

ORDINANCE NO. 404-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURRIETA, CALIFORNIA  
REQUIRING THE REGISTRATION OF  
ABANDONED RESIDENTIAL PROPERTIES

WHEREAS, the City of Murrieta, pursuant to 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 Murrieta has determined that the presence of vacant, abandoned residences poses a health and safety risk to the citizens of Murrieta; 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 discouraging potential buyers from purchasing a home adjacent to or in neighborhoods with vacant abandoned residences; and

WHEREAS, many vacant abandoned residences are the responsibility of out-of-area and out-of-state lenders and trustees 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 Murrieta,

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

SECTION 1. That Title 8 of the City of Murrieta Municipal Code is hereby amended by adding Chapter 8.44 to read as follows:

CHAPTER 8.44  
ABANDONED RESIDENTIAL PROPERTY REGISTRATION

8.44.010 Title

This chapter shall be known as the "Abandoned Residential Property Registration Ordinance" and may be so cited.

8.44.020 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 the city limits of the City of Murrieta from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

8.44.030 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.

"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 subsection.

"Dangerous building" means any building or structure that would constitute a "dangerous building" as defined in Section 302 of the Uniform Code for the 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 2nd trust deed, 3rd 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 deed of trust.

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

"Distressed" means a property that is under a current Notice of Default, or Notice of Trustee's Sale, or pending Tax Assessor's Lien Sale or 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, passersby, 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 (borrower) defaults.

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

"Neighborhood standard" means those conditions that are present on a simple majority of properties within a three hundred (300) foot radius of an individual property. A property that is

the subject of a neighborhood standard comparison, or any other abandoned property within the three hundred (300) foot radius, shall not be counted toward the simple majority.

"Notice of Default" means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.

"Out-of-area" means in excess of forty (40) road/driving miles distance of the subject property.

"Owner" means any person, co-partnership, association, corporation, 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 Riverside County Recorder's Office.

"Property" means any unimproved or improved residential 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 or boarding of door, window or other openings. Boarding shall be completed to a minimum of the current Housing and Urban Development (HUD) securing standards at the time the boarding is completed or required.

"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 security for the payment of a debt.

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

#### 8.44.040 Recordation of Transfer of Loan/Deed of Trust/Assignment of Rents

Within ten (10) days of the purchase or transfer of a loan or deed of trust secured by residential property, the new beneficiary/trustee shall record with the Riverside 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.

#### 8.44.050 Registration

A. Any beneficiary/trustee who holds a deed of trust on a property located within the City of Murrieta 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 Riverside 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 Chief of Police 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 designee monthly until:

1. The trustor or other party remedies the default, or

2. It is found to be vacant or shows evidence of vacancy, at which time it is deemed abandoned and the trustee shall, within ten (10) days of that inspection, register the property with the Chief of Police or his or her designee on forms provided by the City.

C. The registration required by either (A) or (B) shall contain the name of the beneficiary/trustee (corporation, entity, or individual), the direct street office mailing address of the beneficiary/trustee (no P.O. Boxes), a direct contact name and phone number for the beneficiary/trustee, and, in the case of a corporation, 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 1st 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 be subject to enforcement pursuant to Chapter 1.32 of this Code.

#### 8.44.060 Maintenance Requirements

In addition to the requirements of Chapter 8.20 of this Code, properties subject to registration under section 8.44.050 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 is 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. Pools and spas shall either be kept in working order and 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.

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

#### 8.44.070 Security Requirements

In addition to the requirements of Chapter 8.20 of this Code, properties subject to registration under section 8.44.050 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 or boarding of the window.

B. If the property is owned by a corporation, 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 than 18" X 24" and shall be of a font that is legible from a distance of forty-five (45) feet and shall contain, along with the name and 24-hour contact number, the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL". The posting shall be placed on the interior of a window facing the street to the front of the property so that 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; 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. The exterior posting must be constructed 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.

#### 8.44.080 Additional Authority

In addition to the enforcement remedies established in Chapter 1.32, the Chief of Police or his or her designee and the Fire Chief 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.

#### 8.44.090 Maintenance and Security by City

A. If any individual or entity covered by this chapter fails to maintain and secure their property as required by this chapter within a reasonable time of issuance of a notice of violation of any of the provisions of this chapter, then the City Manager shall cause the property to be maintained or secured by City personnel or private contract, and entry upon the property is expressly authorized for such purposes. Upon completion of the maintenance or securing by direction of the City Manager, the City Manager shall cause a statement of the costs thereof to be prepared for submission to the City Council. The City Manager shall set a time and place for the City Council to receive and consider the statement of costs, and shall serve on the owner or owners of the property a copy of the statement of costs and a notice of the time and place at which the City Council will receive and consider the statement of costs. The statement of costs and the notice of hearing shall be served in the same manner as provided in Section 8.20.060(B) of Chapter 8.20 and shall be accompanied by a copy of this chapter.

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

#### 8.44.100 Fees

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

#### 8.44.110 Enforcement

Violations of this chapter may be enforced in any combination as allowed in Chapters 1.32 and 8.20.

#### 8.44.120 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 Chapter 1.32.

C. Fines collected resulting from enforcement of this chapter will be placed in the general fund and used solely for the purpose of the code enforcement program in order to ensure and maintain the character and well-being of the City.

8.44.130 Appeals

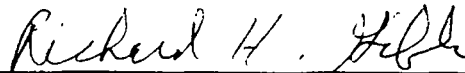
Any person aggrieved by any of the requirements of this chapter may appeal insofar as such appeal is allowed under Chapter 2.28.

SECTION 2. Effective Date. This Ordinance shall become effective thirty (30) days from and after its adoption.

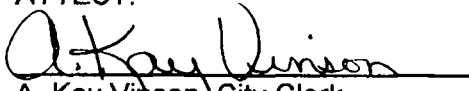
SECTION 3. Severability. If any part of this Ordinance is held invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this City Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

SECTION 4. Notice of Adoption. Within fifteen (15) days after the adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in at least three (3) public places in the City.

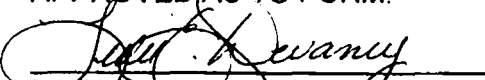
ADOPTED by the City Council, signed by the Mayor, and attested by the City Clerk this 4th day of March, 2008.

  
Richard H. Gibbs, Mayor

ATTEST:

  
A. Kay Vinson, City Clerk

APPROVED AS TO FORM:

  
Leslie E. Devaney, City Attorney

I, A. Kay Vinson, City Clerk of the City of Murrieta, California hereby certify under penalty of perjury that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on February 19, 2008 and that thereafter the said ordinance was duly and regularly adopted at a regular meeting of the City Council on the 4th day of March, 2008, by the following vote, to-wit:


AYES: Bennett, Enochs, McAllister, Thomasian, and Gibbs

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Murrieta, California, this 4th day of March, 2008.

  
City Clerk