

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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ORDINANCE NO. ORD-11-0024

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

WHEREAS, the presence of vacant, abandoned or foreclosed upon residential 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, abandoned or foreclosed upon residences; and

WHEREAS, many vacant, abandoned or foreclosed upon residential 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, abandoned or foreclosed upon 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 of the Long Beach Municipal Code is amended 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, 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 1<sup>st</sup> 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

OFFICE OF THE 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

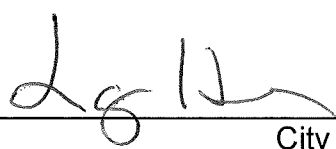
7 Section 2. The City Clerk shall certify to the passage of this ordinance by  
8 the City Council and cause it to be posted in three (3) conspicuous places in the City of  
9 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the  
10 Mayor.

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 October 4, 2011, by the following vote:

13  
14 Ayes: Councilmembers: DeLong, O'Donnell, Schipske,  
15 Andrews, Johnson, Gabelich, Neal.  
16 \_\_\_\_\_  
17 \_\_\_\_\_

18 Noes: Councilmembers: None.  
19 \_\_\_\_\_  
20 \_\_\_\_\_

21 Absent: Councilmembers: Garcia, Lowenthal.  
22 \_\_\_\_\_  
23 \_\_\_\_\_

24   
25 \_\_\_\_\_  
26 City Clerk

27 Approved: 10/10/11  
28 \_\_\_\_\_  
(Date)

29   
30 \_\_\_\_\_  
31 Mayor