

ORDINANCE NO. ORD-11-0001

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY ADDING CHAPTER 18.24  
RELATING TO FORECLOSURE REGISTRY PROGRAM

WHEREAS, the presence of vacant or abandoned real property can lead to neighborhood decline by creating an attractive public nuisance which could contribute to lower property values and could discourage potential buyers from purchasing a home adjacent to or in neighborhoods with vacant or abandoned residences; and

WHEREAS, many vacant or abandoned real properties are the responsibility of out of area, out of state, lenders and trustees, and in many instances the lender and/or trustees fail to adequately maintain and secure these vacant or abandoned residences; and

WHEREAS, the City has an obligation to preserve the health, safety and welfare of residents and the community, and to the extent possible, protect neighborhoods from declining property values, aesthetic decay, and/or loss of character.

NOW, THEREFORE, the City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 18.24 is added to the Long Beach Municipal Code to read as follows:

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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 properties; to establish an abandoned property registration program and to set forth guidelines for the maintenance of abandoned properties.

18.24.020 Definitions.

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

Abandoned. Any 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 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 real property conveyed via a deed in lieu of foreclosure sale.

Accessible Property. 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.

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

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

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

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

11 Days. Calendar days.

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

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

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

25 Distressed. Any building, structure or real property that is subject  
26 to a current Notice of Default and/or Notice of Trustee's Sale, pending Tax  
27 Assessors Lien Sale and/or any real property conveyed via a foreclosure  
28 sale resulting in the acquisition of title by an interested beneficiary of a

1 deed of trust, and/or any real property conveyed via a deed in lieu of  
2 foreclosure/sale, regardless of vacancy or occupancy by a person with no  
3 legal right of occupancy.

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

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

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

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

25 Neighborhood Standard. The condition of real property that  
26 prevails in and through the neighborhood where an abandoned building,  
27 structure or real property is located. When determining the neighborhood  
28 standard no abandoned or distressed building, structure or real property

1 shall be considered.

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

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

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

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

13 Property. Any unimproved or improved real property, or portion  
14 thereof, situated in the City of Long Beach, including buildings or  
15 structures located on said real property, regardless of condition.

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

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

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

1 real property.

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

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

7 18.24.030 Registration.

8 A. Each beneficiary and trustee who holds a deed of trust on a  
9 property located within the City of Long Beach shall perform an inspection  
10 of the property in question prior to recording a Notice of Default or similar  
11 instrument with the Los Angeles County Registrar/Recorder's Office. If  
12 the property is found to be vacant or shows evidence of vacancy, as  
13 defined by this Chapter, it is hereby deemed to be abandoned.

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

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

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

25 D. The registration pursuant to Subsection 18.24.030.B shall  
26 contain the identity of the beneficiary and trustee, the direct mailing  
27 address of the beneficiary and trustee and, in the case of a corporate or  
28 out of area beneficiary or trustee, the local property management

1 company, if any, responsible for the security, maintenance and marketing  
2 of the property in question.

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

5 F. An annual registration fee as set by the City Council by  
6 resolution shall accompany the submission of each registration form. The  
7 fee and registration shall be valid for one (1) year from the date of  
8 registration. Registration fees will not be prorated.

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

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

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

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

24 18.24.040 Maintenance required.

25 It is declared a public nuisance for any person, partnership,  
26 association, corporation, fiduciary or other legal entity, that owns, leases,  
27 occupies, controls or manages any property subject to the registration  
28 requirement contained in Section 18.24.030.B, to cause, permit, or

1 maintain any property condition contrary to any provision of this Chapter.  
2 Consequently, the following maintenance requirements as to any property  
3 subject to the registration requirement contained in Section 18.24.030.B  
4 are adopted:

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

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

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

18 D. Visible front and side yards shall be landscaped and  
19 maintained to the neighborhood standard.

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

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

26 G. Pools and spas shall be kept in working order so that water  
27 remains clear and free of pollutants and debris, or alternatively shall be  
28 drained and kept dry. In either case, properties with pools and/or spas



1 must comply with the minimum security fencing requirements of the State  
2 of California.

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

8 The sole exception to these maintenance requirements shall, within  
9 the sole reasonable discretion of the Director of Development Services or  
10 designee, apply to property subject to the registration requirement  
11 contained in Section 18.24.030.B that is under construction and/or repair,  
12 not less than three (3) business days per week, undertaken in compliance  
13 with all applicable laws, including but not limited to, City permitting  
14 requirements.

15 18.24.050 Security requirements.

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

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

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

27 D. The property shall be posted with the name and twenty-four  
28 (24) hour contact phone number of the local property management

1 company. The posting shall be 8-1/2" x 11" in size, shall be of a font that  
2 is legible from a distance of twenty (20) feet, and shall contain the  
3 following verbiage: "THIS PROPERTY MANAGED BY \_\_\_\_\_," and  
4 "TO REPORT PROBLEMS OR CONCERNS CALL (name and phone  
5 number)."

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

15 F. The local property management company shall inspect the  
16 property on a weekly basis to determine if the property is in compliance  
17 with the requirement of this Chapter. If the property management  
18 company determines the property is not in compliance, it is the company's  
19 responsibility to bring the property into compliance.

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

23 18.24.060 Additional authority.

24 In addition to the enforcement remedies established in this Chapter,  
25 the City shall have the authority to require the beneficiary, trustee, owner  
26 or owner of record of any property affected by this Chapter, to implement  
27 additional maintenance and/or security measures including, but not limited  
28 to, securing any and all doors, windows or other openings, installing

1 additional security lighting, increasing on-site inspection frequency,  
2 employment of an on-site security guard and/or other measures as may  
3 be reasonably required to secure and reduce the visual decline of the  
4 property.

5 18.24.070 Enforcement.

6 A. Any violation of this Chapter shall be treated as a strict  
7 liability offense; a violation shall be deemed to have occurred regardless  
8 of a violator's intent.

9 B. Any person, partnership, association, corporation, fiduciary  
10 or other legal entity, that owns, leases, occupies, controls or manages any  
11 property subject to the registration requirement contained in Section  
12 18.24.030.B, and causes, permits, or maintains a violation of this Chapter  
13 as to that property, shall be guilty of a misdemeanor, and upon conviction  
14 thereof, shall be punished as provided in Chapter 1.32 of this Code.

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

22 18.24.080 Appeals.

23 Any person aggrieved by any of the requirements of this Chapter  
24 may appeal a determination made hereunder by filing a written notice of  
25 appeal upon the Secretary of the Board of Examiners, Appeals and  
26 Condemnation within thirty (30) days from receiving any written notice or  
27 directive from any City enforcement official regarding property subject to  
28 this Chapter and in accordance with the provisions of Chapter 18.10 of the

1 Long Beach Municipal Code.

2 18.24.090 Alternative monetary penalties.

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

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

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

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

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

28 2. Fines and penalties collected pursuant to this Section

1 shall be directed toward local nuisance abatement programs.

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

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

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

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

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

24 18.24.100 Severability.

25 If any section or provision of this Chapter is for any reason held to  
26 be invalid or unconstitutional by any court of competent jurisdiction, or  
27 contravened by reason of any preemptive legislation, the remaining  
28 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 January 4, 2011, by the following vote:

Ayes: Councilmembers: Garcia, Schipske, Andrews, Johnson,  
Gabelich, Neal.

Noes: Councilmembers: None.

Absent: Councilmembers: Lowenthal, DeLong, O'Donnell.

  
City Clerk

Approved: 1/10/11  
(Date)

  
Mayor