

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, AMENDING CHAPTER , ARTICLE OF THE POMONA MUNICIPAL CODE RELATING TO REGISTRATION AND MAINTENANCE OF ABANDONED, VACANT AND/OR DEFAULTED MORTGAGE PROPERTIES; PROVIDING FOR ADDITIONAL PROPERTY OWNER RESPONSIBILITIES, AS WELL AS ADDITIONAL ENFORCEMENT OPTIONS BY CITY; PROVIDING FOR MONITORING PROGRAM BY CITY

WHEREAS, vacant properties and buildings are a major cause and source of blight in residential and nonresidential neighborhoods, especially when the owner of the building fails to maintain and manage the building;

WHEREAS, vacant properties and buildings often attract squatters and criminals, including drug users. Use of vacant buildings by squatters and criminals creates a risk of fire for the vacant buildings and adjacent properties;

WHEREAS, vacant properties are often used as dumping grounds for junk and debris and are often overgrown with weeds and grass;

WHEREAS, vacant buildings which are boarded up and other long-term vacancies discourage economic development and hinder appreciation of property values; and

WHEREAS, the City desires to establish a registration and maintenance program of abandoned, vacant and/or defaulted mortgage properties; providing for additional property owner responsibilities, as well as additional enforcement options by the city.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Pomona as follows:

SECTION 1. The City Council of the City of Pomona hereby finds, determines, and declares as follows:

- A. The City Council desires to protect the public health, safety and welfare of the citizens of the City of Pomona and maintain a high quality of life for the citizens of the City through the maintenance of structures and properties in the City; and
- B. Vacant and abandoned residential and commercial properties are a significant problem and can depreciate property values, reduce property tax revenue, attract crime, degrade the quality of life within the community and foster an unsafe and unhealthy environment for residents; and

- C. Property owners are often located outside of the area or state and do not provide regular monitoring or securing of their properties, leading to increased dereliction, trespassing, squatting, arson, and other crimes; and
- D. A number of historically significant properties have been abandoned or allowed to remain vacant without proper monitoring or security, leading to vandalism, squatting, arson, and destruction; and
- E. The Council has a vested interest in protecting neighborhoods against various dangers caused by vacant and abandoned properties and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to ensure that all properties within the City are held to reasonable standards of maintenance and security; and
- F. The City Council desires to amend the City's Code in order to provide additional tools for staff to aggressively enforce the City's registration and maintenance program, requiring the posting of bonds by property owners and installation of fencing on all vacant properties; and
- G. The City Council finds that the implementation of the following changes and additions will assist the City in protecting neighborhoods from the negative impacts and conditions that occur as a result of vacancy, absentee ownership and lack of compliance with City regulations and laws.

SECTION 2. The adoption of this ordinance is exempt from the California Environmental Quality Act and a Notice of Exemption will be filed if this ordinance is adopted.

SECTION 3. Section .xx of Pomona Municipal Code is hereby amended as such that it reads as follows:

Section .XX.- Definitions.

For the purpose of this division the following terms, phrases and words, shall have the meaning set forth below:

"Abandoned" means any real property that is vacant or shows evidence of vacancy, and (1) is subject to a current notice of default and/or notice of trustee's sale, pending tax assessors lien sale and/or (2) is the subject of a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or (3) was conveyed to the current owner under a deed in lieu of foreclosure/sale.

"Abatement order" means a notice of violation, notice and order, or administrative citation. As used in this chapter, the terms "abate" and "abatement" means action to repair, replace, remove, destroy, terminate, or otherwise remedy the condition or activity

in question by such means and in such manner as is necessary in the interests of the health, safety or welfare of the public. (Section 17-4)

“Accessible property” means real property that is accessible to the public, either, in general or through an open and unsecured door, window, gate fence, wall, etc.

“Accessible structure” means a building or structure that is not secured or is open in such a way as to allow public or unauthorized access to the interior.

“Administrative penalty payment due date” means the date that is the 10th day after the issuance of an abatement order, a notice of violation issued pursuant to section 18-89.

“Agreement” means any written instrument that transfers or conveys title to residential or commercial real property from one owner to another after a sale, trade, transfer or exchange.

“Beneficiary” means a lender participating in a real property transaction that holds a secured interest in the real property in question identified in a deed of trust.

“Boarded building” means a vacant building or portion of a vacant building whose doors and windows have been covered with plywood or other material for the purpose of preventing entry into the vacant building by persons or animals.

“Building” means any structure, including, but not limited to, any residential, commercial, industrial, or assembly structure, approved for occupancy on either a lot of record or within a single project approved by the city pursuant to the city’s Code or applicable specific plan.

“Buyer” means any person, partnership, association, corporation, fiduciary or other legal entity that agrees to transfer anything of value in consideration for real property via an agreement.

“Chief Building Official” or “building official” means the head of the Building & Division or their designees.

“Code Compliance Manager” or “Code Manager Supervisor” means the head of the Code Compliance Division or their designees.

“Dangerous building” means any building or structure reasonably deemed by authorized city staff to represent a violation of any provision specified in the Uniform Code for the Abatement of Dangerous Buildings, International Property Maintenance Code, or California Health and Safety Code section 17920.3.

“Days” means calendar days.

“Deed of trust” means an instrument whereby an owner of real property, as trustor, transfers a secured interest in the real property in question to a third party trustee, as security for a loan issued in the context of a real property transaction. This definition applies to any and all subordinate deeds of trust; i.e., 2nd trust deed, 3rd trust deed, etc.

“Deed in lieu of foreclosure” means a recorded instrument that transfers ownership of 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 material breach of, or failure to fulfill, a legal or contractual duty arising from or relating to a deed of trust.

“Development Services Director” means the head of the Development Services Department or their designee.

“Distressed” means any building, structure or real property that is subject to a current notice of default and/or notice of trustee's sale, pending tax assessors lien sale and/or any real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or any real property conveyed via a deed in lieu of foreclosure/sale, regardless of vacancy.

“Enforcement official” means the city manager, the building official, code compliance manger, development services director and/or any employee or agent of the city designated and/or charged with enforcing this Code, including but not limited to applicable codes adopted by reference therein.

“Evidence of vacancy” means any real property condition that independently, or in the context of the totality of circumstances relevant to that real property would lead a reasonable enforcement official to believe that a property is vacant or occupied by a person without a legal right of occupancy. Such real property conditions include but are not limited to: 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 consistent with residential habitation; and/or statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

“Foreclosure” means the legal process by which a mortgagee, or other lien holder, terminates a property owner's equitable right of redemption to obtain legal and equitable title to the real property pledged as security for a debt or the real property subject to the lien. This definition shall include, but is not limited to, public notice of default, a deed-in-lieu of foreclosure, sale to the mortgagee or lien holder, certificate of title and all other processes, activities and actions, by whatever name, associated with the described process. The process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

“Local” means within forty (40) driving miles of the subject building, structure or real property.

“Neighborhood standard” means the condition of real property that prevails in and through the neighborhood where an abandoned building, structure or real property is located. When determining the neighborhood standard no abandoned or distressed building, structure or real property shall be considered.

“Notice of default” means a recorded instrument that reflects and provides notice that a default has occurred under a deed of trust, and that the beneficiary intends to proceed with a trustee's sale.

“Notice of trustee's sale” means a document prepared and recorded by the trustee that sets forth the day, date and time of the trustee's sale, describes the property to be sold, and gives an estimate for the unpaid debt on the deed of trust secured by the property.

“Out of area” means in excess of forty (40) road or driving miles of the subject building, structure or real property.

“Owner” means any person, partnership, association, corporation, fiduciary or other legal entity having a legal or equitable title or any interest in real property.

“Owner of record” means any person shown as the owner of land on the last equalized assessment roll produced by the Los Angeles County Recorder's Office.

“Property” means any unimproved or improved real property designed or permitted to be used for commercial, residential or dwelling purposes, or portion thereof, including but not limited to building or structures located on said real property, regardless of condition.

“Registrable property” means any real property located in the city, whether vacant or occupied, that is encumbered by a mortgage in default, is subject to an ongoing foreclosure action by the mortgagee or trustee, is subject to an application for a tax deed or pending tax assessor's lien sale, or has been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale. “Registrable property” shall also refer to vacant or abandoned property, whether residential, commercial, industrial or historic, subject to the property registration guidelines discussed below.

The designation of a “default/foreclosure” property as “registrable” shall remain in place until such time as the property is sold to a non-related bona fide purchaser in an arm's length transaction or the foreclosure action has been dismissed and any default on the mortgage has been cured.

“Residential building” means any improved real property, or portion thereof, designed or permitted to be used for dwelling purposes, including buildings and structures located on such improved real property. This includes any real property being offered under any circumstances for sale, trade, transfer, or exchange as "residential," whether or not said property is legally permitted and zoned for such use.

“Secure” means such measures as may be directed by an enforcement official that assist in rendering real property inaccessible to unauthorized persons, including but not limited to repairing fences and walls, chaining/pad locking gates, the repairing or boarding of doors, windows or other openings. Such measures shall be implemented in conformance with all applicable standards of the United States Department of Housing and Urban Development.

“Tax assessor's lien sale” means the sale, conducted by the Assessor of Los Angeles County, of tax liens for delinquent taxes on the property.

“Trustee” means any person, partnership, association, corporation, fiduciary or other legal entity holding a deed of trust securing an interest in real property for the benefit of the beneficiary.

“Trustor” means any owner/borrower identified in a deed of trust, who transfers an interest in real property to a trustee as security for payment of a debt by that owner/borrower.

“Vacancy/vacant” means any building, structure or real property that is unoccupied or occupied by a person without a legal right of occupancy.

“Vacant building” means a building where at least thirty-five (35) percent of the total floor area within the building is not occupied.

“Vacant shopping center/industrial complex” means a shopping center or industrial complex on a single property containing one or more buildings where fifty (50) percent of the gross leasable area is not occupied.

SECTION 4. Section of the Pomona Municipal Code is hereby amended such that it reads as follows: That Pomona City Code, Chapter 18, Environment, Article X, Stormwater Management, Division 4, “Cost (Recovery) Center” is hereby amended by adding and amending the following:

Sec. XXX Exterior Property Maintenance Requirements.

It is declared a public nuisance for any person, partnership, association, corporation, fiduciary or other legal entity, that owns, leases, occupies, controls or manages any abandoned property to cause, permit, or maintain any property condition contrary to any provision of this chapter. The following maintenance standards shall apply to any registrable property:

- A. Any registrable property shall be maintained in compliance with the requirements of this chapter and Code Chapters 16, Chapter 41, the Uniform Code for the Abatement of Dangerous Buildings, International Property Maintenance Code and California Health and Safety Code section 17920.3.
- B. Registrable property, any accumulation of newspaper, circular 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.
- C. Registrable property shall be maintained free of graffiti, tagging or similar marking in accordance with Article IV of Chapter 10 of this Code. Any removal or painting over of graffiti shall be with an exterior grade paint that matches the color of the exterior of the structure.
- D. Visible front and side yards shall be landscaped and maintained to the neighborhood standard. Landscaping 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 and standards listed in section 41-609 "Landscape," and abide by the planning and public works division landscape standards. Landscaping does not include weeds, gravel, broken concrete, asphalt, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.
- E. Pools and spas shall be kept in working order so that water remains clear and free of pollutants, mosquito larvae, and debris, or alternatively shall be drained and kept dry. In either case, properties with pools and/or spas must comply with the minimum security fencing requirements set forth in Article XIII of this chapter and minimum state standards, whichever is more restrictive.
- F. Adherence to this section does not relieve the beneficiary/trustee or property owner of obligations set forth in any covenants conditions and restrictions and/or homeowner's association rules and regulations which may apply to the property.
- G. An enforcement official may allow exceptions to the maintenance standards set forth in this section for registrable property that is under construction and/or repair, that is diligently pursued for at least three (3) business days per week, and is undertaken in compliance with all applicable laws including but not limited to city permitting requirements.
- H. No person, firm, partnership, corporation or other entity shall allow a residential, commercial or industrial building designed for human use or occupancy to stand vacant for more than forty-five (45) days, unless the owner establishes by substantial evidence to the reasonable satisfaction of Development Services Director that 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 repair or rehabilitation;
 - (2) The building meets all applicable codes, is actively maintained in accordance with all city ordinances, and is ready for occupancy, and is actively being offered for sale, lease, or rent
- I. The owner of any boarded building, whether boarded by voluntary action of the owner or as a result of enforcement activity by the city, shall cause the boarded building to be rehabilitated for occupancy within ninety (90) days after the building is boarded and shall comply with the provisions of subsections A through H of this section, as well as all other provisions of the City Code.
- J. It is declared a public nuisance for any person, partnership, association, corporation, fiduciary, or other legal entity that owns, leases, occupies, controls or manages any building or property subject to this chapter to cause, permit, or maintain such building or property in violation of subsections A through I of this section.
- K. Within thirty (30) days after a premises becomes a vacant building as defined herein, the owner of a vacant residential, commercial or industrial building shall cause said building to be registered as a vacant building pursuant to the provisions of section 8-1985 of this chapter and shall pay the registration fee required per section 8-1989. Further, the owner of said vacant building shall comply with all applicable provisions of this Code with respect to property maintenance, nuisance abatement, local property management requirements and monitoring.

SECTION 5. Section of the Pomona Municipal Code is hereby amended such that it reads as follows:

Sec. XX. Security Requirements.

- A. Abandoned and vacant properties shall be secured so as not to be accessible to unauthorized persons.
- B. Securing of abandoned property includes but is not limited to closing and locking of windows, doors (walk-through, sliding and garage), gates and any other opening that may allow access to the interior of the property and or structure(s). In the case of broken windows securing means re-glazing or boarding the window.
- C. If the abandoned 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 abandoned property is maintained in accordance with the requirements of this section, and any other applicable laws.

- D. The property shall be posted with the name and 24-hour contact phone number of the local property management company. The posting shall be no less than 18" x 24" in size, shall be of a font that is legible from a distance of forty-five (45) feet, and shall contain the following verbiage: "THIS PROPERTY MANAGED BY _____," and "TO REPORT PROBLEMS OR CONCERNS CALL (name and phone number)."
- E. 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 of the front of the property so it is visible from the street. If no such area exists, the posting shall be 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, and to the extent possible, not readily subject to potential vandalism. Exterior posting must be constructed of, and printed with weather resistant materials.
- F. The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this division. If the property management company determines the property is not in compliance, it is the company's responsibility to bring the property into compliance.
- G. The duties and obligations specified in this section shall be joint and several among and between all trustees and beneficiaries and their respective agents.
- H. Bonding and Fencing Requirements for Vacant Buildings.
- (1) Whenever a building remains vacant for a period of ninety (90) days or more, in addition to the other requirements of this chapter the owner, beneficiary or trustee, shall post with the city a bond or similar security in an amount equal to three (3) months estimated costs of blight prevention and security activities, as estimated by Development Services Director or Code Enforcement Manager.
- (2) Whenever a building remains vacant for a period of ninety (90) days or more, in addition to the other requirements of this chapter, the owner, beneficiary or trustee shall cause to be installed a minimum six foot (6') high chainlink fence adjacent to the property boundaries, or other alternative fencing acceptable to the Development Services Director or Code Enforcement Manager that is adequate to protect the public safety and welfare, unless the City officials determine that the installation of such fencing will be detrimental to the public safety and welfare. Any fencing required under this section may additionally require screening if deemed necessary in order to protect the safety, streetscape and overall appearance of the site. The Development Services Director and Code Enforcement Manager may

promulgate additional fencing standards for vacant properties consistent with this section.

SECTION 6. Section XXX. of the Pomona Municipal Code is hereby amended such that it reads as follows:

Sec.XX . Additional Authority; Monitoring Program.

- A. In addition to the enforcement remedies established in this division, the city shall have the authority to require the beneficiary, trustee, owner 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 and all doors, windows 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 secure and reduce the visual decline of the property.

B. Property Monitoring Program and Procedures

(1) Purpose. Vacant buildings are a major cause and source of blight in residential and nonresidential neighborhoods, especially when the owner of the building fails to maintain and manage the building. Vacant buildings often attract squatters and criminals, including drug users. Use of vacant buildings by squatters and criminals creates a risk of fire for the vacant buildings and adjacent properties. Vacant properties are often used as dumping grounds for junk and debris and are often overgrown with weeds and grass. Vacant buildings which are boarded up and other long-term vacancies discourage economic development and retard appreciation of property values.

In order to combat these issues, the focus of the monitoring program shall be: (a) To identify buildings that become vacant; (b) To order vacant buildings that are open and accessible to be secured against unlawful entry pursuant to City codes, including the building code, or other applicable law; (c) To initiate proceedings against the owner of any vacant building found to be substandard as defined in this chapter or a nuisance under any other provision of this code; and (d) To maintain surveillance over vacant buildings so that timely enforcement proceedings are commenced in the event a building becomes substandard or a nuisance.

(2) Authority. The Development Services Director or their designee shall be responsible for administering a program for identifying and monitoring the maintenance of all vacant buildings in the city. The program shall be documented and regularly updated. The program shall be available for public review.

(3) Fee Imposed. There is imposed upon every owner of a vacant building monitored pursuant to this chapter, an annual vacant building monitoring fee in an initial amount as the city council may establish by resolution, provided

that the fee shall not exceed the estimated reasonable cost of monitoring the vacant building. The fee shall be payable as to any building, residential or nonresidential, which:

- (a) Is boarded up by voluntary action of the owner or as the result of enforcement activities by the city; or
- (b) Is vacant for more than ninety (90) days for any reason.

(4) Fee Waiver. The vacant building monitoring fee shall be waived upon a showing by the owner that:

- (a) The owner has obtained a building permit and is progressing diligently to repair the premises for occupancy; or
- (b) The building meets all applicable codes and is actively being offered for sale, lease, or rent; or
- (c) Imposition of the fee would impose a substantial economic hardship on the owner or would hinder the rehabilitation of the building.

(5) Procedure. The vacant building monitoring fee shall be billed to the owner of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the Los Angeles County Assessor. Any owner billed may apply for a waiver on the grounds set forth in subsection (4) of this section by submitting a written statement of the grounds for the waiver to the Development Services Director within thirty (30) days after the billing is mailed to the owner. The owner shall provide substantial evidence in support of the owner's statement of the grounds for the waiver. The Development Services Director shall review the written statement and all related evidence and may contact the owner to discuss the application for waiver. The Development Services Director shall prepare a written decision which shall be mailed to the owner and shall set forth the reasons for the decision.

(6) Appeal. Any owner aggrieved by the decision of the Development Services Director relating to an application for waiver may appeal the decision pursuant to section 9-1991 within fifteen (15) days of the mailing of the decision.

(7) Non-payment of fees – special assessment. If the fee is not paid within sixty (60) days after billing, or within sixty (60) days after the decision of the Development Services Director or appellate hearing officer, the outstanding balance may then be declared a special assessment against that parcel as provided in California Government Code section 28773.5. Such special assessment shall be collected at the same time and in the same manner as ordinary city taxes are collected and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary city taxes. The city shall retain the additional and independent right to recover its costs by way of civil action against the owner and person in possession or control, jointly or severally.

(8) Non-payment of fees – lien. Alternatively, if the fee is not paid within sixty (60) days, the City manager may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee.

SECTION 7. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The city council of the City of Pomona hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 8. Effective Date. This Ordinance after its adoption by the City Council of the City of Pomona shall first be effective July 19, 2021.

SECTION 3. The City Clerk shall certify to the passage of this Ordinance, and shall cause same to be posted as required by law, and this Ordinance shall take effect thirty (30) days after its adoption.

PASSED, APPROVED AND ADOPTED this 19th day of July, 2021.

CITY OF POMONA:

Tim Sandoval
Mayor

APPROVED AS TO FORM:

ATTEST:

Sonia Carvalho
City Attorney

Rosalia A. Butler, MMC
City Clerk

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

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I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on July 19, 2021 and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on August 2, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Rosalia A. Butler, MMC
City Clerk