

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ADDING NEW CHAPTER 5.26, ESTABLISHING  
REGISTRATION REQUIREMENT FOR FORECLOSED AND ABANDONED PROPERTIES,  
TO TITLE 5 (NUISANCES) OF THE SAN BRUNO MUNICIPAL CODE**

**Section 1.** The City Council of San Bruno finds as follows:

1. Residential property foreclosures increased sevenfold from 2006 to 2007, and in 2008 more than 84,000 properties were lost to foreclosure in California alone. Economic projections are that foreclosures will occur in high numbers for the foreseeable future. A recent check shows that 316 properties in San Bruno are in some stage of foreclosure.

2. Properties that are foreclosed or in some stage of foreclosure are often abandoned. Abandoned properties are marked by overgrown weeds or dead vegetation, become dumping grounds for garbage, junk and debris, create fire hazards and encourage criminal activity such as trespass and graffiti. These properties become retard appreciation of property values and promote blight. Abandoned properties pose a threat to the public's health, welfare, and safety and therefore are declared to be a public nuisance.

3. Identifying the party responsible for a property in foreclosure, especially an abandoned property, is necessary in order to achieve enforcement of property maintenance standards. Therefore, parties responsible for foreclosed properties or properties in foreclosure, especially corporate entities, should be tasked with making it easier to locate them.

The City Council of the City of San Bruno Ordains as follows:

**Section 2.** New Chapter 5.26 is hereby added to the San Bruno Municipal Code to read as follows:

**Chapter 5.26  
Registration of Foreclosed and Abandoned Properties**

**5.26.010 Purpose.**

It is the purpose and intent of this chapter to establish a registration requirement for properties that are foreclosed or that are in the process of foreclosure and abandoned so that the City has a means of readily identifying parties who are responsible to maintain such properties.

**5.26.020 Definitions.**

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

“Abandoned” means a property that is vacant and is under a current notice of default and/or notice of trustee’s sale, pending tax assessor’s lien sale and/or properties that have 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 any properties transferred under a deed in lieu of foreclosure/sale.

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

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

“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. Used in California instead of a mortgage. This definition applies to any and all subsequent deeds of trust, i.e., second trust deed, third trust deed, etc.

“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.

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

“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 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 or commercial/industrial occupancy as applicable, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

“Foreclosed” or “Foreclosure” means property, or the process by which property, is placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.

“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.

“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.

“Trustee” means the person, firm or corporation 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/structure that is not legally occupied.

#### **5.26.030 Registration of foreclosed vacant properties.**

A. Any beneficiary/trustee who holds a deed of trust secured by property located within the City of San Bruno shall register with the Community Development Department when any of the following events occur:

1. Within thirty (30) days of the purchase and/or transfer of a loan/deed of trust secured by property in San Bruno;

2. Within thirty (30) days upon default by the trustor if the property is abandoned. The beneficiary/trustee shall perform an inspection of the property that is the security for the deed of trust, within thirty (30) days upon default by the trustor to determine whether the

property is abandoned. 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 comply with the registration requirement set forth herein. If the property is occupied but remains in default, it shall be inspected by the beneficiary/trustee, or his designee, monthly until the trustor or other party remedies the default or it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned.

B. The following registration information shall be provided to the City:

1. The name of the beneficiary/trustee (corporation or individual);  
2. The direct street/office mailing address and contact information (phone, fax, and electronic address) of the beneficiary/trustee (no P.O. boxes) responsible for receiving payments;

3. The direct street/office mailing address and contact information (phone, fax, and electronic address) for the person or party designated by the beneficiary/trustee as responsible for maintenance of the property.

C. Registration of the required information may be accomplished by any of the following methods:

1. By completing and returning to the Community Development Department a City-provided registration form; or

2. By registering with a City-approved national data base that contains the information set forth herein and which service the City may access at no cost. From time to time, the City Manager may approve acceptable national data bases which shall be identified in writing and which shall be posted in the Community Development Department and on the City's web-site.

D. Registration fee.

1. A registration fee shall accompany the registration form and the fee shall be set from time to time by the City Council by resolution.

2. The registration fee shall be waived if the property is registered within the time frame and methods required by this chapter.

E. This chapter 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/sale.

F. Any person, firm or corporation 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.

#### **5.26.040 Enforcement.**

A. Failure to comply with the requirements of this chapter shall constitute a misdemeanor violation punishable at law in accordance with Chapter 1.28 of this code by a fine of not less than five hundred dollars or by imprisonment in county jail of not more than six months, or both.

B. The City may also seek enforcement through any administrative, civil, or criminal remedy available to it at law, which remedies are cumulative and non-exclusive. The city may exercise one or any combination of remedies in its sole discretion at any time.

**Section 3.** If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council of the City of San Bruno hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

**Section 4.** This Ordinance shall take effect and be in force 30 days after its adoption.

**Section 5.** The City Clerk shall publish this Ordinance according to law.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
City Attorney

---o0o---

I hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was introduced on \_\_\_\_\_, 2008, and adopted at a regular meeting of the San Bruno City Council on \_\_\_\_\_, 2008, by the following vote:

AYES: COUNCILMEMBERS: \_\_\_\_\_

NOES: COUNCILMEMBERS: \_\_\_\_\_

ABSENT: COUNCILMEMBERS: \_\_\_\_\_

\_\_\_\_\_  
City Clerk