

ORDINANCE NO. 2008-07

**AN ORDINANCE OF THE LEMOORE CITY COUNCIL ENACTING
CHAPTER 6 TO TITLE 4 OF THE LEMOORE MUNICIPAL
CODE REQUIRING THE REGISTRATION AND MAINTENANCE
OF ABANDONED RESIDENTIAL PROPERTIES**

WHEREAS, the City of Lemoore, pursuant to its charter and the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, the City of Lemoore has determined that the presence of vacant, abandoned residences poses a health and safety risk to the citizens of Lemoore; and

WHEREAS, the City Council finds that the detrimental effects of vacant, abandoned properties include leading to neighborhood decline, creating an attractive public nuisance, contributing to lower property values, mosquito and vector control issues, increased crime, and reducing the marketability of homes in the surrounding neighborhood; and

WHEREAS, many vacant abandoned residences are the responsibility of lenders and trustees from out of the area who, in many instances, fail to adequately maintain and secure these vacant residences; and

WHEREAS, the City Council finds that the detrimental effects of vacant abandoned properties require the Council to take action to preserve the public health and safety of the citizens of Lemoore.

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

1. That Title 4 of the City of Lemoore Municipal Code is hereby amended by adding Chapter 6 to read as follows:

“CHAPTER 6 – ABANDONED RESIDENTIAL PROPERTY REGISTRATION AND MAINTENANCE

4-6-1 TITLE

This Chapter shall be known as the “Abandoned Residential Property Registration and Maintenance Ordinance” and may be so cited.

4-6-2 PURPOSE AND INTENT

It is the purpose and intent of this Chapter to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods within city limits of the City of Lemoore from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

4-6-3 DEFINITIONS

The terms as used in this Chapter or in any resolution or standard adopted by the City Council pursuant to this Chapter shall have the following meanings:

“Abandoned” means a property that is vacant and is under a current Notice of Default, Notice of Trustee’s Sale, pending Tax Assessor’s Lien Sale or that 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 that is transferred under a deed in lieu of foreclosure or sale.

“Accessible Property” means a property that is accessible through a compromised or breached gate, fence, wall or other similar feature.

“Accessible Structure” means a structure or building that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.

“Assignment of Rents” means an instrument that transfers the beneficial interest under a deed of trust from one lender or entity to another.

“Beneficiary” means a lender under a note secured by a deed of trust.

“Buyer” means any person, co-partnership, association, corporation, entity, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this section.

“Dangerous Building” means any building or structure that would constitute a ‘dangerous building’ as defined in Section 302 of the Uniform Building Code for Abatement of Dangerous Buildings or as prepared by the International Conference of Building Officials and adopted in force within the City.

“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, including second trust deed, third trust deed, etc.

“Deed in Lieu of Foreclosure or 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 trust deed.

“Default” means the failure to fulfill a contractual obligation, monetary or conditional.

“Distressed” means a property that is under a current Notice of Default, Notice of Trustee’s Sale, pending Tax Assessor’s Lien Sale, has been foreclosed upon by the trustee or has been conveyed to the beneficiary or trustee via a deed in lieu of foreclosure or 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 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 statements by neighbors, passerby, delivery agents, or 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 defaults.

“Local” means within forty (40) road-driving miles distance from 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, entity, 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 Kings 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 or zoned for such use.

“Securing” means such measures as may be directed by the Chief of Police or his or her designee that assist in rendering the property inaccessible to unauthorized persons including, but not limited to, the repairing of fences and walls, chaining or pad locking of gates, the repair of doors, windows or other openings and locks.

“Trustee” means the person, firm, corporation, or entity holding a Deed of Trust on a property.

“Trustor” means a borrower under a deed of trust, who deeds property to a trustee as a security for the payment of debt.

“Vacant” means a building or structure that is not legally occupied.

4-6-4 RECORDATION OF TRANSFER OF LOAN, DEED OF TRUST, ASSIGNMENT OF RENTS

Within ten (10) days of the purchase of transfer of a loan or deed of trust secured by residential property, the beneficiary/trustee shall record with the Kings County Recorder's Office an Assignment of Rents or similar document that lists the name of the corporation, entity, or individual and the mailing address and contact phone number of the new beneficiary or trustee responsible for receiving payments associated with the loan or deed of trust.

4-6-5 REGISTRATION

- (A) Any beneficiary/trustee who holds a deed of trust on a property located within the City of Lemoore shall perform an inspection of the property that is the security for the deed of trust upon default by the Trustor and prior to recording a Notice of Default with the Kings County Recorder's Office. If the property is found to be 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 City Housing Specialist, or his or her designee, 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 is deemed abandoned and the trustee shall, within ten (10) days of that inspection, register the property with the City Housing Specialist, or his or her designee, on forms provided by the City.**
- (C) The registration required by either A or B above shall contain the name of the beneficiary/trustee (corporation, entity, or individual), the direct street 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, entity, or out-of-area beneficiary/trustee, the local property management company responsible for the security, maintenance, and marketing of the property.

- (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 1 of each year and must be received no later than January 31 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 or sale.
- (F) Properties subject to this Chapter shall remain under the annual registration requirement and the security and maintenance standards of this Chapter as long as they remain vacant.
- (G) Any person, firm, corporation, or entity 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.
- (H) Any individual or entity who fails to comply with any of the requirements of this section shall also be subject to the penalties contained in Section 1-4-1 of this Code.

4-6-6 MAINTENANCE REQUIREMENTS

In addition to the requirements of Chapter 4 of Title 4 of this Code, properties subject to registration under section 4-6-5 shall comply with the following:

- (A) In comparison to the neighborhood standard, the property shall be 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) All yards visible from the public right-of-way shall be landscaped and maintained to the neighborhood standard at the time registration was required.**

 - 1. Landscape includes, but it not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark, or artificial turf or sod designed specifically for residential installation.**
 - 2. Landscape does not include weeds, 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 landscape, and removal of all trimmings.**
- (D) All yards not visible from the public right-of way shall be kept free from the accumulation of dry, overgrown grass, weeds, brush, debris or similar items that would constitute a fire hazard.**
- (E) Pools and spas shall either be kept in working order, treated so the water remains clear and free of pollutants, debris, and any kind of larvae that would cause a health danger to the surrounding vicinity, or drained and kept dry. In either case, properties with pools or spas must comply with the minimum security fencing requirements of the State of California.**
- (F) Adherence to this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any Covenants, Conditions, and**

Restrictions or Home Owners' Association Rules and Regulations, which may apply to the property.

4-6-7 SECURITY REQUIREMENTS

In addition to the requirements of Chapter 4 of Title 4 of this Code, properties subject to registration under section 4-6-5 shall comply with the following:

- (A) The property 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 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 of the window.**
- (B) If the property is owned by a corporation, other entity, or out-of-area beneficiary/trustee/owner:**

 - 1. A local property management company shall be contracted to perform, at a minimum, monthly inspections to verify that the requirements of this section, and any other applicable laws, are being met.**
 - 2. 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 that 18 inches by 24 inches and shall be of a font that is legible from a distance of forty-five (45) feet and shall contain, along with the name and 24-hour contact phone 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 to the street; if no such area exists, on a stake of sufficient size to support the posting location that is visible from the street to the front of the property but not readily accessible to**

vandals. The exterior posting must be construed of and printed with weather resistant materials.

3. The local property management company shall inspect the property no less than on a monthly basis to determine if the property is in compliance with the requirements of this Chapter.

4-6-8 ADDITIONAL AUTHORITY

In addition to the enforcement remedies established by other provisions of this Code, the Chief of Police, or his or her designee, the Fire Chief, or his or her designee, or Code Enforcement Officers, 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 and 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.

4-6-9 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 the 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 the 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 4-4-4 of this Title.

- (B) In addition to maintenance and securing of properties, any individual or entity covered by this Chapter who fails to maintain and secure the 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.
- (C) In addition to the City remedies described in this Chapter and this Title, the City reserves the right to impose fines and penalties under the provisions of Section 2929.3 of the California Civil Code.

4-6-10 FEES

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

4-6-11 ENFORCEMENT

Every violation of this Chapter is declared a nuisance and may be enforced in any combination allowed in Chapter 4 of this Title.

4-6-12 VIOLATIONS AND PENALTIES

- (A) Violations of this Chapter shall be treated as a strict liability offense regardless of intent.
- (B) Any individual or entity that violates any portion of this section shall be subject to civil penalties as provided in Section 1-4-1 of this Code.”

2. The City Clerk is authorized and directed to cause this ordinance or a summary of this ordinance to be published in a newspaper of general circulation published and circulated by the City of Lemoore, within 15 days after its adoption. If a summary of this ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted in the office of the City Clerk at least five days prior to the September 16, 2008 meeting at which the ordinance is adopted and again after the meeting at which the ordinance is adopted. The ordinance shall become effective 30 days after its adoption.

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The foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of Lemoore held on the 2nd day of September, 2008, and was passed and adopted at a regular meeting of the City Council held on the 16th day of September, 2008, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

John Murray, Mayor

ATTEST:

Nanci C.O. Lima, City Clerk

CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF KINGS) ss.
CITY OF LEMOORE)

I, Nanci C. O. Lima, City Clerk of the City of Lemoore do hereby certify the foregoing Ordinance of the City Council of the City of Lemoore was duly passed and adopted at a Regular Meeting of the City Council held on September 16, 2008.

DATED: September 17, 2008

Nanci C. O. Lima, City Clerk