

ORDINANCE NO. 1252

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ADDING CHAPTER 8.60 REGARDING ABANDONED RESIDENTIAL PROPERTY REGISTRATION

WHEREAS, there is a growing problem in the City of Lake Elsinore regarding residential properties which are abandoned because the property owner is in default and there is a pending sale to satisfy the debt; and

WHEREAS, these properties are left vacant and begin to deteriorate due to lack of adequate maintenance and on-site security; and

WHEREAS, these properties ultimately blight the surrounding residential neighborhood; and

WHEREAS, the City Council wishes to add Chapter 8.60 to the Lake Elsinore Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 8.60 is added to the Lake Elsinore Municipal Code as follow:

Chapter 8.60

Abandoned Residential Property Registration

8.60.010 Purpose.

It is the purpose and intent of the Lake Elsinore City Council, through the adoption of this Chapter, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

8.60.020 Definitions.

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

“Abandoned” means a property that is vacant and is under a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessors Lien Sale and/or properties that have been the subject to a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

“Accessible property” means a property that is accessible through a compromised/breached gate, fence, wall, or other barrier.

“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.

“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.

“Dangerous building” means any building/structure that is in violation of any condition referenced in LEMC Chapter 8.08.

“Days” means consecutive calendar days.

“Deed of Trust” means an instrument evidencing security for a real estate loan that is recorded as a lien against real property.

“Deed in lieu of foreclosure/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 property that is under a current Notice of Default and/or Notice of Trustee’s Sale and/or pending Tax Assessor’s Lien 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 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, 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.

“Local” means within forty (40) road/driving miles distance of the subject property.

“Neighborhood standard” means those conditions that are present on a simple majority of properties within a three hundred (300) foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property within the three hundred (300) foot radius, shall not be counted toward the simple majority.

“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 forty (40) road/driving miles distance of the subject property.

“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 or entity having recorded fee title to the property.

“Property” means any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the 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 Building Official that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/pad locking of gates, and the repair of door, window and/or other openings. Securing shall be completed to a minimum of the current HUD securing standards at the time the work is completed or required.

“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 Recordation of Transfer of Loan/Deed of Trust/Substitution of Trustee.

Within ten (10) days of the purchase and/or transfer of a loan/deed of trust secured by residential property the new beneficiary/trustee shall record, with the Riverside County Recorder's Office, a substitution of trustee, or similar document, that lists the name of the corporation, and/or individual, the mailing address and contact phone number of the new beneficiary/trustee.

8.60.040 Registration.

A. Any beneficiary/trustee, who holds a deed of trust on a property located within the City of Lake Elsinore, shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor, prior to recording a Notice of Default with the Riverside County Recorder's Office. If the property is vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the beneficiary/trustee shall, within ten (10) days of the inspection, register the property with the Building Official on forms provided by the City.

B. If the property is occupied but remains in default, it shall be inspected by the beneficiary/trustee, or his or her designee, monthly until:

1. The trustor or other party remedies the default; or
2. It is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within ten (10) days of that inspection, register the property with the Building Official on forms provided by the City.

C. The registration by either Subpart (A) or (B) shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee and, in the case of a corporation or out of area beneficiary/trustee, the local property management company responsible for the security, maintenance and marketing of the property. Registration fees will not be prorated.

D. An annual registration fee shall accompany the registration form. 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 January 1st of each year and must be received no later than January 31st of the year due.

E. This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

F. Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.

G. Any person, firm or corporation that has registered a property under this chapter must report any change of information contained in the registration within ten (10) days of the change.

8.60.050 Maintenance Requirements.

A. Properties subject to this chapter shall be, in comparison to the neighborhood standard, 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.

B. The property shall be maintained 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.

C. Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required.

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

2. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.

3. Maintenance includes, but is not limited to regular watering, irrigation, cutting, pruning and mowing of required landscaped and removal of all trimmings.

D. Pools and spas shall be kept in working order so that the water remains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.

E. Adherence to this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any Covenants Conditions and Restrictions and/or Home Owners Association rules and regulations which may apply to the property.

8.60.060 Security Requirements.

A. Vacant properties subject to this chapter shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes but is not limited to the closure and locking of windows, doors (walk-through, sliding and garage) gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s). In the case of broken windows securing means the reglazing or other authorized repair of the window.

B. The owner or property management company employed by owner shall perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met. The property shall be posted with name and 24-hour contact phone number of the owner or owner's property management company. The posting shall be no less than 18" x 24" 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 24-hour contact number, the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL". 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.

8.60.070 Additional Authority.

The Building Official 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.

8.60.075 Maintenance and Security by City

A. If any individual or entity covered by this chapter fails to maintain and secure their property as required by this chapter within a reasonable time of issuance of a notice of violation of any of the provisions of this chapter, then the City Manager shall cause the property to be maintained or secured by city personnel or private contract, and entry upon the property is expressly authorized for such purposes. Upon completion of the maintenance or securing by direction of the City Manager, the City Manager shall cause a statement of the costs thereof to be prepared for submission to the City Council. The City Manager shall set a time and place for the City Council to receive and consider the statement of costs, and shall serve on the owner or owners of the property a copy of the statement of costs and a notice of the time and place at which the City Council will receive and consider the statement of costs. The statement of costs and the notice of hearing shall be served in the same manner as provided in Section 8.18.070 of Chapter 8.18 and shall be accompanied by a copy of this chapter.

B. In addition to maintenance and securing of properties, any individual or entity covered by this chapter who fails to maintain and secure their property as required by this chapter within a reasonable time of issuance of a notice of violation of any of the provisions of this chapter shall be deemed to have authorized the City to remove trespassers from the property.

8.60.080 Fees.

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

8.60.090 Enforcement.

Violations of this chapter may be enforced in any combination as allowed in Chapters 1.16 or 1.20.

8.60.100 Appeals.

Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is allowed under Chapters 1.20.

Section 2. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance and are hereby declared to be severable.

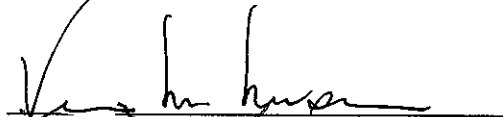
Section 3. This Ordinance shall take effect thirty (30) days after the date of its final passage. The City Clerk shall certify as to adoption of this Ordinance and cause this Ordinance to be published and posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Lake Elsinore, California, on this 8th day of April, 2008.



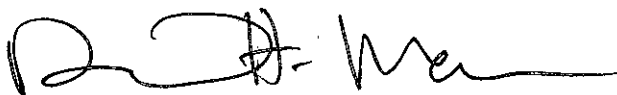
DARYL HICKMAN
MAYOR

ATTEST:



VIVIAN M. MUNSON
CITY CLERK

APPROVED AS TO FORM:



BARBARA ZEID LEIBOLD
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)ss.
CITY OF LAKE ELSINORE)

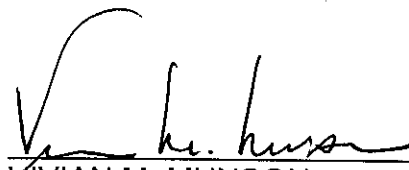
I, VIVIAN M. MUNSON, City Clerk of the City of Lake Elsinore, California, hereby certify that the foregoing Ordinance No. 1252 was introduced at a regular meeting of the City Council of the City of Lake Elsinore on the 25th day of March 2008, and was finally passed at a regular meeting of the City Council of the City of Lake Elsinore held on the 8th day of April 2008, by the following roll call vote:

AYES: MAYOR DARYL HICKMAN, MAYOR PRO TEM GENIE KELLEY,
 COUNCILMEMBER THOMAS BUCKLEY, COUNCILMEMBER ROBERT MAGEE,
 COUNCILMEMBER ROBERT SCHIFFNER

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE


VIVIAN M. MUNSON
CITY CLERK