

ORDINANCE NO. 2238

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA AMENDING CHAPTER 15 OF THE MUNICIPAL CODE TO REQUIRE REGISTRATION, MAINTENANCE AND SECURITY OF PROPERTIES IN FORECLOSURE

WHEREAS, the presence of real properties in foreclosure can lead to neighborhood decline by creating a public nuisance which could contribute to lower property values and could discourage potential buyers from purchasing a property adjacent to or in neighborhoods with properties; and

WHEREAS, many foreclosed real properties are the responsibility of out of area or out of State beneficiaries and trustees, and in many instances the beneficiaries and/or trustees fail to adequately maintain and secure these foreclosed properties; and

WHEREAS, establishing a registration program for properties in foreclosures will assist staff in comprising and maintaining a database to contact the responsible parties to enforce maintenance and safety provisions of the Municipal Code, and

WHEREAS, the City Council desires to preserve the health, safety, and welfare of residents and the community, and to the extent possible, protect neighborhoods from declining property values, aesthetic decay, and/or loss of character.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of West Covina as follows:

SECTION 1. That Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby amended by the addition of Article XIII, as follows:

ARTICLE XIII. REGISTRATION, MAINTENANCE AND SECURITY OF PROPERTIES IN FORECLOSURE ORDINANCE

Sec. 15-500. Title.

This article shall be known and designated as the "Registration, Maintenance and Security of Properties in Foreclosure Ordinance."

Sec. 15-501. Purpose of Article.

The purpose of this article is to establish a property registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of properties due to Foreclosure.

Sec. 15-502. Expiration.

This article, in its entirety, shall expire three years after the Effective Date of this ordinance unless, prior to that date, the City Council adopts a separate ordinance which either repeals this article or amends this article to further extend the effectiveness of this article to a new date.

Sec. 15-503. Definitions.

The following definitions shall govern all terms of this article and shall supersede any term otherwise defined in this Code:

- (a) "Beneficiary" means a lender under a note secured by a Deed of Trust.
- (b) "City" means the City of West Covina.

- (c) *"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 all deeds of trust regardless of priority.
- (d) *"Default"* means the failure to fulfill a contractual obligation, monetary or non-monetary.
- (e) *"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.
- (f) *"Local"* means within 50-road/driving miles distance of the subject property.
- (g) *"Notice of Default"* or *"Notice of Trustee's Sale"* 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 or other similar remedies authorized by law.
- (h) *"Out of Area"* means in excess of 50-road/driving miles distance of the subject property.
- (i) *"Property in Foreclosure"* or *"Property"* means any Property upon which a Notice of Default has been issued by a lender, mortgagee, or Beneficiary of any Deed of Trust, or real property that has 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 and/or Sale. *"Property in Foreclosure"* or *"Property"* also means any unimproved or improved real property, or portion thereof, situated in the City of West Covina and includes the buildings or structures located on the Property regardless of condition.
- (j) *"Trustee"* means the person, firm or corporation holding a Deed of Trust on a property.
- (k) *"Trustor"* means a borrower under a Deed of Trust, who deeds property to a Trustee as security for the payment of a debt.

Sec. 15-504. Registration of Properties in Foreclosure.

- (a) Any Beneficiary or Trustee, who holds, or has an interest in, a Deed of Trust on a Property in Foreclosure, located within the City, shall register the Property in Foreclosure with the Community Enhancement Division of the City. If the Beneficiary or Trustee issues a Notice of Default after the Effective Date of this Ordinance, they shall register such Property with the City within thirty (30) calendar days of the issuance of such Notice of Default. If the Beneficiary or Trustee issues a Notice of Default prior to the Effective Date of this Ordinance, and such Notice of Default has not been rescinded, the Beneficiary or Trustee shall register the Property in Foreclosure with the City within thirty (30) calendar days of the Effective Date of this Ordinance.

The registration requirement described in this section shall also apply to Property that has 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 and/or Sale.

- (b) The registration requirements of this section shall be satisfied by providing the City the following information:

- (1) The address and Assessor Parcel Number (APN) of the Property in Foreclosure;
 - (2) The name of the Beneficiary and/or Trustee (corporation or individual);
 - (3) The name(s) of all Beneficiaries and/or Trustees (corporations or individuals) who holds security interest at the time when the Notice of Default is recorded;
 - (4) The direct street and/or office mailing address of the Beneficiary and/or Trustee (P.O. boxes are insufficient);
 - (5) A direct contact name and phone number person(s) or agent(s) acting on behalf of the Beneficiary and/or Trustee;
 - (6) In the case of a corporation or Out of Area Beneficiary and/or Trustee, a direct contact staff member name and phone number with the Local property management company responsible for the security, maintenance and marketing of the Property; such staff member must be empowered to (i) comply with code enforcement orders issued by the City, (ii) provide a trespass authorization upon request of local law enforcement authorities if the Property is unlawfully occupied, (iii) conduct weekly inspections of the Property, and (iv) accept rental payments from tenants of the Property if no management company is otherwise employed for such person; and
 - (7) And other information as deemed necessary by the Community Enhancement Division.
- (c) Any person, firm, or corporation that has registered a Property under this article must report any change of information contained in the registration with Community Enhancement Division within 10 calendar days of the change. If Community Enhancement Division determines that the Beneficiary and/or Trustee has failed to comply with the registry requirements of this section, Community Enhancement Division shall notify the Beneficiary and/or Trustee at the last known address as provided in Section 15-504(b) of the failure to comply with this section. If the Beneficiary and/or Trustee fail to comply with this section within thirty (30) calendar days of Community Enhancement Division's notification, the Beneficiary and/or Trustee shall pay a penalty as prescribed in Section 15-511 subsequent to Community Enhancement Division's notification.
- (d) Properties subject to this article shall remain subject to the annual registration requirement and the security and maintenance standards of this article as long as they remain in foreclosure.

Sec. 15-505. Registration Fee.

An annual Foreclosed Properties Registration Fee, as prescribed in Section 15-509, shall be paid to City at the time of registration. 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. Registration fees will not be prorated.

Sec. 15-506. Special Provisions where Property is Encumbered with the Security Interests of Multiple Beneficiaries.

- (a) In the event that a Property is encumbered by the security interests of more than one (1) Beneficiary at the time when a Notice of Default is recorded, the Beneficiary who causes a Notice of Default for its security interest to be

recorded shall be responsible for registering the Property with the City as provided in Section 15-504.

- (b) Upon the recordation of a Notice of Default on a Property by any Beneficiary, regardless of the security lien interest priority of such Beneficiary in the Property in relation to the priority of the security interests of the other beneficiaries in the same property, the City, in its discretion may elect to enforce the provisions of this article against one or more beneficiaries who have not separately recorded a Notice of Default against the Property.

Sec. 15-507. Maintenance and Security of Properties in Foreclosure.

- (a) Properties subject to this article shall be maintained up to City's maintenance standards and secured in a manner so as not to be accessible to unauthorized persons.
- (b) If the Property is owned by a corporation and/or Out of Area Beneficiary/Trustee/Owner, a Local property management company that holds a valid and current City Business License shall be contracted to perform weekly inspections to verify that the Property is in full compliance with the requirements of this article, and any other applicable laws. If the property management company determines the Property is not in compliance, it is the company's responsibility to bring the Property into compliance.
- (c) In addition to specific maintenance standards found in Sections 22-8, 24-29, 26-413, 26-416, and 26-417 of this Code, Properties in Foreclosure shall be maintained in the following manner: watering and mowing of lawn; trimming of trees, hedges, and shrubbery; removing and discarding weeds and other dry or dead vegetation, removing and discarding trash, debris, building materials, appliances, and all other items (personal belongings, vehicles, etc.) on the exterior of the building; and repairing aesthetic features of the structure to be compatible to the surrounding structures within the block.
- (d) Properties in Foreclosure shall be secured in the following manner: the closing and locking of windows, doors (walkthrough, 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, "secured" means re-glazing or boarding-up the window.
- (e) If a pool and/or spa exists on the Property, it must be completely emptied of all water and kept dry, and must be inspected and drained periodically so not to accumulate rainwater.
- (f) The Property shall be posted with the name and twenty-four (24) hour contact phone number of the Local property management company. The posting shall be 8-½" x 11" or larger in size, shall be of a font that is legible from a distance of twenty (20) feet, and shall contain the following verbiage: "THIS PROPERTY IS MANAGED BY _____," and "TO REPORT PROBLEMS OR CONCERNS CALL (name and phone number)." The posting shall be placed on the interior side 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 on 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 accessible to potential vandalism. Exterior posting must be constructed of, and printed with weather resistant materials.

Sec. 15-508. Declaration of Public Nuisance.

The duties/obligations specified in this article shall be joint and several among and between all Trustees and Beneficiaries and their respective agents. The provisions of this article as described herein shall apply to Properties subject to this Article. Should a Property be deemed a public nuisance, hazardous, or substandard by the City, the City may initiate the abatement procedures described in Chapter 15, Article IX against the Beneficiary and/or Trustee.

Sec. 15-509. Fees.

- (a) A Foreclosed Properties Registration Fee will be required for properties subject to this article. The fee shall reimburse the City for staff time incurred and resources expended in its administration of this article.
- (b) The Foreclosed Properties Registration Fee shall be set by Resolution as approved by the City Council.
- (c) Additional hourly inspection fees as set forth in the City's Fees Schedule may be levied on a Property for staff time to inspect and enforce the provisions of this Code when a complaint has been filed on a Property subject to this article.

Sec. 15-510. Authority and Enforcement.

The Community Enhancement Division shall manage the implementation, coordination, documentation, administration and enforcement of this article.

Sec. 15-511. Penalties.

- (a) Violation of any provision of this article may be enforced by civil action, including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this article.
- (b) Pursuant to the provisions of Chapter 15, Article X of this Code, any Beneficiary and/or Trustee of a Property on which a building is situated which is in violation of this shall be subject to an administrative penalty, in an amount not to exceed one hundred dollars (\$100) per building for the first violation.
- (c) Subsequent Violations. A second administrative penalty shall be imposed upon a beneficiary and/or trustee pursuant to this article if the beneficiary's and/or trustee's building remains in violation of this article fifteen (15) calendar days following the imposition of the first administrative penalty in an amount not to exceed two hundred dollars (\$200). Additional penalties may be imposed for each succeeding fifteen-day period following the imposition of the preceding administrative penalty under this article. Additional penalties may be imposed for each violation so long as the violation continues. Subsequent penalties shall be in an amount not to exceed five hundred dollars (\$500).
- (d) Obligation to Correct Violation. Nothing in this article shall be interpreted to mean that because a responsible party has paid the administrative fine he, she, or it is excused from correcting the violation. If the responsible party fails to correct the violation(s), subsequent administrative citations may be issued for the same violation(s). The amount of the fine for failure to correct the violation shall increase at a rate specified in this article.
- (e) Discretion of Penalty. The issuance of an administrative citation under this article is solely at the discretion of the enforcement official and is one option

the City may exercise to address violations of this code. The procedures established in this article shall supplement and be in addition to any criminal, civil or other remedy established by law or under the provisions of this code to address violations of this Code or violations of any other West Covina ordinance. Issuance of an administrative citation shall be cumulative to, and shall not limit or be deemed a waiver of, the use of any other remedy.

Sec. 15-512. Applicability of Other Laws.

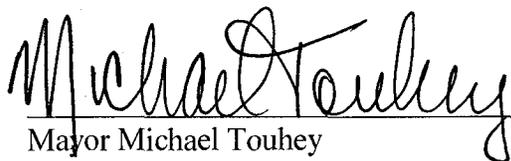
Nothing in this article shall relieve any Beneficiary or Trustee of the duty to comply with any and all other applicable statutes, regulations, ordinances, codes, and laws regulating property maintenance, zoning, or building construction. Compliance with this article shall not relieve any Beneficiary or Trustee of any legal duties under such laws.

Secs. 7-513 to 7-519. Reserved.

SECTION 2. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this article, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this article or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this article irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end, the provisions of this article are declared to be severable.

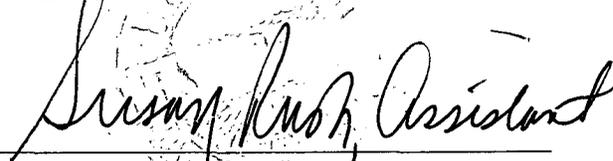
SECTION 3. The City Clerk shall certify to the passage and adoption of this Ordinance and it shall take effect thirty (30) days after its passage.

APPROVED AND ADOPTED on this 20th day of November 2012.



Mayor Michael Touhey

ATTEST



City Clerk Laurie Carrico

I, LAURIE CARRICO, CITY CLERK of the City of West Covina, California, 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 the 16th day of October 2012. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 20th day of November, 2012, by the following vote:

- AYES: Herfert, Sanderson, Sotelo, Sykes, Touhey
- NOES: None
- ABSENT: None
- ABSTAIN: None



City Clerk Laurie Carrico

APPROVED AS TO FORM:



City Attorney Arnold Alvarez-Glasman

CERTIFICATION

I, Susan Rush, Assistant City Clerk of the City of West Covina, State of California, do hereby certify that a true and accurate copy of Ordinance No. 2238 was duly enacted and passed by the West Covina City Council, and caused to be posted pursuant to law (G.C. 36933), at the following locations:

West Covina City Clerk's Office (3rd floor)
Los Angeles County Public Library (West Covina Branch)
West Covina Police Department (front lobby)



Susan Rush, Assistant City Clerk

Posted: 11/29/12