

ORDINANCE NO. 828-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLYTHE ADDING CHAPTER 8.44, REGISTRATION AND MAINTENANCE OF ABANDONED PROPERTIES

WHEREAS, vacant buildings are a major cause and source of blight in 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 BLYTHE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 8.44 is added to the Blythe Municipal Code to read as follows:

Chapter 8.44

REGISTRATION AND MAINTENANCE OF ABANDONED PROPERTIES

Sections:

8.44.010	Purpose and Scope
8.44.020	Definitions
8.44.030	Registration
8.44.040	Inspection and registration of previously abandoned properties
8.44.050	Maintenance requirements
8.44.060	Security requirements
8.44.070	Additional authority
8.44.080	Enforcement
8.44.090	Violation and Penalty

8.44.010 Purpose and Scope

It is the purpose and intent of the Blythe 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.

8.44.020 Definitions

For the purposes of this Chapter, certain words and phrases used in this Chapter are defined as follows:

- A. **“Abandoned”** means a property that is vacant and 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) any property 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; and 5) any property transferred under a deed in lieu of foreclosure/sale.
- B. **“Accessible property”** means a property that is accessible through a compromised/breached window, gate, fence, wall, etc.
- C. **“Accessible structure”** means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.
- D. **“Beneficiary”** means a lender or holder of a note secured by a deed of trust.
- E. **“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, then both must provide such information.
- F. **“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 deed of trust, i.e., second trust deed, third trust deed, etc.
- G. **“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.
- H. **“Distressed”** means a property that is under a current notice of default and/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.
- I. **“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 and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, and statements by neighbors, passerby, delivery agents, government employees that the property is vacant.
- J. **“Local”** means within 40-road/driving miles distance of the subject property.
- K. **“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.
- L. **“Out of area”** means in excess of 40-road/driving miles distance of the subject property.
- M. **“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.

N. **“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.

O. **“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.

P. **“Securing”** means such measures as may be directed by the Director of Planning/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.

Q. **“Trustee”** means the person, firm or corporation holding a deed of trust on a property.

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

S. **“Vacant”** means a building/structure that is not occupied by authorized persons.

8.44.030 Registration.

Any beneficiary/trustee, who holds a deed of trust on a property located within the City of Blythe, 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 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 10 days of the inspection, register the property with the Planning Director on forms provided by the City.

A. If the property is occupied but remains in default 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) the foreclosure is completed and ownership is transferred to a new owner who is not the former beneficiary or trustee; or 3) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the beneficiary/trustee shall, within 10 days of that inspection, register the property with the Planning Director 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 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 and comply with all the security and maintenance requirement 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 Director 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 10 days of the change.

8.44.040 Inspection and registration of previously abandoned properties.

Any beneficiary/trustee, who holds a deed of trust on a property located within the City of Blythe, which property is, on the effective date of this Chapter: 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) that has been subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; and 5) which was transferred under a deed in lieu of foreclosure/sale, shall, on or before January 1, 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, it is, by this Chapter, deemed abandoned and the beneficiary/trustee shall, within 10 days of the inspection, register the property with the Planning Director on forms provided by the City.

8.44.050 Maintenance requirements.

Responsible persons, including beneficiaries/trustees shall maintain properties subject to inspection and/or registration pursuant to this Chapter, as required by Chapter 8.36 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 that 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. Visible front and side yards shall be landscaped and maintained in accordance with city requirements and neighborhood standards.

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 and City of Blythe.

8.38.060 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 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" 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 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.

8.44.070 Additional authority.

In addition to the enforcement remedies established in Chapters 8.24, 8.28, 10.12 and 17.82 of the Blythe Municipal Code, the Director of Planning/designee shall have the authority to require the Responsible person 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, 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.

8.44.080 Enforcement.

Violations of this Chapter may be enforced in any combination as allowed in Chapter 8.24, 8.28, 10.12 and 17.82 of the Blythe Municipal Code.

8.44.090 Violation and Penalty.

Violations of this Chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this section shall be subject to prosecution and/or administrative enforcement as provided in Titles 8, 10 and 17 of the Blythe Municipal 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.

SECTION 2: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance 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 Ordinance or any part thereof. The City Council hereby declares that it would have passed each section,

subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 3: The City Clerk shall certify to the passage hereof, and cause it to be published or posted as required by law. This Ordinance shall take effect on the 30th day following its passage and adoption.

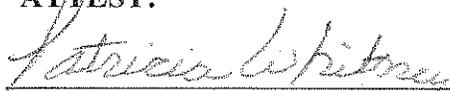
PASSED, APPROVED, and ADOPTED this 28th day of October, 2008, by the following called vote, to wit:

AYES: Crain, Mays, DeConinck, Covell, Contreras
NOES: None
ABSENT: None



Robert A. Crain, Mayor

ATTEST:



Patricia Whitney, City Clerk
(S E A L)