means reglazing or boarding the window.

C. If the property is owned by a corporation and/or out of area beneficiary/trustee/owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this Section, and any other applicable laws, are being fulfilled.

D. The property shall be posted with the name and twenty-four (24) hour contact phone number of the local property management company. The posting shall be 8-1/2” x 11” in size, shall be of a font that is legible from a distance of twenty (20) feet, and shall contain the following verbiage: “THIS PROPERTY MANAGED BY _____,” and “TO REPORT PROBLEMS OR CONCERNS CALL (name and phone number).”

E. The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street on the front of the property so it is visible from the street. If no such area exists, the posting shall be on a stake of sufficient size to support the posting, in a location that is visible from the street to the front of the property, and to the extent possible, not readily accessible to potential vandalism. Exterior posting must be constructed of, and printed with weather resistant materials.

F.— The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirement of this Chapter. If the property management company determines the property is not in compliance, it is the company’s

1 responsibility to bring the property into compliance.

2 G. The duties/obligations specified in this Chapter shall be joint
 3 and several among and between all trustees and beneficiaries and their
 4 respective agents.

5 18.24.055 Special provisions where property is encumbered with the
 6 security interests of multiple beneficiaries.

7 A. In the event that a property is encumbered by the security
 8 interests of more than one (1) beneficiary at the time when a notice of
 9 default is recorded, the beneficiary who causes a notice of default for its
 10 security interest to be recorded shall be responsible for registering the
 11 property with the City as provided in Section 18.24.030.

12 B. Upon the recordation of a notice of default on a property by
 13 any beneficiary, regardless of the security lien interest priority of such
 14 beneficiary in the property in relation to the priority of the security interests
 15 of the other beneficiaries in the same property, the City, in its discretion
 16 may elect to enforce the provisions of this Chapter against one or more
 17 beneficiaries who have not separately recorded a notice of default against
 18 the property.

19 18.24.060 Additional authority.

20 In addition to the enforcement remedies established in this Chapter,
 21 the City shall have the authority to require the beneficiary, trustee, owner
 22 or owner of record of any property affected by this Chapter, to implement
 23 additional maintenance and/or security measures including, but not limited
 24 to, securing any and all doors, windows or other openings, installing
 25 additional security lighting, increasing on-site inspection frequency,
 26 employment of an on-site security guard and/or other measures as may
 27 be reasonably required to secure and reduce the visual decline of the
 28 property.

OFFICE OF THE CITY ATTORNEY
 ROBERT E. SHANNON, City Attorney
 333 West Ocean Boulevard, 11th Floor
 Long Beach, CA 90802-4664

OFFICE OF THE CITY ATTORNEY
 ROBERT E. SHANNON, City Attorney
 333 West Ocean Boulevard, 11th Floor
 Long Beach, CA 90802-4664

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18.24.070 Enforcement.

A. Any violation of this Chapter shall be treated as a strict liability offense; a violation shall be deemed to have occurred regardless of a violator’s intent. Any person, firm and/or corporation that violates any portion of this Chapter including, but not limited to the registration requirements set forth in Section 18.24.030, the maintenance requirements set forth in Section 18.24.040, and the security requirements set forth in Section 18.24.050 may be subject to administrative enforcement under Chapter 9.65 of the Long Beach Municipal Code. Administrative penalties imposed pursuant to this Chapter shall not exceed One Hundred Thousand Dollars (\$100,000.00) per property.

B. Any person, partnership, association, corporation, fiduciary or other legal entity, that owns, leases, occupies, controls or manages any property subject to the registration requirement contained in Section 18.24.030-~~B~~, and causes, permits, or maintains a violation of this Chapter as to that property, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in Chapter 1.32 of this Code.

C. This Chapter is intended to be cumulative to, and not in place of, other rights and remedies available to the City pursuant to the Long Beach Municipal Code. The City Attorney or a duly authorized enforcement official may pursue any other right or remedy permitted by the Long Beach Municipal Code, including, but not limited to, commencement of any civil action, or administrative action to abate the condition of a property as a public nuisance.

18.24.080 Appeals.

~~Any person aggrieved by any of the requirements of this Chapter may appeal a determination made hereunder by filing a written notice of appeal upon the Secretary of the Board of Examiners, Appeals and~~

OFFICE OF THE CITY ATTORNEY
 ROBERT E. SHANNON, City Attorney
 333 West Ocean Boulevard, 11th Floor
 Long Beach, CA 90802-4664

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~~Condemnation within thirty (30) days from receiving any written notice or directive from any City enforcement official regarding property subject to this Chapter and in accordance with the provisions of Chapter 18.10 of the Long Beach Municipal Code.~~

If an administrative citation has been issued pursuant to the provisions of Chapter 9.65 of this Code, then the procedures set forth in Chapter 9.65 shall govern.

18.24.090 Alternative monetary penalties.

A. This Section is intended to carry out the provisions of California Civil Code Section 2929.3. Nothing in this Section shall be interpreted or implemented in a manner that is inconsistent with state law. If there is a conflict between the provisions of state law and this Section, state law shall control.

B. The City may elect to impose monetary penalties on a legal owner, pursuant to California Civil Code Section 2929.3, if that legal owner fails to maintain vacant residential property that is either purchased at a foreclosure sale or acquired through foreclosure under a mortgage or deed of trust.

~~1.~~ For purposes of this Section, “fails to maintain” means failing to care for the exterior of the property, including, but not limited to, permitting excess foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers, squatters or other unauthorized persons from remaining on the property, or failing to take action to prevent mosquito larvae from growing in standing water, or other conditions that create a public nuisance.

C. The City may impose a fine of up to ~~one thousand dollars~~One Thousand Dollars (\$1,000.00) per day for each day that the legal owner fails to maintain the property as required by this Section,

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ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 commencing on the day following the expiration of the period to remedy
2 the violation, as established by the City in Subsection D.

3 1. In determining the amount of the fine, the City shall
4 take into consideration any timely and good faith efforts by the legal owner
5 to remedy the violation.

6 2. Fines and penalties collected pursuant to this Section
7 shall be directed toward local nuisance abatement programs.

8 3. Pursuant to Section 2929.3 of the California Civil
9 Code, the City may not impose fines on a legal owner under both this
10 Section and any other local ordinance. However, Section 2929.3 of the
11 California Civil Code shall not preempt any local ordinance.

12 4. Notwithstanding Subsection C.3, the rights and
13 remedies provided in this Section are cumulative and in addition to any
14 other rights and remedies provided by law.

15 D. If the City imposes a fine pursuant to this Section, the City
16 shall give notice of the alleged violation to the legal owner. The notice
17 shall include a description of the conditions that gave rise to the alleged
18 violation, and state the City's intent to assess a civil fine if action to correct
19 the violation is not commenced within a period of not less than fourteen
20 (14) days and completed within a period of not less than thirty (30) days.

21 1. The notice shall be mailed to the address provided in
22 the deed or other instrument as specified in subdivision (a) of Section
23 27321.5 of the Government Code, or, if none, to the return address
24 provided on the deed or other instrument.

25 2. The City may provide less than thirty (30) days' notice
26 to remedy a condition, if the City determines that a specific condition of the
27 property threatens public health or safety and the notice of violation states
28 that there is a threat to public health or safety and lists the required time to

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correct the violation.

18.24.100 Severability.

If any section or provision of this Chapter is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this Chapter shall remain valid. The City Council hereby declares that it would have adopted this Chapter, and each section or provision thereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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City Clerk

Approved: _____
 (Date)

Mayor

OFFICE OF THE CITY ATTORNEY
 ROBERT E. SHANNON, City Attorney
 333 West Ocean Boulevard, 11th Floor
 Long Beach, CA 90802-4664

Chapter 18.24
Foreclosure Registry Program

18.24.010 Purpose.

It is the intent of the City Council, through the adoption of this Chapter, to establish a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of vacant, abandoned or foreclosed upon residential real properties; to establish a vacant, abandoned or foreclosed upon residential property registration program and to set forth guidelines for the maintenance of vacant, abandoned or foreclosed upon residential real properties.

18.24.020 Definitions.

Certain words and phrases in this Chapter are defined, when used herein, as follows:

Abandoned. Any residential building, structure or real property that is vacant or occupied by a person without a legal right of occupancy, and subject to a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessor's Lien Sale and/or any residential real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or any residential real property conveyed via a deed in lieu of foreclosure sale.

Accessible Property. Residential real property that is accessible to the public, either in general, or through an open and unsecured door, window, gate, fence, wall, or the like.

Agreement. Any written instrument that transfers or conveys title to residential real property from one owner to another after a sale, trade, transfer or exchange.

1 Assignment of Rents. An instrument that transfers the beneficial
2 interest under a deed of trust from one lender or entity to another.

3 Beneficiary. A lender participating in a residential real property
4 transaction that holds a secured interest in the residential real property in
5 question identified in a deed of trust.

6 Buyer. Any person, partnership, association, corporation, fiduciary
7 or other legal entity that agrees to transfer anything of value in
8 consideration for residential real property via an "agreement" as that term
9 is defined in this Section.

10 Dangerous Building. Any residential building or structure
11 reasonably deemed by qualified City staff to represent a violation of any
12 provision specified in Long Beach Municipal Code Section 18.02.050.

13 Days. Calendar days.

14 Deed of Trust. An instrument whereby an owner of residential real
15 property, as trustor, transfers a secured interest in the real property in
16 question to a third party trustee, said instrument relating to a loan issued
17 in the context of a real property transaction. This definition applies to any
18 and all subordinate deeds of trusts including, but not limited to a second
19 trust deed or third trust deed.

20 Deed in Lieu of Foreclosure. A recorded instrument that transfers
21 ownership of real property between parties to a particular deed of trust as
22 follows – from the trustor (i.e, borrower), to the trustee upon consent of the
23 beneficiary (i.e., lender).

24 Default. The material breach of a legal or contractual duty arising
25 from or relating to a deed of trust, such as a trustor's failure to make
26 payment when due.

27 Distressed. Any residential building, structure or real property that
28 is subject to a current Notice of Default and/or Notice of Trustee's Sale,

1 pending Tax Assessors Lien Sale and/or any residential real property
2 conveyed via a foreclosure sale resulting in the acquisition of title by an
3 interested beneficiary of a deed of trust, and/or any residential real
4 property conveyed via a deed in lieu of foreclosure/sale, regardless of
5 vacancy or occupancy by a person with no legal right of occupancy.

6 Enforcement Official. The City Manager, the Director of
7 Development Services, and/or any employee or agency of the City of Long
8 Beach designated and/or charged with enforcing the Long Beach
9 Municipal Code, including but not limited to, applicable codes adopted by
10 reference therein.

11 Evidence of Vacancy. Any residential real property condition that
12 independently, or in the context of the totality of circumstances relevant to
13 that real property, would lead a reasonable enforcement official to believe
14 that a property is vacant or occupied by a person without a legal right of
15 occupancy. Such real property conditions include, but are not limited to:
16 overgrown or dead vegetation; accumulation of newspapers, circulars,
17 flyers or mail; past due utility notices or disconnected utilities;
18 accumulation of trash, junk or debris; the absence of window coverings
19 such as curtains, blinds or shutters; the absence of furnishings or personal
20 items consistent with residential habitation; and/or statements by
21 neighbors, passersby, delivery agents, or government employees that the
22 property is vacant.

23 Foreclosure. The process by which real property subject to a deed
24 of trust is sold to satisfy the debt of a defaulting trustor (i.e., borrower).

25 Local. Within forty (40) road or driving miles distance from the
26 subject building, structure or real property in question.

27 Neighborhood Standard. The condition of residential real property
28 that prevails in and through the neighborhood where an abandoned

1 building, structure or real property is located. When determining the
2 neighborhood standard no abandoned or distressed building, structure or
3 real property shall be considered.

4 Notice of Default. A recorded instrument that reflects and provides
5 notice that a default has taken place with respect to a deed of trust, and
6 that a beneficiary intends to proceed with a trustee's sale.

7 Out of Area. In excess of forty (40) road or driving miles of the
8 subject property.

9 Owner. Any person, partnership, association, corporation, fiduciary
10 or other legal entity having recorded title to the property as reflected in the
11 official records of the County Recorder of Los Angeles County.

12 Owner of Record. The person holding recorded title to the
13 residential real property in question at any point in time when Official
14 Records are produced by the Los Angeles County Registrar/Recorder's
15 office.

16 Property. Any unimproved or improved residential real property, or
17 portion thereof, situated in the City of Long Beach, including buildings or
18 structures located on said real property, regardless of condition.

19 Residential Building. Any improved real property, or portion
20 thereof, designed or permitted to be used for dwelling purposes, including
21 buildings and structures located on such improved real property. This
22 includes any real property being offered under any circumstances for sale,
23 trade, transfer, or exchange as "residential," whether or not said property
24 is legally permitted and zoned for such use.

25 Securing. Such measures as may be directed by a code
26 enforcement official that assist in rendering real property inaccessible to
27 unauthorized persons, including but not limited to repairing fences and
28 walls, chaining/padlocking gates, the repairing or boarding of doors,

1 windows or other such openings.

2 Trustee. Any person, partnership, association, corporation,
3 fiduciary or other legal entity holding a deed of trust securing an interest in
4 real property.

5 Trustor. Any owner/borrower identified in a deed of trust, who
6 transfers an interest in real property to a trustee as security for payment of
7 a debt by that owner/trustor.

8 Vacant. Any building, structure or real property that is unoccupied
9 or occupied by a person without a legal right of occupancy.

10 18.24.030 Registration.

11 A. Not later than ten (10) days after recording a notice of
12 default on any residential property located in the City of Long Beach which
13 is subject to a deed of trust, the beneficiary, or its trustee, shall register the
14 property with the Development Services Department of the City of Long
15 Beach on forms provided by the City.

16 B. The registration pursuant to this Section shall be renewed
17 annually until such time as:

18 1. the foreclosure process is complete or the notice of
19 default has been rescinded or withdrawn;

20 2. the Trustor has surrendered the property to the
21 beneficiary as evidenced by either a letter from the trustor addressed to
22 the beneficiary confirming such surrender, or by the trustor's delivery of
23 the keys to the property to the beneficiary or its agent.

24 3. the beneficiary has obtained possession of the
25 property under the Code of Civil Procedure Section 1161 or 1161a or
26 1161b, as applicable, following completion of the foreclosure proceeding.

27 If a subsequent notice of default is issued for the same property
28 after being withdrawn or rescinded, the registration requirement set forth

1 in this Section shall be reinstated.

2 C. The registration pursuant to this Section shall contain the
3 identity of the beneficiary and trustee, the direct mailing address of the
4 beneficiary and trustee and, in the case of a corporate or out of area
5 beneficiary or trustee, the local property management company, if any,
6 responsible for the security, maintenance and marketing of the property in
7 question.

8 D. An annual registration fee as set by the City Council by
9 resolution shall accompany the submission of each registration form. The
10 fee and registration shall be valid for one (1) year from the date of
11 registration. Registration fees will not be prorated. Subsequent
12 registrations and fees are due January 1st of each year and must be
13 received no later than January 15th of the year due.

14 E. Any person, partnership, association, corporation, fiduciary
15 or other legal entity that has registered a property under this Chapter must
16 make a written report to the City of Long Beach Development Services
17 Department of any change of information contained in the registration form
18 within ten (10) days of the change.

19 F. The duties/obligations specified in this Chapter shall be joint
20 and several among and between all trustees and beneficiaries and their
21 respective agents.

22 18.24.035 Penalty/fine for failure to timely register a property with the City.

23 A. Notwithstanding any other provision of this Chapter or
24 Chapter 9.65 to the contrary, the City may, after fifteen (15) days written
25 notice to the beneficiary or its trustee, impose a fine/penalty on a
26 beneficiary or its trustee for its failure to timely register a property with the
27 City under this Chapter. The amount of such fines and/or penalties shall
28 be established by the City Council by resolution.

1 B. The imposition of a fine/penalty for failure to register a
2 property shall be in accordance with the provisions and procedures set
3 forth in Chapter 9.65 of the Long Beach Municipal Code: "Administrative
4 Citations and Penalties."

5 C. Any failure to pay fines or penalties imposed pursuant to this
6 Chapter may be remedied by the City in accordance with Section 9.65.140
7 of this Code, or any successor section thereto.

8 18.24.040 Maintenance required.

9 It is declared a public nuisance for any person, partnership,
10 association, corporation, fiduciary or other legal entity, that owns, leases,
11 occupies, controls or manages any property subject to the registration
12 requirement contained in Section 18.24.030, to cause, permit, or maintain
13 any property condition contrary to any provision of this Chapter.
14 Consequently, the following maintenance requirements as to any property
15 subject to the registration requirement contained in Section 18.24.030 are
16 adopted:

17 A. Any property subject to this Chapter must comply with the
18 requirements of the Long Beach Municipal Code Chapter 18.20 entitled
19 "Unsafe Buildings or Structures."

20 B. In addition, the property shall be kept free of weeds, dry
21 brush, dead vegetation, trash, junk, debris, building materials, any
22 accumulation of newspaper, circular, flyers, notices (except those required
23 by federal, state or local law), discarded personal items including, but not
24 limited to, furniture, clothing, large and small appliances, printed material
25 or any other items that give the appearance that the property is
26 abandoned.

27 C. The property shall be maintained free of graffiti, tagging or
28 similar marking. Any removal or painting over of graffiti shall be with an

1 exterior grade paint that matches the color of the exterior of the structure.

2 D. Visible front and side yards shall be landscaped and
3 maintained to the neighborhood standard.

4 E. Landscaping includes, but is not limited to, grass, ground
5 covers, bushes, shrubs, hedges or similar plantings, decorative rock or
6 bark or artificial turf/sod designed specifically for residential installation.

7 F. Landscaping does not include weeds, gravel, broken
8 concrete, asphalt, plastic sheeting, mulch, indoor-outdoor carpet or any
9 other similar material.

10 G. Pools and spas shall be kept in working order so that water
11 remains clear and free of pollutants and debris, or alternatively shall be
12 drained and kept dry. In either case, properties with pools and/or spas
13 must comply with the minimum security fencing requirements of the State
14 of California.

15 H. Adherence to this Section does not relieve the beneficiary/
16 trustee or property owner of obligations set forth in any portion of the Long
17 Beach Municipal Code or in any Covenants, Conditions and Restrictions
18 and/or Home Owners Association rules and regulations which may apply
19 to the property.

20 The sole exception to these maintenance requirements shall, within
21 the sole reasonable discretion of the Director of Development Services or
22 designee, apply to property subject to the registration requirement
23 contained in Section 18.24.030 that is under construction and/or repair,
24 not less than three (3) business days per week, undertaken in compliance
25 with all applicable laws, including but not limited to, City permitting
26 requirements.

27 18.24.050 Security requirements.

28 A. Properties subject to this Chapter shall be maintained in a

1 secure manner so as not to be accessible to unauthorized persons.

2 B. Secure manner includes, but is not limited to, closing and
3 locking of windows, doors (walk-through, sliding, and garage), gates and
4 any other opening that may allow access to the interior of the property
5 and/or structure(s). In the case of broken windows, "securing" means
6 reglazing or boarding the window.

7 C. If the property is owned by a corporation and/or out of area
8 beneficiary/trustee/owner, a local property management company shall be
9 contracted to perform weekly inspections to verify that the requirements of
10 this Section, and any other applicable laws, are being fulfilled.

11 D. The property shall be posted with the name and twenty-four
12 (24) hour contact phone number of the local property management
13 company. The posting shall be 8-1/2" x 11" in size, shall be of a font that
14 is legible from a distance of twenty (20) feet, and shall contain the
15 following verbiage: "THIS PROPERTY MANAGED BY _____," and
16 "TO REPORT PROBLEMS OR CONCERNS CALL (name and phone
17 number)."

18 E. The posting shall be placed on the interior of a window
19 facing the street to the front of the property so it is visible from the street,
20 or secured to the exterior of the building/structure facing the street on the
21 front of the property so it is visible from the street. If no such area exists,
22 the posting shall be on a stake of sufficient size to support the posting, in a
23 location that is visible from the street to the front of the property, and to the
24 extent possible, not readily accessible to potential vandalism. Exterior
25 posting must be constructed of, and printed with weather resistant
26 materials.

27 F. The local property management company shall inspect the
28 property on a weekly basis to determine if the property is in compliance

1 with the requirement of this Chapter. If the property management
2 company determines the property is not in compliance, it is the company's
3 responsibility to bring the property into compliance.

4 G. The duties/obligations specified in this Chapter shall be joint
5 and several among and between all trustees and beneficiaries and their
6 respective agents.

7 18.24.055 Special provisions where property is encumbered with the
8 security interests of multiple beneficiaries.

9 A. In the event that a property is encumbered by the security
10 interests of more than one (1) beneficiary at the time when a notice of
11 default is recorded, the beneficiary who causes a notice of default for its
12 security interest to be recorded shall be responsible for registering the
13 property with the City as provided in Section 18.24.030.

14 B. Upon the recordation of a notice of default on a property by
15 any beneficiary, regardless of the security lien interest priority of such
16 beneficiary in the property in relation to the priority of the security interests
17 of the other beneficiaries in the same property, the City, in its discretion
18 may elect to enforce the provisions of this Chapter against one or more
19 beneficiaries who have not separately recorded a notice of default against
20 the property.

21 18.24.060 Additional authority.

22 In addition to the enforcement remedies established in this Chapter,
23 the City shall have the authority to require the beneficiary, trustee, owner
24 or owner of record of any property affected by this Chapter, to implement
25 additional maintenance and/or security measures including, but not limited
26 to, securing any and all doors, windows or other openings, installing
27 additional security lighting, increasing on-site inspection frequency,
28 employment of an on-site security guard and/or other measures as may

1 be reasonably required to secure and reduce the visual decline of the
2 property.

3 18.24.070 Enforcement.

4 A. Any violation of this Chapter shall be treated as a strict
5 liability offense; a violation shall be deemed to have occurred regardless
6 of a violator's intent. Any person, firm and/or corporation that violates any
7 portion of this Chapter including, but not limited to the registration
8 requirements set forth in Section 18.24.030, the maintenance
9 requirements set forth in Section 18.24.040, and the security requirements
10 set forth in Section 18.24.050 may be subject to administrative
11 enforcement under Chapter 9.65 of the Long Beach Municipal Code.
12 Administrative penalties imposed pursuant to this Chapter shall not
13 exceed One Hundred Thousand Dollars (\$100,000.00) per property.

14 B. Any person, partnership, association, corporation, fiduciary
15 or other legal entity, that owns, leases, occupies, controls or manages any
16 property subject to the registration requirement contained in Section
17 18.24.030, and causes, permits, or maintains a violation of this Chapter as
18 to that property, shall be guilty of a misdemeanor, and upon conviction
19 thereof, shall be punished as provided in Chapter 1.32 of this Code.

20 C. This Chapter is intended to be cumulative to, and not in
21 place of, other rights and remedies available to the City pursuant to the
22 Long Beach Municipal Code. The City Attorney or a duly authorized
23 enforcement official may pursue any other right or remedy permitted by
24 the Long Beach Municipal Code, including, but not limited to,
25 commencement of any civil action, or administrative action to abate the
26 condition of a property as a public nuisance.

27 18.24.080 Appeals.

28 If an administrative citation has been issued pursuant to the

1 provisions of Chapter 9.65 of this Code, then the procedures set forth in
2 Chapter 9.65 shall govern.

3 18.24.090 Alternative monetary penalties.

4 A. This Section is intended to carry out the provisions of
5 California Civil Code Section 2929.3. Nothing in this Section shall be
6 interpreted or implemented in a manner that is inconsistent with state law.
7 If there is a conflict between the provisions of state law and this Section,
8 state law shall control.

9 B. The City may elect to impose monetary penalties on a legal
10 owner, pursuant to California Civil Code Section 2929.3, if that legal owner
11 fails to maintain vacant residential property that is either purchased at a
12 foreclosure sale or acquired through foreclosure under a mortgage or
13 deed of trust.

14 For purposes of this Section, "fails to maintain" means failing to
15 care for the exterior of the property, including, but not limited to, permitting
16 excess foliage growth that diminishes the value of surrounding properties,
17 failing to take action to prevent trespassers, squatters or other
18 unauthorized persons from remaining on the property, or failing to take
19 action to prevent mosquito larvae from growing in standing water, or other
20 conditions that create a public nuisance.

21 C. The City may impose a fine of up to One Thousand Dollars
22 (\$1,000.00) per day for each day that the legal owner fails to maintain the
23 property as required by this Section, commencing on the day following the
24 expiration of the period to remedy the violation, as established by the City
25 in Subsection D.

26 1. In determining the amount of the fine, the City shall
27 take into consideration any timely and good faith efforts by the legal owner
28 to remedy the violation.

1 2. Fines and penalties collected pursuant to this Section
2 shall be directed toward local nuisance abatement programs.

3 3. Pursuant to Section 2929.3 of the California Civil
4 Code, the City may not impose fines on a legal owner under both this
5 Section and any other local ordinance. However, Section 2929.3 of the
6 California Civil Code shall not preempt any local ordinance.

7 4. Notwithstanding Subsection C.3, the rights and
8 remedies provided in this Section are cumulative and in addition to any
9 other rights and remedies provided by law.

10 D. If the City imposes a fine pursuant to this Section, the City
11 shall give notice of the alleged violation to the legal owner. The notice
12 shall include a description of the conditions that gave rise to the alleged
13 violation, and state the City's intent to assess a civil fine if action to correct
14 the violation is not commenced within a period of not less than fourteen
15 (14) days and completed within a period of not less than thirty (30) days.

16 1. The notice shall be mailed to the address provided in
17 the deed or other instrument as specified in subdivision (a) of Section
18 27321.5 of the Government Code, or, if none, to the return address
19 provided on the deed or other instrument.

20 2. The City may provide less than thirty (30) days' notice
21 to remedy a condition, if the City determines that a specific condition of the
22 property threatens public health or safety and the notice of violation states
23 that there is a threat to public health or safety and lists the required time to
24 correct the violation.

25 18.24.100 Severability.

26 If any section or provision of this Chapter is for any reason held to
27 be invalid or unconstitutional by any court of competent jurisdiction, or
28 contravened by reason of any preemptive legislation, the remaining

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ROBERT E. SHANNON, City Attorney
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1 sections and/or provisions of this Chapter shall remain valid. The City
2 Council hereby declares that it would have adopted this Chapter, and
3 each section or provision thereof, regardless of the fact that any one or
4 more section(s) or provision(s) may be declared invalid or unconstitutional
5 or contravened via legislation.
6

7 Section 2. The City Clerk shall certify to the passage of this ordinance by
8 the City Council and cause it to be posted in three (3) conspicuous places in the City of
9 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
10 Mayor.

11 I hereby certify that the foregoing ordinance was adopted by the City Council of
12 the City of Long Beach at its meeting of _____, 20__, by the following vote:

13
14 Ayes: Councilmembers: _____
15 _____
16 _____
17 _____

18 Noes: Councilmembers: _____
19 _____

20 Absent: Councilmembers: _____
21 _____

22
23
24 _____
City Clerk

25
26
27 Approved: _____
(Date) Mayor

28