

ORDINANCE NO. 810

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA ADOPTING REGULATIONS PERTAINING TO THE MAINTENANCE AND SECURITY OF VACANT AND ABANDONED RESIDENTIAL, COMMERCIAL AND INDUSTRIAL PROPERTIES, AND AMENDING TITLE 8 OF THE RANCHO CUCAMONGA MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA DOES ORDAIN AS FOLLOWS:

SECTION 1. A new Chapter 8.42 is hereby added to Title 8 of the Rancho Cucamonga Municipal Code to read as follows:

Chapter 8.42

MAINTENANCE OF FORECLOSED AND ABANDONED RESIDENTIAL, COMMERCIAL AND INDUSTRIAL PROPERTIES

Sections:

- 8 .42.010 Findings, purpose and intent.**
- 8 .42.020 Definitions.**
- 8 .42.030 Recordation of transfer of loan or deed of trust; assignment of rents.**
- 8 .42.040 Registration.**
- 8 .42.050 Maintenance requirements.**
- 8 .42.060 Security requirements.**
- 8 .42.070 Additional authority.**
- 8 .42.080 Enforcement.**

8 .42.010 Findings, purpose and intent.

The City Council finds, determines and declares that:

- A. The presence of vacant or abandoned residential, commercial or industrial properties can lead to neighborhood decline.
- B. The presence of vacant or abandoned residential, commercial or industrial properties can create an attractive public nuisance.
- C. The presence of vacant or abandoned residential, commercial or industrial properties can contribute to lower property values.

D. The presence of vacant or abandoned residential, commercial or industrial properties can discourage potential buyers from purchasing property adjacent to or in neighborhoods with such vacant, abandoned properties.

E. In many instances, the lenders and trustees in foreclosures fail to adequately maintain and secure these vacant residential, commercial or industrial properties.

F. It is the purpose and intent of the City Council in enacting this Chapter, to protect the public health, safety and welfare of the City and its citizens by protecting its residential, commercial and industrial neighborhoods from decline and depreciation, and preventing unsafe conditions.

G. It is the further purpose and intent of the City Council in enacting this Chapter, to establish a registration program for properties that are vacant or abandoned, due to foreclosure or otherwise, as a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned properties.

8 .42.020 Definitions.

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

"Abandoned" means a condition in which a property is vacant or distressed.

"Accessible" means capable of being accessed through a compromised or insecure gate, fence, wall, or entrance, or unsecured or capable of being breached so as to allow access to the interior space of a structure 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 of said property.

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

"Beneficiary" means a lender party of a note secured by a deed of trust.

"Buyer" means any person or entity who agrees to transfer anything of value in consideration for property described in an agreement for sale of said property.

"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. In the State of California, the term "deed of trust" is used instead of the term "mortgage." This definition applies to any and all subsequent deeds of trust (*i.e.*, 2nd trust deed, 3rd trust deed, etc.).

"Deed in lieu of foreclosure or sale" means a recorded document 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.

"Distressed" means a condition in which a property: (a) is in receipt of a current Notice of Default or Notice of Trustee's Sale; (b) is the subject of a pending Tax Assessor's Lien Sale; (c) is the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; or (d) is transferred under a deed in lieu of foreclosure or sale.

"Evidence of vacancy" means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, conditions violating property maintenance standards set forth in this Code, any unsecured entrances, broken windows, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or personal items at a residence, consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees, utility employees, or others who regularly observe the property, 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 defaults.

"Landscape Maintenance Requirements" means any and all landscape requirements and standards applicable to the property pursuant to the Rancho Cucamonga Municipal Code. In addition to acceptable types of live or artificial lawn grass landscaping authorized by said Code, and with the prior written approval of the City Planning Director, any person or entity responsible for maintaining property pursuant to this Chapter may utilize a non-toxic, biodegradable, grass-colored green spray paint or substance specifically designed and manufactured to be used to simulate lawn grass, which shall be applied to existing dead grass or other plant material by a professional contractor having any and all permits and licenses required by law to perform such service. Such authorized green spray paint or other substance may be used for a maximum of six (6) months from the date of first application, unless the property remains unoccupied and a written extension, not to exceed three (3) months per extension, is obtained from the Planning Director.

The authorized green spray paint or other substance shall be applied during the initial six (6) month period, and any periods of extension, as needed, to maintain the original color and color intensity.

"Local" means within eighty (80) miles of the subject property.

"Notice of Default" means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.

"Out of area" means in excess of eighty (80) miles of the subject property.

"Owner" means any person or entity having a legal or equitable title or any interest in any property.

"Owner of record" means the person currently having record title to the property at the San Bernardino County Recorder's Office.

"Property" means any real property, or portion thereof, upon which any structure is located, situated in the city, designed or permitted to be used for residential, commercial or industrial purposes, and shall include all buildings and structures located on such property. This includes any real property being offered for sale, trade, transfer, or exchange as "residential" whether or not it is legally permitted or zoned as such.

"Securing" means such measures as may be directed by the Building Official or his or her designee that render the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, the repairing of doors, windows or other openings.

"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 condition of property in which any building or structure thereon is not legally occupied.

8 .42.030 Recordation of transfer of loan or deed of trust; assignment of rents.

Within thirty (30) days of the purchase or transfer of a loan or deed of trust secured by property located in the City of Rancho Cucamonga, the new beneficiary or trustee shall record, with the San Bernardino County Recorder's Office, an Assignment of Rents, or similar document, that lists the name of the corporation or individual, the mailing address and contact phone number of the new beneficiary or trustee responsible for receiving payments associated with the loan or deed of trust.

8 .42.040 Registration.

A. Upon default by the trustor, any beneficiary or trustee who holds a deed of trust on a property located within the City of Rancho Cucamonga shall perform an inspection of the property that is the security for the deed of trust, prior to recording a Notice of Default with the San Bernardino County Recorder's Office. If the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the beneficiary or trustee shall, within thirty (30) days of the inspection, register the property with the Building Official or his or her designee on forms provided by the City.

B. The registration form shall contain the name of the beneficiary or trustee, whether a corporation or an individual, the direct street or office mailing address of the beneficiary or trustee (no P.O. boxes), a direct contact name and phone number for the beneficiary or trustee, and in the case of a corporation or out-of-area beneficiary or trustee, the local property management company responsible for the security, maintenance and marketing of the property.

C. A registration shall be valid for one (1) year from the date the registration form is received by the City. Subsequent registrations are due annually for as long as the property is abandoned.

D. This chapter shall also apply to properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure or transferred under a deed in lieu of foreclosure or sale.

E. Property shall be subject to this chapter's requirements as long as any such property remains vacant.

F. Any person, firm or corporation that has registered a property under this chapter must report, in writing, any change of information contained in the registration within thirty (30) days of the change to the Building Official.

8 .42.050 Maintenance requirements.

A. All vacant properties within the City shall be kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of papers or documents, except those required by federal, state or local law, and discarded personal property, including but not limited to, furniture, equipment, machinery, inoperable vehicles, clothing, appliances, printed materials or any other items that contribute to the appearance that the property is abandoned or that constitute evidence of vacancy.

B. All vacant properties shall be maintained free of graffiti, tagging or similar markings by removing or painting over the graffiti with an exterior grade paint that matches the color of the exterior of the structure.

C. Visible front and side yards and setback areas shall be landscaped and maintained according to the standards and landscape maintenance requirements, set forth in the Rancho Cucamonga Municipal Code and applicable land use approvals for the property. Maintenance required for visible front and side yards and setback areas also includes, but is not limited to, regular watering, cutting, pruning and mowing of landscape and removal of all yard trimmings.

D. Pools and spas shall be secured in a safe and lawful condition with approved fences and devices as required by the City's Building Code. Pools and spas shall be drained and kept dry or kept in working order so that the water remains clear and free of pollutants and debris.

E. All properties within the City shall be maintained in such a manner so as not to constitute a public nuisance as described and prohibited in Sections 8.23.050 of 8.23.060 of the Rancho Cucamonga Municipal Code.

F. Nothing in this chapter shall be deemed to excuse any violation of any other provision of this Code pertaining to maintenance or security of property or structures.

8 .42.060 Security requirements.

A. All vacant and abandoned properties within the City shall be maintained and secured in such a manner so as not to be accessible to unauthorized persons. Sufficient security includes, but is not limited to, the closure and locking of windows, doors, gates and any other opening of such size that it may allow a child to access the interior of the property, its buildings or its structures, and when necessary, the replacement or reglazing of windows.

B. If the property is owned by a corporation or out-of-area beneficiary, trustee or owner, such out-of-area beneficiary, trustee or owner shall hire a local property management company or other responsible person to monitor the property for compliance with this Chapter.

C. The property shall be posted with the name and 24-hour contact phone number of the local property management company or other responsible person in a manner sufficient to allow an individual to contact and notify the local property management company or other responsible person of any problems or concerns regarding the property. The posting shall be placed on the interior of a first floor window facing the street so that it is visible from the street, or secured to the exterior of the building or structure facing the street to the front of the property so that it is visible from the street, or otherwise as directed by the Building Official or designee.

8 .42.070 Additional authority.

In addition to the enforcement remedies established in this Code or otherwise by law, the Building Official or his or her designee shall have the authority to require the beneficiary, trustee, owner, or owner of record of any property subject to this chapter to

implement additional maintenance or security measures, including but not limited to, securing any and all doors, gates, windows or other openings, installing additional security lighting, increasing on-site inspection frequency, or other measures as may be reasonably required to prevent the decline of the condition or appearance of the property.

8 .42.080 Enforcement.

A. The City Manager or his or her designee, including but not limited to police officers, code enforcement officers, or other enforcement officials shall have the authority to enforce the provisions of this Chapter.

B. Any person who violates any provision of this Chapter is guilty of a misdemeanor, and upon conviction shall be punished as set forth in Chapter 1.12 of the Rancho Cucamonga Municipal Code.

C. Any person who violates any provision of this Chapter shall be subject to the enforcement remedies set forth in Chapter 1.12 of the Rancho Cucamonga Municipal Code.

D. Nothing in this Chapter shall be intended to limit any of the civil, administrative or criminal remedies available to the City, nor shall it be intended to limit the City from engaging in efforts to obtain voluntary compliance by means of warnings, notices, administrative citations or educational programs."

SECTION 2. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance, and the regulations established hereby, may have a significant effect on the environment, because the Ordinance will impose property maintenance obligations as to vacant and abandoned properties in the City, and will thereby serve to reduce potential significant adverse environmental impacts. It is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

SECTION 3. SEVERABILITY. If any portion, provision, section, paragraph, sentence, or word of this Ordinance is rendered or declared to be invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining portions, provisions, sections, paragraphs, sentences, and words of this Ordinance shall remain in full force and effect and shall be interpreted by the court so as to give effect to such remaining portions of the Ordinance.

SECTION 4. The City Clerk shall certify to the adoption of this Ordinance.

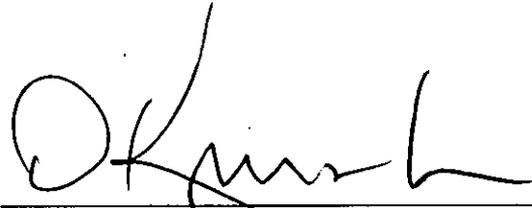
PASSED, APPROVED, AND ADOPTED this 18th day of March 2009.

AYES: Gutierrez, Kurth, Michael, Spagnolo, Williams

NOES: None

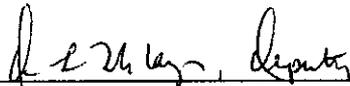
ABSENT: None

ABSTAINED: None



Donald J. Kurth, M.D., Mayor

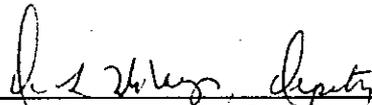
ATTEST:



Janice C. Reynolds, City Clerk

I, **JANICE C. REYNOLDS, CITY CLERK** of the City of Rancho Cucamonga, California, do hereby certify that the foregoing Ordinance was introduced at a Regular Meeting of the Council of the City of Rancho Cucamonga held on the 4th day of March 2009, and was passed at a Regular Meeting of the City Council of the City of Rancho Cucamonga held on the 18th day of March 2009.

Executed this 19th day of March 2009, at Rancho Cucamonga, California.



Janice C. Reynolds, City Clerk