

**Chapter 8.60 - FORECLOSURE OF RESIDENTIAL PROPERTY REGISTRATION**

**Sections:**

[8.60.010 - Purpose/scope.](#)

[8.60.020 - Definitions.](#)

[8.60.030 - Registration.](#)

[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.

*(Ord. 2730 § 5 (part), 2008)*

**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 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.

"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.

"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: (1) occupied or vacant, and if vacant, set forth facts to support the evidence of vacancy; (2) in compliance with the general maintenance and monitoring standard set forth in Section 8.60.040; and (3) 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.

*(Ord. 2730 § 5 (part), 2008)*

## **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:

**1.**

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

**2.**

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

**3.**

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

**4.**

The beneficiary has obtained possession of the property under Code of Civil Procedure Section 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.

*(Ord. 2730 § 5 (part), 2008)*

#### **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 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.

*(Ord. 2730 § 5 (part), 2008)*

#### **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 twenty-four (24) hour contact phone number of the local property management company. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a font that is legible from a distance of forty-five (45) feet and shall contain along with the name and twenty-four (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.

*(Ord. 2730 § 5 (part), 2008)*

#### **8.60.050 - Additional authority.**

In addition to the enforcement remedies established in Chapters 1.18, 1.19 and 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.

*(Ord. 2730 § 5 (part), 2008)*

#### **8.60.060 - Fees.**

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

*(Ord. 2730 § 5 (part), 2008)*

#### **8.60.070 - Enforcement.**

A violation of this chapter may be enforced by any means authorized by Chapters 1.18, 1.19 and/or 1.24 of this code.

*(Ord. 2730 § 5 (part), 2008)*

#### **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.

*(Ord. 2730 § 5 (part), 2008)*

#### **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 1.19.

*(Ord. 2730 § 5 (part), 2008)*

#### **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.

*(Ord. 2730 § 5 (part), 2008)*

#### **8.60.092 - Sunset.**

**A.**

Subject to the provisions of subsection B of this section, 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, or amends this section to further extend the effectiveness of this chapter to a new date.

**B.**

Notwithstanding the provisions of subsection A of this section, 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.

*(Ord. 2730 § 5 (part), 2008)*