

ORDINANCE NO. 1325

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BALDWIN PARK ADDING CHAPTER 150.029 TO THE BALDWIN PARK MUNICIPAL CODE REQUIRING OWNERS AND OTHER PERSONS RESPONSIBLE FOR VACANT AND ABANDONED PROPERTY TO REGISTER WITH THE CITY AND TO MAINTAIN SUCH PROPERTY.

WHEREAS, vacant buildings are a major cause and source of blight in both residential and non-residential neighborhoods, especially when they are not maintained or secured; and

WHEREAS, vacant buildings attract vagrants, gang members and other criminals and are prime locations to conduct illegal criminal activities; and

WHEREAS, vacant buildings are extremely vulnerable to being set on fire by transients and others using the property without authorization; and

WHEREAS, vacant buildings that are not maintained or secured pose serious threats to the public's health and safety and therefore are declared to be public nuisances; and

WHEREAS, it is the responsibility of owners and also of all other persons holding equitable title or any other interest in property to prevent such property from becoming a burden to the neighborhood and community and a threat to the public health, safety and welfare.

NOW, THEREFORE, the City Council of the City of Baldwin Park does hereby ordain as follows:

SECTION 1. The Baldwin Park Municipal Code is hereby amended by adding Chapter 150.029 to read as follows:

CHAPTER 150.029 VACANT AND ABANDONED PROPERTY REGISTRATION

VACANT AND ABANDONED PROPERTY REGISTRATION

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150.029.010 Purpose - Scope.

It is the purpose and intent of the Baldwin Park City Council, through the adoption of this chapter, to establish an abandoned or vacant property registration program as a mechanism to protect neighborhoods and commercial areas from becoming blighted through the lack of adequate maintenance and security of abandoned and vacated properties.

150.029.020 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:

- (1) is under a current notice of default,
- (2) is under a current notice of trustee's sale,
- (3) is pending a tax assessor's lien sale,
- (4) has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; or
- (5) has been transferred under a deed in lieu of foreclosure/sale.

"Accessible property" means a property that is accessible through a compromised/breached window, gate, fence, wall, etc.

"Accessible structure" means a structure/building that is unsecured 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 or holder of a note secured by a deed of trust.

"Beneficiary/trustee" means both the beneficiary and the trustee. When any act is required of the beneficiary/trustee by this chapter, both are responsible for performing such act and may be charged with a violation of this code for failure to act. However, it

is sufficient if it is accomplished by either one. If information is required to be provided, they both must provide such information.

"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.

"Days" means consecutive calendar days.

"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.

"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 and often used in California instead of a mortgage. 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.

"Distressed" means a property that is under a current notice of default 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 and not occupied by authorized persons. Such conditions include, but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings or personal items consistent with residential habitation, or statements by neighbors, passersby, delivery agents, government employees 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 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 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 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 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 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 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.

"Responsible person" means any person, partnership, association, corporation, or fiduciary having legal or equitable title to or any interest in any real property and includes trustees and beneficiaries of a deed of trust on the property and any other lien holder on the property.

"Securing" means such measures as may be directed by the Planning Manager/designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding 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.

150.029.030 Recordation of transfer of loan/deed of trust/assignment of rents.

Within ten (10) days after the purchase or transfer of a loan/deed of trust secured by residential property the new beneficiary/trustee shall record, with the Los Angeles County Recorder's Office, an assignment of rents, 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 responsible for receiving payments associated with the loan/deed of trust.

150.029.040 Registration.

Any beneficiary/trustee, who holds a deed of trust on a property located within the City 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 Los Angeles County Recorder's Office. If the property is found to be vacant or shows evidence of vacancy, then it is hereby deemed abandoned and the beneficiary/trustee shall, within ten (10) days after the inspection, register the property with the City Planning Manager, or her/his designee, on forms provided by the City.

(A) If the property is occupied but remains in default, then it shall be inspected by the beneficiary/trustee, or an agent/designee of the beneficiary/trustee, monthly until (1) the trustor or another 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 beneficiary/trustee shall, within ten (10) days after that inspection, register the property with the City Planning Manager, or her/his designee, on forms provided by the City.

(B) The beneficiary/trustee shall also register any property which becomes vacant after a foreclosure sale where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any property which becomes vacant after being transferred under a deed in lieu of foreclosure/sale.

(C) Such registration shall contain the following information for both the beneficiary and the trustee: name (corporation or individual); the street/office address (not a P.O. box) and if different, the mailing address; a direct contact name and phone number for the person handling the deed of trust and/or foreclosure; and, in the case of a corporation or out-of area beneficiary or trustee, the local property manager responsible for the security, marketing and maintenance of the property.

(D) The annual registration fee established by City Council resolution, 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) Persons required to register properties pursuant to this chapter shall keep such properties registered and all required information updated, comply with the annual registration requirement and all of the security and maintenance requirements of this chapter for the entire time such properties remain vacant. When such properties become occupied or title is transferred, the beneficiary/trustee or prior responsible person shall notify the Planning Manager, or her/his designee in writing.

(F) Any person, firm or corporation required to register a property pursuant to this chapter must report any change of information contained in the registration within ten (10) days after the change.

150.029.050 Inspection and registration of previously abandoned properties.

Any beneficiary/trustee who holds a deed of trust on a property located within the City, which property, on or before May 15, 2009 is: (1) under a current notice of default,

(2) under a current notice of trustee's sale, (3) pending a tax assessor's lien sale, (4) has been subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure, or (5) has been transferred under a deed in lieu of foreclosure/sale, shall, on or before July 14, 2009, perform an inspection of the property that is the security for the deed of trust. If the property is found to be vacant or shows evidence of vacancy, then it is, by this chapter, deemed abandoned and the beneficiary/trustee shall, within ten (10) days after the inspection, register, on forms provided by the City, the property with the Planner Manager or her/his designee.

150.029.060 Maintenance requirements.

Responsible persons, including beneficiaries/trustees, shall maintain properties subject to inspection or registration pursuant to this chapter, and any other applicable provisions of federal, state or local law, and shall keep such properties 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, or printed material and shall take any other action necessary to prevent giving the appearance the property is abandoned, including but not limited to the following:

(A) The property shall be kept 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.

(B) Front and side yards visible from the public rights-of-way or neighboring private or public property shall be landscaped and maintained in accordance with City requirements and the neighborhood standard applicable at the time registration was required.

(C) Permitted 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.

(D) Permitted landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, indoor-outdoor carpet or any similar material.

(E) Required maintenance includes but is not limited to regular watering, irrigation, cutting, pruning and mowing of required landscape and removal of all trimmings.

(F) Pools and spas shall be kept in working order so 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.

(G) 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 homeowners' association rules and regulations which may apply to the property.

150.029.070 Security requirements.

Responsible persons, including beneficiaries/trustees, shall secure properties subject to inspection and/or registration pursuant to this chapter, in a manner to prevent access by unauthorized persons, including but not limited to the following: 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 re-glazing or boarding of the window. Responsible persons shall do the following:

(A) If the responsible person is a corporation and/or out-of-area beneficiary/trustee/owner, a local property manager shall be hired to perform weekly inspections to verify that the requirements of this chapter, and any other applicable laws, are being met.

(B) The property shall be posted with the name and 24-hour contact phone number of the local property manager. 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", "TO REPORT PROBLEMS OR CONCERNS CALL (name and phone number)" and "IF NO RESPONSE WITHIN 48 HOURS, CONTACT CODE ENFORCEMENT AT (626) 813-5238. 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.

(C) The responsible person or local property manager shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter.

150.029.080 Additional authority.

In addition to the enforcement remedies established in Chapters 10, 15 and 95 of this code, the Planner Manager, her/his designee, shall have the authority to require the responsible person of any property affected by this section to implement additional maintenance and security measures, including, but not limited to, securing each door, window or other opening, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard, disconnecting utilities and removing the meter boxes, or other measures as may be reasonably required to arrest the decline of the property and prevent unauthorized entry.

150.029.090 Enforcement.

Violations of this chapter may be enforced as allowed in Chapters 10, 15 and 95 of this code or any combination thereof.

150.029.100 Violation - Penalty.

Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm or corporation that violates any portion of this section shall be subject to prosecution and administrative enforcement as provided in Chapters 10 and 15 of this code and subject to the penalties set forth therein. It shall constitute a new and separate offense for each and every day during any portion of which a violation of, or failure to comply with, any provision or requirement of this chapter is committed, continued, or permitted by any person, and such person shall be punished accordingly.

150.029.110 Fees.

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

150.029.120 Appeals.

Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is allowed in Chapter 15 or 95 of this code.

SECTION 2. 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 by reason of any preemptive legislation, then the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

SECTION 3. This ordinance shall go into affect and be in full force and operation from and after thirty (30) days after its final reading and adoption.

SECTION 4. The City Clerk shall certify to the adoption of this ordinance and shall cause a copy of the same to be published or posted in a manner prescribed by law.

APPROVED, and ADOPTED this 15th day of April 2009.

MANUEL LOZANO
MAYOR

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF BALDWIN PARK } ss:

I, LAURA M. NIETO, CMC, Deputy City Clerk of the City of Baldwin Park, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on April 1, 2009. That there after said Ordinance No. 1325 was duly approved and adopted at a regular meeting of the City Council on April 15, 2009 by the following vote:

AYES: COUNCIL MEMBERS: Anthony J. Bejarano, Marlen Garcia,
Ricardo Pacheco, Mayor Pro Tem
Monica Garcia and Mayor Manuel
Lozano

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

LAURA M. NIETO, CMC
DEPUTY CITY CLERK