

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.

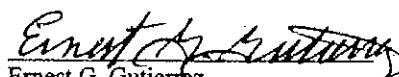
SECTION 8. Inconsistent Provisions. Any provision of the El Monte Municipal Code or appendices thereto inconsistent with the provisions of one or more Sections of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the 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

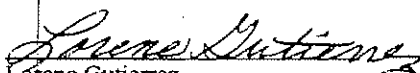
SECTION 10. Constitutionality. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. 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