

REGISTRATION OF VACANT AND ABANDONED PROPERTY

Location	
Parcel Number	Owner of Record

Status (circle applicable descriptor)	Abandoned <input type="checkbox"/>	Vacant <input type="checkbox"/>	Secure <input type="checkbox"/>	Open and Accessible <input type="checkbox"/>
Utilities (circle on or off)	Electricity on <input type="checkbox"/> off <input type="checkbox"/>	Water on <input type="checkbox"/> off <input type="checkbox"/>	Gas on <input type="checkbox"/> off <input type="checkbox"/>	

BENEFICIARIES - TRUSTEE

Name	
Mailing Address	
Physical Address	
Agent or Contact	Phone Number (direct line)

TRUSTEE - CONTACT

Name	
Mailing Address	
Physical Address	
Agent or Contact	Phone Number (direct line)

LOCAL PROPERTY MANAGER

Name	
Mailing Address	
Physical Address	
Agent or Contact	Phone Number (direct line)

DEFAULT INFORMATION

Recording Date	Document Number
Trustee Sale Date	Trustee Sale Number
Auction Location	
Auction Date	Minimum Bid

CITY OF DOWNEY ~ VERIFICATION

Code Enforcement Case Number	Date of Registration
Existing Filings	Fees Paid
Building and Housing Case Number	Emergency Contact Name (Property)
Existing Filings	Emergency Contact Phone (24 hour)



City of Downey

FUTURE UNLIMITED

March 11, 2009

To: Trustees, and Beneficiaries of Deeds of Trust for Residential Properties in the City of Downey

Trustees or beneficiaries of Deeds of Trust for residential properties located in the City of Downey are subject to property maintenance requirements according to standards as set forth in the City of Downey Municipal Code (in particular, Article VIII, Chapter 7 and Article V, Chapter 9).

A new ordinance, No. 09-1239, requires the registration of vacant residential properties. Registration forms are available at the City of Downey website at www.downeyca.org or at the City Hall Cashier located at 11111 Brookshire Avenue, Downey, CA 90241. No fee is required for the registration.

Please review the new ordinance (following pages), as there are other obligations which you may need to perform as beneficiary or trustee of a foreclosed property, particularly Section 8640 B:

Responsible parties shall cause the on-site inspection of any real property subject to registration pursuant to this Chapter to be inspected on a weekly basis and shall submit a written inspection report to the City Manager (or designee thereof) on or before the tenth (10th) day of each calendar month for which the real property remains vacant. The written report shall consist of, at a minimum, (i) the address of the real property being inspected, (ii) the dates of inspection, (iii) a description of any unlawful conditions observed, and (iv) the actions taken or proposed to be taken by the responsible party to abate the unlawful conditions.

Registration forms must be turned in to the City Hall Cashier located at 11111 Brookshire Ave., Downey CA 90241.

Inspection reports on vacant residential properties must be forwarded to Code Enforcement in the Downey Police Department (adjacent to City Hall) at 10911 Brookshire Ave., Downey CA 90241.

We thank you in advance for your attention to this matter. Should you have any questions or require additional information, please do not hesitate call Code Enforcement staff members at (562) 904-2392.

Attached: Ordinance No. 09-1239

ORDINANCE NO. 09-1239

AN ORDINANCE OF THE CITY OF DOWNEY
ADDING CHAPTER 7 TO ARTICLE VIII OF THE DOWNEY MUNICIPAL CODE
REQUIRING THE REGISTRATION AND MAINTENANCE OF
VACANT AND ABANDONED REAL PROPERTY.

WHEREAS, Section VII of Article XI of the California Constitution provides that a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and,

WHEREAS, California Government Code section 38771 provides that legislative bodies of cities may declare what constitutes a nuisance; and,

WHEREAS, California Government Code section 38772 et seq. further provides that legislative bodies of cities may also provide for the summary abatement of any nuisance at the expense of the persons creating, causing, committing, or maintaining it, and by ordinance may make the expense of abatement of nuisances a lien against the property on which the nuisance is maintained and a personal obligation against the property owner; and,

WHEREAS, the City of Downey has determined that the presence of vacant, abandoned properties (and structures thereon) has detrimental effects upon the health, safety, and welfare of the City's residents, businesses, visitors, and the general public, including, but not limited to, creating an attractive public nuisance; contributing to lower property values; creation of hazards resulting from mosquito, vermin, and vector; contributing to increased criminal activities; discouraging potential buyers from purchasing property or conducting business activities adjacent to or within the vicinity of vacant, abandoned real property; and,

WHEREAS, many vacant, abandoned properties (and structures thereon) are the responsibility of out-of-area or out-of-state lenders and trustees, who, in many instances, fail to adequately maintain and secure these vacant residences;

WHEREAS, the Legislature of the State of California, in adopting section 2929.3 of the California Civil Code (requiring owners of vacant residential property acquired at a foreclosure sale or by foreclosure under a mortgage or deed of trust to adequately maintain the property and to abate any violations thereof) specifically provides that said section does not preempt any local ordinance; and,

WHEREAS, the City Council of the City of Downey has an obligation to take action to preserve the health, safety, and welfare of its residents, businesses, and the general public;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES

ORDAIN AS FOLLOWS:

SECTION 1: Chapter 7 (“Vacant Residential Property Registration”) is hereby added to Article VIII the Downey Municipal Code to read as follows:

**CHAPTER 7
ABANDONED AND VACANT PROPERTY REGISTRATION
AND MAINTENANCE**

Sections

8600	Title
8605	Purpose/Scope
8610	Definitions
8615	Recordation of Transfer of Loan/Deed of Trust
8620	Registration; Fees
8625	Inspection and Registration of Previously Abandoned Real Property
8630	Property Maintenance Requirements
8635	Security Requirements
8640	Local Property Management Required
8645	Additional Requirements; Appeal
8650	Violations and Penalties
8655	Severability

Section 8600

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

Section 8605 – Purpose and Scope

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

Section 8610 – Definitions

For the purposes of this Chapter, the following words shall have the meanings respectively ascribed to them in this section:

A. “Abandoned” shall mean real property that is vacant and meets any of the following conditions: (i) is under a current notice of default; (ii) is under a current notice of trustee’s sale; (iii) is pending a tax assessor’s lien sale; (iv) 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 (v) has been transferred under a deed in lieu of foreclosure.

B. "Accessible property" shall mean any property that is accessible through a gate, fence, wall, or other barrier that is broken, unlocked, unsecured, or otherwise missing or lacking.

C. "Accessible structure" shall mean a building or structure (as defined by the Building Code) that is unsecured in any manner that could allow access to the interior of the building or structure by unauthorized persons.

D. "Agreement" shall mean any agreement or written instrument which provides that title to real property shall be transferred or conveyed from one owner to another in any manner (whether by sale, gift, exchange, transfer, partition, assignation, placement in a trust, or any other method).

E. "Assignment of rents" shall mean an instrument that transfers the beneficial interest under a deed of trust from one lender or entity to another.

F. "Beneficiary" shall mean a lender or holder of a note secured by a deed of trust.

G. "City" shall mean the City of Downey.

H. "Deed of trust" shall mean an instrument by which an interest in 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 (e.g., second deed of trust, third deed of trust).

I. "Deed in lieu of foreclosure/sale" shall mean 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.

J. "Default" shall mean the failure to fulfill a contractual obligation, monetary or conditional.

K. "Distressed" shall mean a property that meets any of the following conditions: (i) is under a current notice of default; (ii) is under a current notice of trustee's sale; (iii) is pending a tax assessor's lien sale; (iv) 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 (v) has been transferred under a deed in lieu of foreclosure.

L. "Evidence of vacancy" shall mean 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 shall include, but shall not be 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 other debris; the absence of window coverings such as curtains, blinds, and/or shutters; the absence of furnishings and/or personal items and/or commercial furnishings consistent with the permitted residential or commercial uses permitted within the zone of the real property;

statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

M. "Foreclosure" shall mean the process by which real property is sold at auction to satisfy a debt.

N. "Local" shall mean within fifteen (15) driving miles distance of the subject property.

O. "Notice of Default" shall mean a recorded notice that a default has occurred under deed of trust and that the beneficiary intends to proceed with a trustee's sale and/or other foreclosure proceeding.

P. "Out-of-area" shall mean not within fifteen (15) driving miles distance of the subject property.

Q. "Owner" shall mean any person having legal or equitable title or any interest in any real property.

R. "Owner of record" shall mean the person having title to the property at any given point in time as recorded with the Los Angeles County Recorder's Office.

S. "Person" shall mean and include any individual, partnership of any kind, corporation, limited liability company, association, joint venture or other organization, however formed, as well as trustees, heirs, executors, administrators, or assigns, or any combination of such persons. "Person" also includes any public entity or agency that acts as an owner in the City.

T. "Personal property" shall mean property that is not real property, and includes, without limitation, any appliance, article, device, equipment, item, material, product, substance or vehicle.

U. "Real property" shall mean any improved or unimproved real property owned by any person and/or any building, structure, or other improvement thereon, or any portions thereof.

V. "Responsible party" shall mean any person that has title to or control over real property. "Responsible party" includes, but is not limited to, owners, owners of record, beneficiaries, lien holders, trustees, servicing companies, real estate agents, and property management companies, as well as any person acting on behalf of another responsible party.

W. "Securing" shall mean and include such measures as may be directed by Community Development Director (or designee thereof) that assist in rendering real property inaccessible to unauthorized persons, including, but not limited to, the repair of fences, walls, and other barriers, chaining or pad locking of gates, and/or the repair or boarding of doors, windows, and/or other openings. The boarding of any window, door, or

other opening shall be completed to a minimum of the current United States Department of Housing and Urban Development (HUD) securing standards at the time the boarding is completed or required and shall be consistent with the requirements of this Chapter.

X. "Trustee" shall mean the person holding a deed of trust on real property.

Y. "Trustor" shall mean a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

Z. "Vacant" shall mean real property and any building or structure thereon that is not legally occupied.

Section 8615 – Recordation of Transfer of Loan / Deed of Trust

Within ten (10) calendar days following the purchase or transfer of a loan or deed of trust secured by real property, the new beneficiary and trustee shall record with the Los Angeles County Recorder's Office an assignment of rents or similar document that lists the name of the person purchasing or acquiring the loan or deed of trust and the mailing address and contact number of the new beneficiary and trustee responsible for receiving payment associated with the loan or deed of trust. This requirement shall not apply to the sale or transfer of a property when such sale or transfer does not include the sale or transfer of any loan or deed of trust associated with such property.

Section 8620 – Registration; Fees

A. Any beneficiary and trustee who holds a deed of trust on real property located within the City of Downey shall, prior to recording a Notice of Default, perform an inspection of said real property. If the property is found to be abandoned or shows evidence of vacancy (as these terms are defined by this Chapter), the beneficiary and trustee shall register the real property with the City, on City-approved forms, within ten (10) calendar days of the inspection.

B. If the property is occupied at the time of the initial inspection but remains in default, it shall be inspected by the beneficiary and trustee every subsequent calendar month until: (i) the trustor or other party remedies the default, or (ii) the foreclosure is completed and ownership is transferred to a new owner who is not the former beneficiary or trustee, or (iii) the real property is found to be vacant or shows signs of vacancy, at which time the beneficiary and trustee shall register the real property with the City within ten (10) calendar days of said inspection.

C. The beneficiary and trustee shall register with the City any real property which becomes vacant or shows evidence of vacancy after a foreclosure where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any property which becomes vacant or shows evidence of vacancy after being transferred under a deed in lieu of foreclosure/sale. Registration shall be filed on City-approved forms within ten (10) calendar days of the inspection demonstrating the vacancy or the evidence of vacancy.

D. The registration forms shall contain data deemed necessary by the City Manager (or designee thereof). At a minimum, the following information is required:

1. Name and street/office address (not a P.O. Box) and, if different, the mailing address of the beneficiary and trustee;
2. A direct contact name and telephone number for the person handling the deed of trust and/or foreclosure;
3. The name, street address, telephone and facsimile number of a local property management company responsible for the security, maintenance, and marketing of the real property;
4. A Statement of Intent which provides the following information:
 - a. The expected period of vacancy;
 - b. A detailed plan for the regular maintenance of the real property during the period of vacancy;
 - c. A time-table for the lawful re-occupancy of the real property, or for the rehabilitation or demolition of the structures thereon.

E. The registration forms shall be accompanied by an annual registration fee as set by Council resolution.

F. The registration (including the Statement of Intent) and accompanying fee shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. The registration fee shall not be prorated. Subsequent registrations and fees shall be due January 1st of each year and must be received by the City no later than January 31st of the year due.

G. Persons required to register real property pursuant to this Chapter shall keep such property registered and shall comply with all security and maintenance requirements of this Chapter and the whole of the Downey Municipal Code for the entire time such property remains vacant or shows evidence of vacancy. Persons required to register real property pursuant to this Chapter shall also report any change of information contained in the registration within ten (10) calendar days of the change.

H. When real property subject to registration pursuant to this Chapter becomes occupied or title is transferred to another responsible party, the beneficiary and trustee or prior responsible party shall notify the City Manager (or designee thereof) in writing within ten (10) calendar days of the property's occupancy or the transfer of title.

I. In such instance where title to an abandoned or vacant real property has been transferred to another responsible party, the responsible party shall re-register the real property with the City on City-approved forms within ten (10) calendar days of the transfer. Re-registration forms shall contain, at a minimum, all of the information required by section 8620 (D). A re-registration fee as set by Council resolution shall accompany the re-registration form.

Section 8625 – Inspection and Registration of Previously Abandoned Real Property
Any beneficiary and trustee who holds a deed of trust on real property located with

the City of Downey, which property is distressed (as defined by this Chapter) on the effective date of this Chapter, shall, on or before February 1, 2009, perform an inspection of the real property that is the security of the deed of trust. If the real property is found to be vacant or shows evidence of vacancy, the beneficiary and trustee shall register the real property with the City, on City-approved forms, within ten (10) calendar days of the inspection.

Section 8630 – Property Maintenance Requirements

Real property subject to the registration requirements of this Chapter shall be maintained in a neat, clean, and healthful condition at all times. The following conditions shall not comport to a neat, clean, and healthful condition in accordance with Chapter 9 of Article 5 of the Downey Municipal Code and shall be explicitly prohibited:

A. Buildings or structures with graffiti, tagging, or other markings, or graffiti, tagging, or other markings that have not been completely removed or painted over with a color matching the exterior of the remaining portion of the building or structure;

B. Accumulations of lumber, junk, trash, debris, construction material, household furniture, appliances, clothing, or discarded, unused, or abandoned personal property on exterior portions of the real property;

C. Accumulations of newspapers, circulars, flyers, notices, or other printed material that give the appearance that the property is vacant (except those required by federal, state, or local law);

D. Vegetation which is overgrown, dead, decaying, or otherwise that is not adequately trimmed, pruned, cut, fertilized, watered, or replaced;

E. Swimming pools, spas, or other bodies of water that are not maintained in such a manner as to be free and clear of pollutants or debris, or that are maintained in such a manner as to be likely to harbor mosquitoes, insects, or vector, including, but not limited to, water that is clouded or green, water containing bacterial growth, algae, insect larvae, insect remains, or animal remains; or swimming pools that are not secured and/or maintained in accordance with Section 5902 of Chapter 9 of Article 5 of the Downey Municipal Code.

F. Accessible property or accessible structures not secured as required by the Downey Municipal Code.

Nothing contained within this Chapter relieves a responsible party from complying with any other obligation set forth in any applicable “Covenants, Conditions, and Restrictions” and/or Homeowners’ Association rules and regulations, or with any other provisions of the Downey Municipal Code.

Section 8635 – Security Requirements

A. Real properties that are subject to registration pursuant to this Chapter (and buildings or structures thereon) shall be secured within seventy-two (72) hours of

becoming abandoned, vacant, or showing evidence of vacancy, in a manner to prevent access by unauthorized persons, including but not limited to the closure, locking, and/or boarding of windows, doors, gates, or other openings of such a size that it may allow a child to access the interior of the real property and/or buildings or structures located thereon (including garage structures or detached accessory structures).

1. No window, door, or other opening shall be boarded without prior written approval of the City Manager (or designee thereof) and when such approval has been granted, the boarding of any window, door, or other opening shall be completed to a minimum of the current United States Department of Housing and Urban Development (HUD) securing standards at the time the boarding is completed or required and shall be consistent with the requirements of this Chapter.

a. The factors that shall be considered in determining whether the boarding of windows, doors, or other openings include, but are not limited to:

- 1) Whether the window, door, or other opening is visible to the public vantage;
- 2) The difficulty of adequately securing the window, door, or other opening in another manner so as to prevent unauthorized entry;
- 3) The length of time the real property has been abandoned or vacant; and,
- 4) The length of time the real property is expected to remain abandoned or vacant (as indicated in any Statement of Intent on file with the City).

B. Responsible parties for any real property subject to registration pursuant to this Chapter shall submit a "Letter of Agency" or other similarly entitled authorization) to the Downey Police Department every thirty (30) calendar days and post "No Trespassing" signs as required and approved by the City so that the Downey Police Department is authorized to remove and/or arrest all unauthorized persons from the property.

Section 8640 – Local Property Management Required

A. Responsible parties for any property subject to registration pursuant to this Chapter shall retain the services of a local property management company that shall be responsible for the security, maintenance, and marketing of the real property. The retention of a local property management company shall not relieve other responsible parties of their obligations, duties, or responsibilities. Responsible parties shall provide in writing the name and telephone number of the local property management company to adjoining neighbors in case of emergency or other issues that arise in connection with the subject property.

B. Responsible parties shall cause the on-site inspection of any real property subject to registration pursuant to this Chapter to be inspected on a weekly basis and shall submit a written inspection report to the City Manager (or designee thereof) on or before the tenth (10th) day of each calendar month for which the real property remains vacant. The written report shall consist of, at a minimum, (i) the address of the real property being inspected, (ii) the dates of inspection, (iii) a description of any unlawful conditions

observed, and (iv) the actions taken or proposed to be taken by the responsible party to abate the unlawful conditions.

C. Responsible parties shall cause the abatement of any unlawful condition existing on real property subject to registration pursuant to this Chapter within forty-eight (48) hours of observing or of being notified of the unlawful condition. Nothing in this Chapter relieves any responsible party of the need to obtain approvals, permits, and/or licenses as otherwise required by the Downey Municipal Code.

Section 8645 – Additional Requirements; Appeal

A. In addition to the specific maintenance and security requirements provided in this Chapter, the City Manager, the Police Chief, and/or the Fire Chief (or designees thereof) shall have the authority to require responsible parties for real property subject to registration pursuant to this Chapter to implement additional maintenance and security measures in order to effectuate the purpose of this Chapter, including, but not limited to, the installation of security lighting, increasing the frequency of on-site inspections, employment of an on-site security guard, and/or posting of additional signage at the subject property.

B. In accordance with the requirements, procedures, and provisions of Chapter 4 of Article I of the Downey Municipal Code, any responsible party may request a hearing before the City Manager (or designee thereof) in order to challenge or appeal the imposition of any additional maintenance and/or security requirements pursuant to this section. Notwithstanding the provisions of Chapter 4 of Article I of the Downey Municipal Code, nothing contained within this Chapter authorizes a hearing or appeal to the Planning Commission or the City Council, and the decision of the City Manager (or designee thereof) following a timely appeal shall be final and binding.

Section 8650 – Violations and Penalties

A. Notwithstanding any other provision of the Downey Municipal Code to the contrary, any person who causes, permits, or suffers a violation of any provision of this Chapter, or who fails to comply with any obligation or requirement of this Chapter, is guilty of a misdemeanor violation punishable in accordance with Chapter 2 of Article I of the Downey Municipal Code and is also subject to administrative citations in accordance with Chapter 4 of Article I of the Downey Municipal Code.

B. Each person shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this Chapter, or of any law or regulation referenced herein, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

C. This Chapter does not exclusively regulate the use, maintenance, and security of real and/or personal property within the City, and the remedies provided in this Chapter are in addition to other remedies and penalties authorized by the Downey Municipal Code, or by the laws of the State of California or of the United States.

Section 8655 – Severability

If any section, subsection, paragraph, sentence, clause or phrase of this Chapter is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council declares that it would have adopted this Chapter, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

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

SECTION 3: The City Clerk (or duly appointed deputy) shall attest to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner required by law.

SIGNED AND APPROVED this 13th day of January, 2009.

MARIO A. GUERRA, Mayor

ATTEST:

KATHLEEN L. MIDSTOKKE, City Clerk

APPROVED AS TO FORM:

ED LEE, City Attorney