



CITY OF EL MONTE
COMMUNITY DEVELOPMENT DEPARTMENT
CODE ENFORCEMENT DIVISION

Minh Thai
Interim Community
Development Director

Linda Larsen
Code Enforcement
Supervisor

FORECLOSED PROPERTY ORDINANCE

PROGRAM INFORMATION

On July 20, 2010, the El Monte City Council passed the *Revised Foreclosed Property Ordinance* (Ordinance No. 2755) to amend the residential property registration program as a mechanism to protect residential neighborhoods from blight resulting from the foreclosure crisis and un-maintained properties.

IF I WANT TO FILE A COMPLAINT ABOUT A PROPERTY, WHO DO I CALL?

To report blighted properties call the City of El Monte Code Enforcement Division ("Code Enforcement") line at (626) 580-2080 or e-mail at foreclosure@elmonteca.gov.

HOW DO I REGISTER A FORECLOSED RESIDENTIAL PROPERTY WITH THE CITY OF EL MONTE?

The registration requirements of the Revised Ordinance may be satisfied by providing Code Enforcement with **contact information including street address and telephone number** of the person(s) directly responsible for the property in foreclosure. If the responsible person(s) are located "Out of Area", the **contact information, including street address and phone number**, for the staff of any property management or property preservation company responsible for the security, maintenance, and marketing of the property must also be provided.

Such person(s) must be empowered to:

- (1) Comply with code enforcement orders issued by the City,
- (2) Provide a trespass authorization upon request of local law enforcement authorities if the property is unlawfully occupied,
- (3) Conduct weekly inspections of the property,
- (4) Accept rental payments from tenants of the property if no management company is otherwise responsible for receipt of rents.

Lenders who register a property with Code Enforcement must report any change of information contained in the registration to Code Enforcement within ten (10) days.

WHAT ARE THE REGISTRATION FEES?

An annual registration fee in the amount of **\$198.00**, plus a \$200 deposit fee for a total registration amount of \$398.00 shall be paid to the City of El Monte Code Enforcement Division at the time of registration. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due twelve (12) months after the initial registration date until the foreclosure is cured or the property is resold by the lender.

WHO IS AFFECTED BY THIS ORDINANCE AND WHEN IS THE EFFECTIVE DATE?

Any lender (or beneficiary or trustee who holds or has an interest in a deed of trust) on a property in foreclosure located within the City of El Monte must register that property with Code Enforcement. The Revised Foreclosure Registry Program applies to each notice of default recorded on or after August 1, 2010. Therefore, any lender who issues a Notice of Default after August 1, 2010, must register such property with the City of El Monte **within ten days** of the recordation of the Notice of Default. A lender who has issued a Notice of Default prior to August 1, 2010, must register the property in foreclosure with the City of El Monte Code Enforcement Division within ten (10) days following the day when the property becomes vacant or is abandoned by the borrower (trustor).

WHAT ARE THE PENALTIES IF I FAIL TO REGISTER?

If Code Enforcement determines that a lender has failed to register the property, Code Enforcement will provide written notification to the lender of their failure to comply with this ordinance. If the lender fails to comply within ten (10) days of Code Enforcement's written notification, **the lender shall be liable to pay a penalty in the amount of \$250 for the first violation, \$500 for the second violation, \$1000 for the third violation and each subsequent violation until the violation is corrected.**



City of El Monte

11333 Valley Boulevard
El Monte, California 91731

(626) 580-2085 – City Code Enforcement
(626) 580-2293 – Fax

Building Division Application No.:

Date Application Accepted
By Chief Building Official: _____

City Inspector: _____

Date Copy of Application Provided
to Beneficiary: _____

Neighbor Contact No. 1: _____
Phone No.: _____

Neighbor Contact No. 2: _____
Phone No.: _____

Special Conditions Added By Chief Building
Official: Yes
 No

(Space Above Line For Use By City)

**CITY OF EL MONTE
FORECLOSED RESIDENTIAL
PROPERTY REGISTRATION
APPLICATION**

The City of El Monte (the “City”) has enacted Chapter 8.60 of the El Monte Municipal Code (EMMC)

“... to establish a foreclosure of residential property registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned or unoccupied residential properties which are being held by a beneficiary following the completion of a foreclosure proceeding, pending sale by the beneficiary or pending lease by the beneficiary and occupancy of the unoccupied residential structure.”

If the beneficiary or holder of a mortgage security interest in residential property subject to lien foreclosure proceedings (the “Beneficiary”) or any other interested person, including the Declarant identified in Part 16 of this Application, has any question regarding the City residential property foreclosure registration program, please contact Ed Rardin, Code Enforcement Officer for the City of El Monte at (626) 580-2053 or send an email to erardin@elmonteca.gov and put into the email subject line the words “Foreclosed Property Inquiry”.

This Foreclosure Residential Property Registration Application (the “Application”) shall be deemed to be complete by the City, when the information required below has been provided to the City, the registration fee amount set forth in Part 17 below, has been paid to the City and the Chief Building Official of the City has accepted this Application, as indicated at Part 18, below.

A complete Application and the accompanying fee should be delivered to Griselda Contreras, Administrative Secretary to the El Monte Community Redevelopment Agency or Teri Russell, City Code Enforcement Secretary at El Monte City Hall – West, Second Floor, 11333 Valley Boulevard, El Monte, California 91731.

The information set forth below in this Application needs to be provided to the City by the Beneficiary, or the agent of the Beneficiary, to initiate the foreclosed property registration process with the City.

1. **Street Address of the Property:**

2. **Los Angeles County Assessor Parcel Number for the Property:**

3. **Twenty-Four Hour Phone Contact Information:**

If the City has any question regarding the Property or this Application who should the City contact by telephone?

Print name of Application contact individual

Print telephone number of Application contact individual

Email address

4. (A) **Name, Address and Phone/Email Contact for Beneficiary/Lender in Foreclosure:**

Beneficiary Email Address:

(B) Name, Address and Phone/Email Contact for Trustor (If known):

Trustor Email Address: _____

(C) Name, Address and Phone/Email Contact for Renter/Occupant (If known):

Renter/Occupant Email Address: _____

5. (A) Beneficiary Telephone Contact Information:

(B) Trustor Telephone Contact Information:

(C) Renter/Occupant Telephone Contact Information:

6. Foreclosed Property Mortgage Description:

Beneficiary Loan Identification Number: _____

Date of Deed of Trust; and _____

Original Principal Amount of Mortgage \$ _____

7. **Date of Initial Default Inspection of the Property (SEE: EMMC Section 8.60.030(A)):**

Date of the initial default inspection of the Property unknown at time of submission of the Application

8. **Date of Default Inspection Which Confirmed Property to Be Vacant or Abandoned/Date When Beneficiary Believes Property Became Vacant or Abandoned (SEE: EMMC Section 8.60.030(C)):**

Date of such default inspection of the Property unknown at time of submission of Application

9. **Name, Address and Phone/Email Contact for Foreclosure Trustee:**

Phone Number: _____

Trustee Email Address: _____

10. **Name, Address and Phone/Email Contact For Property Management Service For Inspections (SEE: EMMC Section 8.60.030):**

Property Manager Email Address: _____

11. **Other Contact Person(s) (Specify Relationship to Beneficiary, Trustee, Property Manager or Real Estate Broker):**

Phone Number: _____

Other Contact Person(s) Email Address: _____

12. **At Time of Submission of Application, Has the Property Been Posted By Beneficiary as required by EMMC Section 8.60.030?**

Yes

No

If "No", indicate estimated date by which the required Beneficiary contact notice will be placed on Property:

13. **Photographs of Front, Rear and Sideyards of Property and indicate Date on Each Photograph**

Photos attached by Declarant

Photos to follow within seven (7) days of submission of the Application by Declarant

14. **Property Maintenance and Security Conditions**

The following paragraphs of this Part 14 of the Application (A)-(G), inclusive are conditions of the registration of the Property with the City under EMMC Chapter 8.60. The Beneficiary is responsible for compliance with each of the following property maintenance and security conditions as set forth below:

(A) EMMC Section 8.60.040 (Minimum Property Maintenance Standards)

"Properties which are abandoned or vacant shall be, in comparison to the neighborhood standard, maintained by the beneficiary and kept free of weeds, dry bush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The beneficiary shall maintain such property free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

In general, the maintenance of abandoned or vacant property by the beneficiary shall comply with the standards set forth in Section 8.59.040 and HUD Mortgagee Letter 2007-03, dated January 25, 2007, or such other standard as may hereafter be ordered in writing addressed to the beneficiary by the Chief Building Official.

Adherence to the maintenance and monitoring standard set forth in Section 8.60.040 does not relieve the beneficiary/trustee or property owner of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property."

[Special Note: the full text of HUD Mortgage Letter 2007-03, may be viewed by interested persons at www.hud.gov/offices/adm/hudclips/letters/mortgagee]

(B) EMMC Section 8.60.045 (Minimum Property Security Standard)

"Properties which are abandoned or vacant shall be maintained by the beneficiary in a secure manner so as not to be accessible to unauthorized persons. In general, the security of abandoned or vacant property by the beneficiary shall comply with the standards set forth in Section 8.59.030 and HUD Mortgagee Letter 2007-03, dated January 25, 2007, or such other standard as may hereafter be ordered in writing addressed to the beneficiary by the Chief Building Official."

(C) EMMC Section 8.60.050 (Supplemental Requirements for Property Maintenance and/or Property Security)

"In addition to the enforcement remedies established in Chapter 1.18, Chapter 1.19 and Chapter 1.24 of this Code, the Chief Building Official or his or her designee shall have the authority to require the beneficiary/trustee/owner and/or owner of record of any property subject to this Chapter to implement additional maintenance and/or security measures including but not limited to securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to abate and correct the decline of the property."

(D) Basic Property Maintenance and Monitoring Guidance At Time of Submission of Application:

Active maintenance and monitoring of each vacant building or structure on each parcel of land shall include all of the follow:

- (1) Maintenance of landscaping and plant materials on the parcel of land on which the vacant building is located in good condition.
- (2) Maintenance of the exterior of the building and exterior signage and signage structures, in good condition.
- (3) Regular removal of all exterior trash and debris from the parcel of land on which the vacant building is located.
- (4) Maintenance of the vacant building in continuing compliance with all applicable codes and regulations.
- (5) Prompt removal of graffiti which has been applied to any exterior surface on the vacant building or fencing surrounding the building, including graffiti applied to any sign attached to the vacant building.
- (6) Prevention of criminal activity on the premises (vacant building and/or the parcel of land on which the vacant building is located), including but not limited to use and sale of controlled substances, prostitution and criminal street gang activity.

(E) Does the Property have a Pool or Spa?

Yes

No

If "YES" describe pool maintenance arrangements to be undertaken by Beneficiary:

(F) At the time of submission of the Application to the City, the undersigned Declarant (See Part 16, below) on behalf of the Beneficiary, hereby certifies that there is no graffiti on any structure, fence, wall or sign on the Property.

By: _____

Print Name: _____

(G) The Chief Building Official of the City may, for good cause, add additional property maintenance and security conditions to the Property upon written notice to the Beneficiary at any time after the date of submission of this Application to the City.

15. **Number of Dwelling Units on the Property:**

one dwelling unit

two dwelling units

three or more dwelling units

16. **Name and Contact Information for Person (the "Declarant") Submitting this Application to the City:**

Phone Number: _____

Email: _____

The undersigned hereby represents and warrants to the City of El Monte that this Application is submitted to the City on behalf of _____ who is the:

Check each of the applicable boxes below:

- Beneficiary (See Part 4)
- Trustee in foreclosure (See Part 9)
- Property Manager (See Part 10)
- Other _____ (See Part 11)

The undersigned Declarant on behalf of the Beneficiary, whose name, address and contact information appears in Part 4 of this Application, hereby authorizes, requests and gives consent to the City of El Monte to conduct such regulatory inspections of the Property as set forth in EMMC Chapter 8.59 and EMMC Chapter 8.60, from time-to-time as may be indicated.

The undersigned Declarant hereby declares under penalty of perjury that the facts set forth in this Application are true and correct to the best personal knowledge of the Declarant.

Date: _____

By: _____

Print Name of Declarant

Phone Number of Declarant

Email Address of Declarant

17. Fee Schedule

Registration for per Property (per legal parcel)	\$198.00
Inspection and Maintenance Deposit	\$200.00*
TOTAL FEE	\$398.00

Additional costs for inspections or other specific City response costs relating to the Property in excess of the foreclosed residential property program requirements set forth in the City Fee Report, dated August 2008, are the responsibility of the Beneficiary to pay the City and if not paid within thirty (30) days following the date of an invoice from the City, shall be deducted from the Inspection and Maintenance Deposit: (i) at the rate of \$60.00 per hour for such additional City services, rounded to the half hour for City employee time, plus 20% of such

additional hourly cost, as City indirect overhead expense recovery; and (ii) for third party service costs (e.g., pool maintenance, property security, window replacement and the like) at the City's direct cost for the third party services if any, plus 20% for such third party cost as indirect City overhead expense recovery.

NOTE: ALL RESIDENTIAL PROPERTY SOLD OR TRANSFERRED IN THE CITY IS SUBJECT TO THE SEPERATE REAL PROPERTY INSPECTION PROGRAM OF THE CITY UNDER EMMC SECTION 17.016.040. CONTACT THE CITY OF EL MONTE, BUILDING DIVISION FOR MORE INFORMATION REGARDING THE INSPECTION OF THE PROPERTY PRIOR TO SALE OR TRANSFER UNDER THIS SEPARATE PROGRAM.

18. ACCEPTANCE OF APPLICATION BY THE CITY OF EL MONTE

The undersigned hereby deems this Application to be complete, and accepts this Application for registration of the Property on behalf of the City of El Monte.

Date: _____

By: _____

APPLICATION NOTES FOR CITY, BELOW:

*Any unused Maintenance and Inspection Deposit funds are refundable by the City to the Beneficiary upon submission to the City of proof of sale (escrow closing) or lease of the Property to a residential occupant.

ORDINANCE NO. 2755

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA AMENDING CHAPTER 8.59 (VACANT BUILDING SECURITY AND MAINTENANCE) AND CHAPTER 8.60 (FORECLOSURE OF RESIDENTIAL PROPERTY REGISTRATION) OF THE EL MONTE MUNICIPAL CODE, INCLUDING AMENDMENTS TO SECTIONS 8.59.092A AND 8.60.092A TO EXTEND BY AN ADDITIONAL TWO YEARS THE AUTOMATIC SUNSET CLAUSE APPLICABLE TO EL MONTE MUNICIPAL CODE CHAPTERS 8.59 AND MAINTENANCE AND 8.60, RESPECTIVELY

WHEREAS, the California housing market has shown only marginal improvement since the start of the 2008 national economic downturn and the related housing market collapse; and

WHEREAS, this prolonged downturn, aggravated by very high rates of unemployment, especially within the City of El Monte, continues to keep the number of foreclosed properties in the City of El Monte high as unemployed households struggle to make monthly mortgage payments; and

WHEREAS, such homes are frequently acquired by banks, financial institutions and large real estate conglomerates that have little to no connection to the communities in which they own property; and

WHEREAS, many of these foreclosed homes are vacated prior to the conclusion of the foreclosure process. Homes sit empty for months, and may even remain vacant for years, awaiting the final foreclosure sale; often creating an attractive public nuisance. Some homes are in violation of multiple aspects of City building codes. As the mortgagees are often times large financial institution located out of state, enforcement of building code violations poses an immense challenge; and

WHEREAS, City code violations include, and may in the future foreseeably include, among other things multiple violations, unoccupied buildings susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unlocked houses, overgrown grass and bushes, and unsecured swimming pools that are not only a threat to children but become breeding grounds for infectious insects such as mosquitoes; and

WHEREAS, this problem exists not only in El Monte and elsewhere in California but also in may other States. Banks and other financial institutions have refused to maintain properties, and City building inspectors have great difficulty in determining who the owners are and how to contact them to correct code violations; and

WHEREAS, at its meeting of September 2, 2008, the El Monte City Council ("City Council") adopted Urgency Ordinance No. 2730 which created a new Chapter 8.59 (Vacant Building Security and Maintenance) and a new Chapter 8.60 (Foreclosure of Residential Property Registration); and

WHEREAS, through the adoption of Chapter 8.59 and Chapter 8.60, the City implemented two new programs designed to prevent and address the adverse impacts large numbers of vacant properties have the potential to create; and

WHEREAS, Sections 8.59.092A and 8.60.092A of Chapters 8.59 and 8.60, respectively, provide that the provisions of Chapter 8.59 and 8.60, respectively, will expire automatically upon the second anniversary of the adoption of Ordinance No. 2730, unless repealed or extended by a subsequent City Council Ordinance; and

WHEREAS, the inventory of vacant foreclosed properties within the City of El Monte remains high in light of the prolonged nature of the current economic downturn; and

WHEREAS, according to most economic forecasts there is little indication that the adverse economic conditions that have led to historically high foreclosure rates will fully abate anytime prior the second half of the year 2012.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE DOES ORDAIN AS FOLLOWS:

SECTION 1. The information set forth in the Recital paragraphs of this Ordinance is true and correct.

SECTION 2. The City Council has conducted a public hearing on July 20, 2010 to consider the adoption of this Ordinance, including the extension of the sunset provisions of Chapters 8.59 and 8.60 of the El Monte Municipal Code. After the conclusion of the July 20, 2010 public hearing, the City Council approved the First Reading of this Ordinance. The Second Reading of this Ordinance was approved at the City Council at its regular meeting of August 3, 2010.

SECTION 3.

The City Council finds as follows:

A. When the owner of a vacant building fails to actively maintain and manage the building, the building can become a major cause of blight in both residential and nonresidential neighborhoods. Vacant buildings that are boarded, substandard or unkempt properties, and long-term vacancies discourage economic development and regard appreciation of property values.

B. It is a responsibility of property ownership to prevent the condition of unoccupied property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare.

C. One vacant building in a neighborhood that is not actively monitored by the owner for maintenance and appropriate security can be the core and cause of spreading blight.

D. Owners of multiple buildings, either concurrently or serially, that are vacant and a blight to the community are a significant problem in the City. Owners of multiple buildings who fail to correct deficiencies and blighted conditions contribute to the decline of neighborhoods to a greater extent than owners who own only one building. It is in the interest of the welfare of neighborhoods that owners of multiple properties who fail to maintain properties and vacant and blighted buildings be subject to imposition of higher administrative penalties in order to encourage these owners to correct violations of proposed Chapter 8.59 or proposed Chapter 8.60, in a prompt manner.

E. Extension of the sunset provisions of Chapter 8.59 and 8.60 by an additional two years is in the furtherance of the police power of the City to protect the health, safety and welfare of the public. The public health, safety and welfare will be protected by the continuation of the programs established under Chapters 8.59 and 8.60 of the El Monte Municipal due to the prolonged nature of the downturn in the California housing market and the resulting large inventory of vacant properties that remain in the City of El Monte. Without the legal tools provided under Chapters 8.59 and 8.60, the City would not be able to address a number of problems and potential dangers to the community associated with the large inventory of unoccupied residential and other structures in the City which are the result of mortgage lien foreclosure proceedings or the inability of homeowners or other property owners to pay their lenders in a timely fashion and also maintain their property. Accordingly, the City Council hereby finds and determines that the extension of the original two-year sunset period applicable to Chapters 8.59 and 8.60 is a necessary and reasonable response to the ongoing adverse economic conditions that continues to plague the State of California and the City of El Monte.

SECTION 4. Subsection A of Section 8.59.092 (Sunset) of Chapter 8.59 (Vacant Building Security and Maintenance) of the El Monte Municipal Code is hereby amended to read as follows:

- A. Subject to the provisions of Section 8.59.092B, this Chapter of the El Monte Municipal Code shall be of no further force or effect on the fourth anniversary following the September 2, 2008 adoption date of City Council Urgency Ordinance No. 2730 which initially added this Chapter to El Monte Municipal Code, unless prior to that date, the City Council enacts a separate ordinance which either repeals this Section 8.59.092, or amends this Section 8.59.092 to further extend the effectiveness of this Chapter to a new date.

[EDITOR'S NOTE: By adoption of City Council Ordinance No. 2755, the City Council extended the initial two year sunset clause applicable to Chapter 8.59 by an additional two (2) years. Accordingly, unless the revised sunset period set forth under amended Section 8.59.092A is repealed or further extended by a separate City Council ordinance, the sunset period applicable to Chapter 8.59 will now expire automatically on September 2, 2012, the 4th anniversary of the original September 2, 2008 adoption date of Urgency Ordinance No. 2730 which initially added Chapter 8.59 to the El Monte Municipal Code.]

SECTION 5. The definition of the word "beneficiary" as set forth in Section 8.60.020 is hereby amended to read as follows:

"Beneficiary" means a lender under a promissory note to pay money secured by a deed of trust on property. The word "beneficiary" as used in this Chapter 8.60 means and includes any assignee or successor to such beneficiary, whether such assignee or successor acquires its interest in the beneficiary's promissory note either before a notice of default is recorded on the property securing the obligation payable to the beneficiary or after a notice of default is recorded. In the event that a property may provide security for the loan or obligation of more than one beneficiary, the beneficiary who causes its notice of default to be recorded shall be responsible for registering the property as set forth in this Chapter 8.60."

SECTION 6. Subsection B of Section 8.60.030 (Registration) is hereby amended to read as follows:

- B. The beneficiary, or its agent shall register the property with the Chief Building Official, on forms provided by the City within ten (10) days from the earlier of the following dates: (i) the date a notice of default is recorded on a property; or (ii) the date of a default inspection which indicates that the property is vacant or abandoned. The provisions of subsection (i) of the preceding sentence of this Section 8.60.030B shall apply to each property for which a notice of default is recorded on or after July 31, 2010.

SECTION 7. The text of Section 8.60.040 (Maintenance Requirements) of the El Monte Municipal Code is hereby amended to read as follows:

8.60.040 Maintenance Requirements.

- A. Properties which are abandoned or vacant shall be, in comparison to the neighborhood standard, maintained by the beneficiary and kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned. The beneficiary shall maintain such property free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure. In general, the maintenance of abandoned or vacant property by the beneficiary shall comply with the standards set forth in Section 8.59.040 and HUD Mortgagee Letter 2007-03, dated January 25, 2007, or such other standard as may hereafter be ordered in writing addressed to the beneficiary by the Chief Building Official. Adherence to the maintenance and monitoring standard set forth in this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property.
- B. Each property which is acquired by a beneficiary following the recordation of a notice of default, whether acquired by such beneficiary by foreclosure, deed in lieu of foreclosure or judgment of foreclosure, shall be maintained by the beneficiary so as not to constitute a public nuisance under Chapter 8.44 of the El Monte Municipal Code and other applicable laws, for so long a period of time as the beneficiary may own such property.

SECTION 8. Chapter 8.60 of the El Monte Municipal Code is hereby amended by the addition of a new Section 8.60.046 which reads as follows:

8.60.046 Property Inspection Report Upon Sale or Transfer of Property.

- A. Property which is acquired by a beneficiary following the recordation of a notice of default, whether acquired by such beneficiary by foreclosure, deed in lieu of foreclosure or judgment of foreclosure, shall also be subject to compliance with the provisions of El Monte Municipal Code Section 17.16.040, upon the sale, exchange, transfer or other conveyance of such property by the beneficiary to a third person.
- B. Property which is vacant or abandoned at the time of acquisition by a beneficiary, whether acquired by such beneficiary by foreclosure, deed in lieu of foreclosure or judgment of foreclosure shall also be subject to compliance with the provisions of El Monte Municipal

Code Section 17.16.040, prior to the earlier date of either: (i) re-occupancy of such property by any tenant of the beneficiary; or (ii) sale, exchange, transfer or other conveyance of such property by the beneficiary to a third person.

- C. Property which is occupied by either the trustor or a tenant of the trustor at the time of acquisition by a beneficiary, whether acquired by such beneficiary by foreclosure, deed in lieu of foreclosure or judgment of foreclosure, shall also be subject to compliance with the provisions of El Monte Municipal Code Section 17.16.040 prior to the earlier date of either: (i) the re-occupancy of such property by any successor tenant to the trustor or such other successor tenant to the tenant in possession of the property at the time of the beneficiary's acquisition of the property; or (ii) sale, exchange, transfer or other conveyance of such property by the beneficiary to a third person.

SECTION 9. Chapter 8.60 of the El Monte Municipal Code is hereby amended by the addition of a new Section 8.60.047 which reads as follows:

8.60.047 Administrative Memorandum With a Beneficiary

Upon prior written application in a form approved by the City Manager, a beneficiary or a trustee or agent on behalf of one or more beneficiaries, may enter into a memorandum of agreement with the City for administration of the provisions of this Chapter 8.60 to one or more properties which are either owned by such beneficiary (or represented group of such beneficiaries) or for which the beneficiary has caused to be recorded a notice of default. Such a memorandum shall have a duration of not more than twelve (12) months, unless renewed or extended by the beneficiary and the City and shall contain other provisions reasonably acceptable to the City Manager. Each such memorandum of agreement shall reference this Section 8.60.047, and shall be subject to the approval by the City Council in the sole and absolute discretion of the City Council.

SECTION 10. Chapter 8.60 of the El Monte Municipal Code is hereby amended by the addition of a new Section 8.60.048 which reads as follows:

8.60.048 Notice by Beneficiary to City of Disposition of Registered Property

- A. Within ten (10) days following the release of a notice of default and the reinstatement of the loan of the trustor, the beneficiary or its agent shall give the City written notice of such release and reinstatement.
- B. Within ten (10) days following the sale, transfer or other conveyance to a third person of a property registered with the City under this Chapter 8.60, the beneficiary or its agent, shall give the City written notice of such sale, transfer or other conveyance together with current contact information for such *bona fide*

purchaser/successor-in-interest to the beneficiary in such property.

SECTION 11. Chapter 8.60 of the El Monte Municipal Code is hereby amended by the addition of a new Section 8.60.049 which reads as follows:

8.60.049 Re-Registration of Property Subject to this Chapter

- A. The beneficiary or its agent shall annually renew a registration of each property which the beneficiary has previously registered with the City under this Chapter 8.60, and in which such beneficiary retains either an equitable or legal interest as of the first anniversary of the registration of such property with the City. The beneficiary or its agent shall re-register the property on forms provided by the City.
- B. The provisions of this Section 8.60.049, shall apply to each property for which a notice of default was recorded on or after October 1, 2009.

SECTION 12. Section 8.60.060 of the El Monte Municipal Code is hereby amended to read as follows:

8.60.060 Fees.

Fees and charges for the administration of the regulatory program established by this Chapter 8.60 shall be set by resolution of the City Council including without limitation the fee for registering with the City a property for which a notice of default has been recorded, and the separate fee for registering with the City a property which either the beneficiary or the City has found to be vacant or abandoned.

SECTION 13. Chapter 8.60 of the El Monte Municipal Code is hereby amended to add a new Section 8.60.071 which reads as follows:

8.60.071 Fine for Failure to Timely Register a Property With the City

- A. Notwithstanding any other provision of this Chapter or Chapter 1.18 or Chapter 1.19 to the contrary, the City may impose a fine on a beneficiary for its failure to timely register a property with the City under this Chapter 8.60 in the following amounts:
 - (i) Two Hundred and Fifty Dollars (\$250) for the first violation in the 12 months preceding the date of such violation;
 - (ii) Five Hundred Dollars (\$500) for the second violation in the 12 months preceding the date of such violation;
 - (iii) One Thousand Dollars (\$1,000) for the third and each subsequent violation in the 12 months preceding the date of such violation.

B. The special fine amount provisions of this Section 8.60.071 shall be applicable to citations issued on or after September 30, 2010, by the City under Chapter 1.18 or Chapter 1.19 of the Code to a beneficiary for a violation of this Chapter 8.60.

SECTION 14. Chapter 8.60 of the El Monte Municipal Code is hereby amended to add a new Section 8.60.072 which reads as follows:

8.60.072 Special Provisions Where Property is Encumbered With the Security Interests of Multiple Beneficiaries

A. In the event that a property is encumbered by the security interests of more than one beneficiary at the time when a notice of default is recorded, the beneficiary who causes a notice of default for its security interest to be recorded shall be responsible for registering the property with the City as provided in Section 8.60.030 and 8.60.049.

B. Upon the recordation of a notice of default on a property by any beneficiary, regardless of the security lien interest priority of such beneficiary in the property in relation to the priority of the security interests of the other beneficiaries in the same property, the City, in its discretion may elect to enforce the provisions of this Chapter 8.60 against one or more beneficiaries who have not separately recorded a notice of default against the property.

SECTION 15. Subsection A of Section 8.60.092 (Sunset) of Chapter 8.60 (Foreclosure of Residential Property Registration) of the El Monte Municipal Code is hereby amended to read as follows:

A. Subject to the provisions of Section 8.60.092B, this Chapter of the El Monte Municipal Code shall be of no further force or effect on the fourth anniversary following the September 2, 2008 adoption date of City Council Urgency Ordinance No. 2730 which initially added this Chapter to El Monte Municipal Code, unless prior to that date, the City Council enacts a separate ordinance which either repeals this Section 8.60.092, or amends this Section 8.60.092 to further extend the effectiveness of this Chapter to a new date.

[EDITOR'S NOTE: By adoption of City Council Ordinance No. 2755, the City Council extended the initial two year sunset clause applicable to Chapter 8.60 by an additional two (2) years. Accordingly, unless the revised sunset period set forth under amended Section 8.60.092A is repealed or further extended by a separate City Council ordinance, the sunset period applicable to Chapter 8.60 will now expire automatically on September 2, 2012, the 4th anniversary of the original September 2, 2008 adoption date of Urgency Ordinance No. 2730 which initially added Chapter 8.59 to the El Monte Municipal Code.]

SECTION 16. Except as otherwise amended pursuant to Sections 4 through 14 of this Ordinance, the provisions of Chapters 8.59 and 8.60 as originally adopted by way

of City Council Urgency Ordinance No. 2730 shall remain in full force and effect. The City Council further finds that many of the urgency conditions supporting the adoption of Urgency Ordinance No. 2730 persist in that the prolonged nature of the national economic downturn, aggravated by high levels of unemployment in the State of California and in the City of El Monte, continue to cause an historically high rate of residential mortgage foreclosures and force many families to move out of their homes due to the inability to meet monthly mortgage payment obligations. This, in turn, has lead to an unusually high inventory of vacant residential housing within the City of El Monte meriting continued application of the programs established under Chapters 8.59 and 8.60 of the El Monte Municipal Code.

SECTION 17. Inconsistent Provisions. Any provision of the El Monte Municipal Code or appendices thereto inconsistent with the provisions of one or more Sections of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

SECTION 18. CEQA Exemption. The adoption of this Ordinance and the implementation of the regulatory programs authorized under Sections 4 through 12 of this Ordinance, do not require further review under the California Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061, in view of the fact that the regulatory programs are hereby enacted, apply to existing structures and buildings and are intended to provide for continuous and appropriate maintenance and protection of such structure and buildings for so long as the structures and buildings may remain unoccupied or vacant.

SECTION 19. Constitutionality. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

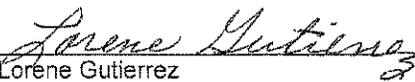
SECTION 20. Effective Date. The Mayor shall sign and the City Clerk attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

PASSED, APPROVED AND ADOPTED THIS 3rd day of August, 2010.



Andre A. Quintero
Mayor of the City of El Monte

ATTEST:



Lorene Gutierrez
City Clerk of the City of El Monte

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF EL MONTE)

I, Lorene Gutierrez, City Clerk of the City of El Monte, do hereby certify that the above and foregoing Ordinance No. 2755 was passed, approved, and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a meeting of said City held on the 3rd day of August, 2010, and that said Ordinance was adopted by the following votes to wit:

AYES: Mayor Quintero, Mayor Pro-Tem Wallach, Councilman Gomez,
 Councilwoman Ishigaki and Councilwoman Macias

NOES: None

ABSTAIN: None

ABSENT: None



Lorene Gutierrez
City Clerk of the City of El Monte

ORDINANCE NO. 2730

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA, ADDING CHAPTER 8.59 TO TITLE 8 OF THE EL MONTE MUNICIPAL CODE RELATING TO VACANT PROPERTIES AND CHAPTER 8.60 TO TITLE 8 OF THE EL MONTE MUNICIPAL CODE RELATING TO FORECLOSURE OF RESIDENTIAL PROPERTY REGISTRATION AND DECLARING THE URGENCY THEREOF

WHEREAS, recent events in the housing market have led to a drastic rise in the number of foreclosed houses in the City of El Monte and elsewhere in the State. In cities all over the nation, homes are being left empty as families are forced to move out. These homes are frequently acquired by banks, financial institutions and large real estate conglomerates that have little to no connection with the municipality in which they own property; and

WHEREAS, many of these foreclosed homes are vacated prior to the conclusion of the foreclosure process. Homes sit empty for months, and may even remain vacant for years, awaiting the final foreclosure sale; often creating an attractive public nuisance. Some homes are in violation of multiple aspects of City building codes. The mortgagees are often times large financial institution located out of state, making enforcement of violations of City building codes very difficult; and

WHEREAS, these City code violations include, and may in the future foreseeably include, among other things multiple violations, unoccupied buildings susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unlocked houses, overgrown grass and bushes, and unsecured swimming pools that are not only a threat to children but become breeding grounds for infectious insects such as mosquitoes; and

WHEREAS, this problem exists not only in El Monte and elsewhere in California but also in many other States. Banks and other financial institutions are refusing to maintain properties, and City building inspectors have great difficulty in determining who the owners are and how to contact them to correct code violations; and

WHEREAS, many other cities around the nation are facing similar problems and searching for solutions in order to keep up the quality of life for residents. Escondido, California has appropriated an extra million dollars for its code enforcement department to deal with problems associated with a large number of residential foreclosures and to ensure compliance. Within the past year, Chula Vista, California has passed an ordinance requiring all financial institutions that foreclose on a property to register, to pay an administrative fee, and to appoint a local property maintenance company to maintain the property once a week. Many other municipalities are considering similar laws or regulations to address this issue; and

WHEREAS, claims have been filed in courts across the nation against these large institutions for housing code violations, resulting in courts in Buffalo and Cleveland imposing hefty fines and liens on these institutions. Although financial institutions have long been disconnected from the communities they serve and immune from responsibility, groups in Cleveland, Minneapolis, and other cities have filed lawsuits under novel legal theories, which seek to hold financial institutions responsible for the maintenance and security conditions of these vacant properties. Some lenders assert that they are not responsible for property maintenance and security, but fail to address the fact that most mortgage contracts contain an abandonment and waste clause that grants the lender the authority to enter the property prior to foreclosure in order to secure and maintain the collateral, the home.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE DOES ORDAIN AS FOLLOWS:

SECTION 1. The information set forth in the Recital paragraphs of this Urgency Ordinance is true and correct. The City Council hereby acknowledges its receipt of a City staff report, dated September 2, 2008 regarding the proposed adoption of this Urgency Ordinance as an urgency measure.

SECTION 2. The City Council has conducted a public hearing on September 2, 2008, to consider the adoption of this Urgency Ordinance. Prior to the conduct of such public hearing, on August 22, 2008, the City Clerk caused a copy of the notice of public hearing to be transmitted by First Class United States Mail to certain potentially interested persons, including without limitation certain mortgage loan foreclosure trustee services and lending institutions who are believed to have security interests in properties located in the City of El Monte, and further, the City Clerk has caused to be published in a newspaper of general circulation on August 27, 2008 notice of the public hearing.

SECTION 3.

The City Council finds as follows:

- A. When the owner of a vacant building fails to actively maintain and manage the building, the building can become a major cause of blight in both residential and nonresidential neighborhoods. Vacant buildings that are boarded, substandard or unkempt properties, and long-term vacancies discourage economic development and regard appreciation of property values.
- B. It is a responsibility of property ownership to prevent the condition of unoccupied property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare.
- C. One vacant building in a neighborhood that is not actively monitored by the owner for maintenance and appropriate security can be the core and cause of spreading blight.
- D. Owners of multiple buildings, either concurrently or serially, that are vacant and a blight to the community are a significant problem in the City. Owners of multiple buildings who fail to correct deficiencies and blighted conditions contribute to the decline of neighborhoods to a greater extent than owners who own only one building. It is in the interest of the welfare of neighborhoods that owners of multiple properties who fail to maintain properties and vacant and blighted buildings be subject to imposition of higher administrative penalties in order to encourage these owners to correct violations of proposed Chapter 8.59 or proposed Chapter 8.60, in a prompt manner.

SECTION 4. Chapter 8.59 (Vacant Building Security and Maintenance) is hereby added to Title 8 of the El Monte Municipal Code to read as follows:

“Chapter 8.59 (Vacant Building Security and Maintenance)

- 8.59.010 Purpose/Scope
- 8.59.020 Definitions
- 8.59.030 Required Boarding and Maintenance of Vacant Buildings
- 8.59.040 Maintenance and Monitoring of Vacant Buildings
- 8.59.050 Vacant Building Regulations
- 8.59.060 Monitoring Fee for Vacant Nuisance Properties
- 8.59.062 Administrative Penalty
- 8.59.064 Additional Authority
- 8.59.070 Enforcement
- 8.59.075 Appeals
- 8.59.080 Violations
- 8.59.090 Severability
- 8.59.092 Sunset

8.60.010 Purpose/scope

It is the purpose and intent of the El Monte City Council, through the adoption of this Chapter, to establish a vacant building security and maintenance program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of vacant buildings or structures which have been vacant or unoccupied for more than thirty (30) consecutive days, except as provided in this Chapter.

8.60.020 Definitions

For the purposes of this Chapter, certain words and phrases used in this Chapter are defined as follows:

- the words “boarded” of “boarding” shall mean and refer to the coverings of all entry points to a building or structure, including all doors, windows and roof openings, with plywood or other materials for the purpose of preventing entry into the building by any person except the owner or an authorized agent of the owner. For the purposes of residential property, the standards for boarding a vacant residential building or structure, shall be substantially in accordance with Attachment No. 4 of HUD Mortgagee Letter 2007-03, dated January 25, 2007. For the purpose of commercial or industrial use property, the standards for boarding a vacant commercial or industrial building or structure to prevent unauthorized entry into the building shall be as directed by written instruction of the Chief Building Official based upon an inspection of the vacant building by the Chief Building Official or his/her designee.
- the words “vacant building” mean and refer to any building that is unoccupied by any person, or that is occupied by an authorized person for any amount of time.

8.59.030 Required Boarding and Maintenance of Vacant Buildings

A. Each vacant building shall be boarded by the owner when the building can no longer be secured against intrusion by unauthorized persons by means of the closing and locking of doors and windows.

B. Vacant buildings that are immediately dangerous are defined in Chapter 8.58 of this Code, and if any such vacant building is open and accessible to the general public, it may be summarily boarded by the City, pursuant to Chapter 8.58 of this Code.

C. Any building that is boarded, whether by voluntary action of the owner, or as a result of enforcement activity by the City, shall be boarded in compliance with the standard as set forth in Section 8.59.020, under the definition of the term “boarded”.

D. Each vacant building shall be actively maintained and monitored by the owner of the parcel of land on which the vacant building is located.

8.59.040 Maintenance and Monitoring of Vacant Buildings

Active maintenance and monitoring of each vacant building or structure on each parcel of land shall include all of the following:

- (1) Maintenance of landscaping and plant materials on the parcel of land on which the vacant building is located in good condition.
- (2) Maintenance of the exterior of the building and exterior signage and signage structures, in good condition.
- (3) Regular removal of all exterior trash and debris from the parcel of land on which the vacant building is located.
- (4) Maintenance of the vacant building in continuing compliance with all applicable codes and regulations.
- (5) Prompt removal of graffiti which has been applied to any exterior surface on the vacant building or fencing surrounding the building, including graffiti applied to any sign attached to the vacant building.
- (6) Prevention of criminal activity on the premises (vacant building and/or the parcel of land on which the vacant building is located), including but not limited to use and sale of controlled substances, prostitution and criminal street gang activity.

- (7) The posting of a notice in a conspicuous place on the front of the vacant building stating the name, address, and telephone number of both the owner and, if applicable, the owner's agent in control of the building. This notice shall have lettering not less than two (2) inches high, and shall be generally readable from at least thirty (30) feet away.

8.59.050 Vacant Building Regulations

No owner shall allow a building designed for human use or occupancy to be a vacant building for more than thirty (30) days, unless one of the following applies:

- (1) The building is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the work of repair or rehabilitation.
- (2) The condition of the building complies with all codes, does not contribute to blight, is ready for occupancy, as evidenced by a current certificate of occupancy, and is both actively being:
 - (a) offered by the owner for sale, lease, or rent; and
 - (b) maintained and monitored by the owner as provided in Section 8.59.040.

8.59.060 Monitoring Fee for Vacant Nuisance Properties

Any vacant building that also constitutes a public nuisance, as defined under this Code or as declared to be a public nuisance by the City Council or by the City Attorney in a manner permitted by other applicable law, shall be subject to monthly monitoring fee and enforcement response fee, to recover the City's regulatory costs to monitor and respond to the vacant building. The separate monthly monitoring fee and enforcement response fee as authorized under this Section 8.59.060 shall be in an amount set by resolution of the City Council and payable by the owner of the parcel of land on which the vacant building is situated. The monitoring fee shall be applicable even in the absence of any action, administrative or otherwise, by the City pursuant to any other provision of the City code. The monitoring fee shall be imposed upon the initial determination that the vacant property or building constitutes a public nuisance. The fee shall thereafter be imposed during each thirty (30) day period following the imposition of the initial monitoring fee. On buildings requiring more than one (1) involuntary city enforcement response within any thirty (30) day period, an additional and separate enforcement response fee shall be imposed upon the owner of the property, for each response, upon the owner. Monitoring fees shall be imposed as long as the vacant building remains a public nuisance as provided in this Section 8.59.060.

Any monitoring fee imposed pursuant to this Section 8.59.060 may be appealed by the owner of the parcel of land on which the vacant building is situated to the City in the same manner as is specified in Chapter 1.18 of this Code.

8.59.062 Administrative Penalty

Notwithstanding the provisions of Section 1.18.040 of this Code, any owner of a parcel of property on which a building is situated which is in violation of Section 8.59.030 or Section 8.59.050 shall be subject to an administrative penalty, in an amount not to exceed one thousand dollars (\$1,000) per building for the first violation.

A second administrative penalty shall be imposed upon an owner pursuant to this chapter if the owner's building remains in violation of Section 8.59.030 or Section 8.59.050 thirty (30) days following the imposition of the first administrative penalty. Additional penalties may be imposed for each succeeding thirty (30) day period following the imposition of the preceding administrative penalty under this chapter. Additional penalties may be imposed for each violation so long as the violation continues. A second and subsequent penalty shall be in an amount not to exceed two thousand five hundred thousand dollars (\$2,500).

If a previous administrative penalty has been imposed pursuant to this Chapter upon an owner within six months of the date of the imposition of the prior administrative penalty, and that previous administrative penalty related to a vacant building other than the building subject to a subsequent administrative penalty, any such penalty imposed shall be imposed pursuant to Section 1.18.030 of this Code, but in no case shall it be less than two thousand dollars (\$2,000), nor more than ten thousand dollars (\$10,000).

8.59.064 Additional Authority

In addition to the enforcement remedies established in Chapter 1.18, Chapter 1.19 and Chapter 1.24 of this Code, the Chief Building Official, or his or her designee, shall have the authority to require the beneficiary/trustee/owner and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property and/or the vacant building.

8.59.070 Enforcement

A violation of this Chapter may be enforced by any means as authorized in Chapter 1.18, Chapter 1.19 and/or Chapter 1.24 of this Code.

8.59.075 Appeals

Any person aggrieved by any of the requirements of this Chapter, or by an order of the Chief Building Official, may appeal such matter as provided in Chapter 1.18 of this Code.

8.59.080 Violation/Penalty

Violations of this Chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this Chapter shall be subject to prosecution under Section 1.24.010 and/or administrative enforcement under Chapter 1.18 or Chapter 1.19.

8.59.090 Severability

If any provision, section, paragraph, sentence or word of this Chapter is determined or declared invalid by any final court action in a court of competent jurisdiction or if the application of any provision, section, paragraph, sentence or word of this chapter is inapplicable to a specific situation by reason of any preemptive State or federal legislation or regulation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

8.59.092 Sunset

A. Subject to the provisions of Section 8.59.092B, this Chapter of the El Monte Municipal Code shall be of no further force or effect on the second anniversary following the date of adoption of the ordinance of the City adding this Chapter to the Code, unless prior to that date, the City Council enacts a separate ordinance which either repeals this Section 8.59.092, or amends this Section 8.59.092 to further extend the effectiveness of this Chapter to a new date.

B. Notwithstanding the provisions of Section 8.59.092A, in any case where enforcement of the provisions of this Chapter has been commenced by the City prior to the second anniversary after the date of adoption of the ordinance of the City adding this Chapter, as evidenced by a notice of violation or a citation issued by the City under this Chapter, then in each such case, all of the provisions of this Chapter shall remain in full force and effect with respect to the final disposition by the City of such notice of violation or citation.”

SECTION 5: Chapter 8.60 (Foreclosure of Residential Property Registration) is hereby added to Title 8 of the El Monte Municipal Code to read as follows:

“Chapter 8.60 Foreclosure of Residential Property Registration

8.60.010	Purpose/Scope
8.60.020	Definitions
8.60.030	Registration of Property
8.60.040	Maintenance requirements
8.60.045	Security Requirements
8.60.050	Additional Authority
8.60.060	Fees
8.60.070	Enforcement
8.60.075	Appeals
8.60.080	Violation/Penalty
8.60.090	Severability
8.60.092	Sunset

8.60.010 Purpose/scope

It is the purpose and intent of the El Monte City Council, through the adoption of this Chapter, to establish a foreclosure of residential property registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned or unoccupied residential properties, including residential properties which are subject to foreclosure proceedings and residential properties which are being held by a beneficiary following the completion of a foreclosure proceeding, pending sale by the beneficiary or pending lease by the beneficiary and occupancy of the unoccupied residential structure.

8.60.020 Definitions

For the purposes of this Chapter, certain words and phrases used in this Chapter are defined as follows:

- “Abandoned” means any property that is vacant and is under a current notice of default and/or notice of trustee’s sale, and/or any property which has been the subject of a foreclosure sale trustee sale or judicially authorized sale where the title was retained by the beneficiary under its deed of trust upon the conclusion of the foreclosure and any property transferred by the trustor under a deed in lieu of foreclosure/sale to either the beneficiary, the trustee or to authorized entity as approved by the beneficiary.
- “Accessible property” means a property that is accessible through a compromised/breached gate, fence, wall, etc.
- “Accessible structure” means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.
- “Agreement” means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.
- “Assignment of rents” means an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another.
- “Beneficiary” means a lender under a note secured by a deed of trust.
- “Buyer” means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.
- “Dangerous building” means any building/structure that is violation of any condition referenced in Chapter 8.58 of this code.
- “Days” means consecutive calendar days.

- “Deed of trust” means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition applies to any and all subsequent deeds of trust, i.e., second trust deed, third trust deed, etc.
- “Deed in lieu of foreclosure/sale” means an instrument that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.
- “Default” means the failure to fulfill a contractual obligation, monetary or conditional.
- “Default Inspection” means a physical inspection of the exterior areas of the property conducted by the beneficiary or its designee following the occurrence of a breach or event of default by the trustor under a deed of trust. When practicable, each default inspection shall be conducted upon prior reasonable notice and consent of the trustor and/or the occupant of the property. In instances when the trustor and/or the occupant cannot reasonably be obtained despite due and diligent inquiry by the beneficiary, or where the trustor or the occupant may expressly refuse to give the beneficiary consent to a default inspection, the beneficiary or its agent shall conduct the default inspection of the exterior areas of the property which may be viewed from the adjacent public right-of-way or from adjacent property on which the owner or occupant of such adjacent property has consented to entry onto such adjacent property by the beneficiary for the purpose of conducting a default inspection of the adjoining property. The beneficiary, or its agent, shall maintain a written record of the time and date of each default inspection and shall identify the individual who conducted the default inspection. The written record of each default inspection shall at a minimum indicate whether, at the time of the default inspection, the property was: (i) occupied or vacant, and if vacant, set forth facts to support the evidence of vacancy; (ii) in compliance with the general maintenance and monitoring standard set forth in Section 8.60.040; and (iii) if security appliances have been installed on the property by either the trustor, the beneficiary or its agent, or by another entity, the Default Inspection report shall indicate whether the installed security appliances are intact and in good and serviceable condition. A Default Inspection report shall contain such other property-specific information as the Chief Building Official may direct in writing to the beneficiary.
- “Distressed” means a property that is under a current notice of default and/or notice of trustee’s sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.
- “Evidence of vacancy” means any set of facts or conditions that on its own or combined with other facts and conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.
- “Foreclosure” means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.
- “Notice of default” means a recorded notice that states that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee’s sale.
- “Owner” means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.
- “Owner of record” means the person having recorded title to the property at any given point in time the record is provided by the Los Angeles County Recorder’s Office.

- “Property” means any residential, zoned or occupied real property, or portion thereof, situated in the City and includes the buildings or structures located on such property, regardless of condition.
- “Residential building” means any improved real property, or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as “residential” whether or not it is legally permitted and/or zoned for such use.
- “Securing” means such measures as may be directed by the Chief Building Official or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the installation or repair of fences and walls, chaining/padlocking of gates, the repair or boarding of door, window and/or other openings. In the case of residential buildings the boarding of doors, windows and/or other openings shall be installed in accordance with the HUD Mortgagee Letter 2007-03, dated January 25, 2007 or such successor written standard as may hereafter be approved from time-to-time by Resolution of the City Council.
- “Trustee” means the person, firm or corporation holding a deed of trust on a property.
- “Trustor” means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.
- “Vacant” means a building/structure that is not legally occupied.

8.60.030 Registration

A. Prior to recording a notice of default on a property located in the City of El Monte which is subject to a deed of trust, the beneficiary, or its trustee, shall conduct a default inspection. Property which is vacant at the time of such default inspection shall be deemed abandoned for the purposes of this Chapter.

B. Within ten (10) days following the date of a Default Inspection which indicates that the property is vacant or abandoned, the beneficiary, or its agent shall register the property as abandoned with the Chief Building Official, on forms provided by the City.

C. In the event that at the time of the initial Default Inspection, the property is not vacant, the beneficiary or its agent shall conduct subsequent Default Inspections of the property at least once per month, commencing thirty (30) days after the date of the recordation of the notice of default, until such time as:

- (i) the trustor cures the breach or event of default under the deed of trust and the notice of default is rescinded by the beneficiary or the trustor; or
- (ii) the property is deemed abandoned, and the beneficiary or its agent, has registered the property as abandoned with the Chief Building Official on forms provided by the City; or
- (iii) the trustor has surrendered the property to the beneficiary as evidenced by either a letter from the trustor addressed to the beneficiary confirming such surrendered, or by the trustor’s delivery of the keys to the property to the beneficiary or its agent, and the beneficiary or its agent has registered the property as abandoned with the Chief Building Official on forms provided by the City; or
- (iv) the beneficiary has obtained possession of the property under Code of Civil Procedure Sections 1161 or 1161a or 1161b, as applicable, following the completion of the foreclosure proceeding, and the beneficiary or its agent has registered the property as abandoned with the Chief Building Official on forms provided by the City.

8.60.040 Maintenance Requirements

Properties which are abandoned or vacant shall be, in comparison to the neighborhood standard, maintained by the beneficiary and kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The beneficiary shall maintain such property free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

In general, the maintenance of abandoned or vacant property by the beneficiary shall comply with the standards set forth in Section 8.59.040 and HUD Mortgagee Letter 2007-03, dated January 25, 2007, or such other standard as may hereafter be ordered in writing addressed to the beneficiary by the Chief Building official.

Adherence to the maintenance and monitoring standard set forth in Section 8.60.040 does not relieve the beneficiary/trustee or property owner of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property.

8.60.045 Security Requirements

Properties which are abandoned or vacant shall be maintained by the beneficiary in a secure manner so as not to be accessible to unauthorized persons. In general, the security of abandoned or vacant property by the beneficiary shall comply with the standards set forth in Section 8.59.030 and HUD Mortgagee Letter 2007-03, dated January 25, 2007, or such other standard as may hereafter be ordered in writing addressed to the beneficiary by the Chief Building Official.

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 law, are being satisfied.

The property shall be posted with name and address of the beneficiary and shall include a 24-hour contact phone number of the local property management company. The posting shall be no less than 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet and shall contain along with the name and 24-hour contact number the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL. [X] OR CALL THE CITY OF EL MONTE AT (626) 580-2050" 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 to the front of the property so it is visible from the street or, if no such area exists, 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 but not readily accessible to vandals. Exterior posting must be constructed of and printed with weather resistant materials.

The local property management company shall make available to the City upon request written confirmation that the property has been inspected not less frequently than once per week to confirm that the property is in compliance with the requirements of this chapter.

8.60.050 Additional Authority

In addition to the enforcement remedies established in Chapter 1.18, Chapter 1.19 and Chapter 1.24 of this Code, the Chief Building Official or his or her designee shall have the authority to require the beneficiary/trustee/owner and/or owner of record of any property subject to this Chapter to implement additional maintenance and/or security measures including but not limited to securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to abate and correct the decline of the property.

8.60.060 Fees

The fee for registering an abandoned residential property shall be set by resolution of the City Council.

8.60.070 Enforcement

A violation of this Chapter may be enforced by any means authorized by Chapter 1.18, Chapter 1.19 and/or Chapter 1.24 of this Code.

8.60.075 Appeals

Any person aggrieved by any of the requirements of this Chapter, or by an order of the Chief Building Official, may appeal such matter to the City as provided in Chapter 1.18 of this Code.

8.60.080 Violation/penalty

Violations of this Chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this Chapter shall be subject to prosecution under Section 1.24.010 and/or administrative enforcement under Chapter 1.18 or Chapter 1.19.

8.60.090 Severability

If any provision, section, paragraph, sentence or word of this Chapter is determined or declared invalid by any final court action in a court of competent jurisdiction or if the application of any provision, section, paragraph, sentence or word of this chapter is inapplicable to a specific situation by reason of any preemptive State or federal legislation or regulation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

8.60.092 Sunset

A. Subject to the provisions of Section 8.60.092B, this Chapter of the El Monte Municipal Code shall be of no further force or effect on the second anniversary following the date of adoption of the ordinance of the City adding this chapter to the code unless prior to that date the City enacts a separate ordinance which either repeals this Section 8.60.092, or amends this Section 8.60.092 to further extend the effectiveness of this chapter to a new date.

B. Notwithstanding the provisions of Section 8.60.092A, in any case where enforcement of the provisions of this Chapter have been commenced by the City prior to the second anniversary after the date of adoption of the ordinance of the City adding this Chapter, as evidenced by a notice of violation or a citation issued by the City under this Chapter, then in each such case, all of the provisions of this chapter shall remain in full force and effect with respect to the final disposition by the City of such notice of violation or citation.”

SECTION 6. Urgency and Limited Duration of Urgency Ordinance. This Urgency Ordinance is enacted as an Urgency Ordinance pursuant to Government Code Section 36934 and in furtherance of the police power of the City to protect the health, safety and welfare of the public. The urgency of the regulatory programs established under this Urgency Ordinance is attributable to the substantial and growing adverse effects on the community of some of the direct consequences of the “sub-prime mortgage crises”. Existing regulations of the City do not adequately address a number of problems and potential dangers to the community associated with a growing inventory of unoccupied residential and other structures in the City which are the result of mortgage lien foreclosure proceedings or the inability of homeowners or other property owners to pay their lenders in a timely fashion and also maintain their property. Accordingly, the City Council hereby finds and determines that the adoption of this Urgency Ordinance is a necessary and reasonable response to an unusual and hopefully temporary adverse set of economic conditions. This Urgency Ordinance is adopted as an urgency measure to be effective immediately upon its enactment pursuant to Government Code Sections 36934 and 36937. This Urgency Ordinance shall be of limited duration, and shall be of no further force or effect on the second (2nd) anniversary following its adoption, unless extended by the City Council by a separate ordinance.

SECTION 7. Coordination with SB 1137. Separate from the enforcement of the provisions of either Section 4 or Section 5 of this Urgency Ordinance by the City, the City may in its discretion, elect to enforce the provisions of Civil Code Section 2929.3 (Stats 2008, Chapter 69: SB 1137), against any owner of a vacant residential property who may fail to maintain such vacant residential property. In the event that the City may in a particular instance elect to enforce the provisions of Civil Code Section 2929.3 against an owner of a vacant residential property, no regulatory fee, fine or penalty may be assessed by the City against such an owner, except in compliance with Civil Code Section 2929.3. The provisions of Chapter 1.18 shall apply to the appeal by the owner of vacant residential property to the City of any notice of violation issued by the City to such owner under the authority of Civil Code Section 2929.3.

SECTION 8. Inconsistent Provisions. Any provision of the El Monte Municipal Code or appendices thereto inconsistent with the provisions of one or more Sections of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

SECTION 9. CEQA Exemption. The adoption of this Ordinance and the implementation of the regulatory programs authorized under Section 4 and Section 5 of this Urgency Ordinance, do not require further review under the California Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061, in view of the fact that the regulatory programs are hereby enacted, apply to existing structures and buildings and are intended to provide for continuous and appropriate maintenance and protection of such structure and buildings for so long as the structures and buildings may remain unoccupied or vacant.

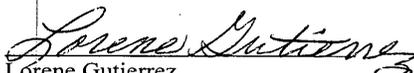
SECTION 10. Constitutionality. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 11. Effective Date. This Ordinance shall take effect as an Urgency Ordinance immediately upon its adoption. The Mayor shall sign and the City Clerk attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption.

PASSED, APPROVED AND ADOPTED THIS 2nd day of September, 2008.


Ernest G. Gutierrez
Mayor of the City of El Monte

ATTEST:


Lorene Gutierrez
City Clerk of the City of El Monte

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF EL MONTE)

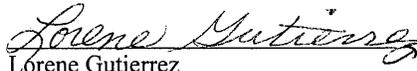
I, Lorene Gutierrez, City Clerk of the City of El Monte, do hereby certify that the above and foregoing Resolution No. 2730 was passed, approved, and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a meeting of said City held on the 2nd day of September, 2008, and that said Resolution was adopted by the following votes to wit:

AYES: Mayor Gutierrez, Councilman Barrios, Councilman Gomez,
Councilwoman Ishigaki and Councilwoman Wallach

NOES: None

ABSTAIN: None

ABSENT: None


Lorene Gutierrez
City Clerk of the City of El Monte