

Article 4: Public Hazards and Public Nuisances

Division 11: Registration of Defaulted or Foreclosed Residential Properties

(“Registration of Defaulted or Foreclosed Residential Properties”

added 12-18-2012 by O-20228 N.S.)

§54.1101 Purpose and Intent

It is the purpose and intent of this Division to require lenders who issue a *Notice of Default* or foreclose on residential properties to register current contact information with the City so that code enforcement officials can track, inspect, and monitor these properties, and easily identify and contact the *responsible party* if the property lacks maintenance or security, thereby protecting the safety, welfare, and property values of neighborhoods.

(“Purpose and Intent” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.)

§54.1102 Definitions

The words and phrases used in this Division have the meanings set forth in this section. Defined terms appear in italics:

Assignment of Rents means an instrument that transfers the beneficial interest under a *deed of trust* from one lender to another.

Beneficiary has the same meaning as in San Diego Municipal Code section 54.0302.

Beneficiary's Designated Agent means a servicing company or other entity that has contracted with a *beneficiary* to collect installment payments on a note secured by a *deed of trust*, or administer any default or foreclosure process, or perform other duties related to a note secured by a *deed of trust*.

Deed in Lieu of Foreclosure has the same meaning as in San Diego Municipal Code section 54.0302.

Deed of Trust has the same meaning as in San Diego Municipal Code section 54.0302.

Director has the same meaning as in San Diego Municipal Code section 11.0210.

Enforcement Official has the same meaning as in San Diego Municipal Code section 11.0210.

Legal Owner means the person or entity having record title to the property as shown in the San Diego County Recorder's office.

Legal Owner's Designated Agent means a servicing company, property management company, or other entity that has contracted with the *legal owner* to ensure the property is in compliance with state law or the Municipal Code or to perform duties related to the maintenance and security of the property.

Notice of Default has the same meaning as in San Diego Municipal Code section 54.0302.

Property in Default means a residential property within the City of San Diego that is subject to a current *notice of default*.

REO Property means a real-estate owned residential property for which title has transferred to the *beneficiary* or *beneficiary's designated agent* as the result of a foreclosure sale or *deed in lieu of foreclosure*.

Responsible Party means, for a *property in default*, the *beneficiary* or the *beneficiary's designated agent*; and for an *REO property*, the *legal owner* or the *legal owner's designated agent*.

Statement of Intent has the same meaning as in San Diego Municipal Code section 54.0302.

Trustee has the same meaning as in San Diego Municipal Code section 54.0302.

Trustor has the same meaning as in San Diego Municipal Code section 54.0302.

Vacant Structure has the same meaning as in San Diego Municipal Code section 54.0302.

(“*Definitions*” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.)

§54.1103 Enforcement Authority

The Director of the Development Services Department, or any other City department is authorized to administer and enforce the provisions of this Division. The Department Director or anyone designated by the Department Director to be an *Enforcement Official* may exercise any enforcement powers as provided in Chapter 1, Article 2, Division 1 of this Code.

(“Enforcement Authority” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.)

§54.1104 Enforcement Remedies

The exclusive remedy to enforce the provisions of this Division is the imposition of administrative civil penalties pursuant to Section 54.1111.

(“Enforcement Remedies” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.)

§54.1105 Strict Liability Offenses

Violations of this Division shall be as treated strict liability offenses regardless of intent.

(“Strict Liability Offenses” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.)

§54.1106 Joint and Several Liability

In the event there is more than one *responsible party* for a single property, each *responsible party* shall be jointly and severally liable for compliance with the provisions of this Division.

(“Joint and Several Liability” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.)

§54.1107 Duty to Register

- (a) The *responsible party* for a *property in default*, shall register the property with the *Director* within 10 calendar days of issuing a *notice of default*, or if the *notice of default* was issued prior to the effective date of this ordinance, within 30 calendar days of the effective date of this ordinance.
- (b) The *responsible party* for an *REO property* shall register the property with the *Director* within 10 calendar days of the transfer of title or, if the title was transferred prior to the effective date of this ordinance, within 30 calendar days of the effective date of this ordinance.
- (c) Registration shall be filed on City-approved forms which shall require the following information, as well as any additional information deemed necessary by the *Director*:
 - (1) The name, telephone number, email address, street address, and mailing address of the *responsible party*, and whether the party is the *beneficiary*, *beneficiary's designated agent*, *legal owner*, or *legal owner's designated agent*.
 - (2) A direct contact name and telephone number for the *responsible party*.
 - (3) The name, telephone number, email address, street address, and facsimile number of any local property management or property preservation company responsible for the maintenance, security, and marketing of the property.
 - (4) Whether there is a *vacant structure* on the property.
 - (5) If there is a *vacant structure* on the property, a copy of the *statement of intent* filed with the City pursuant to San Diego Municipal Code section 54.0313 shall be provided with the registration form.

(“Duty to Register” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.)

§54.1108 Duty to Update and Renew Registration

- (a) The initial registration of a property shall be effective for the duration of the calendar year in which it is made with the exception that the *responsible party* shall provide to the *Director* any change in the information previously submitted to the City or otherwise required under this Division including but not limited to: a change in the identity of the *responsible party*, a change in the status of the property, and any change in contact information, within 10 calendar days of the date of the change.

- (b) For any registered property that is still subject to the registration requirements of this Division on January 1 of each year, the *responsible party* must submit a renewed registration by no later than January 31 of that year.

(*“Duty to Update and Renew Registration” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.*)

§54.1109 Duty to Pay Registration Fee

- (a) The *responsible party* shall pay a fee set in an amount established by the City Council to cover the costs of the registry of defaulted and foreclosed residential properties maintained by the *Director*, including, but not limited to: the creation and maintenance of the registry; the inspection and investigation of registered properties to ensure compliance with the requirements of this Division. These costs shall be determined within 60 days of the effective date of this ordinance and thereafter annually by the City, in accordance with the City Council's User Fee Policy. The fee schedule shall be filed in the Ratebook of City Fees and Charges in the City Clerk's Office.
- (b) The registration fee shall be paid with the initial registration and with each annual renewal.

(*“Duty to Pay Registration Fee” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.*)

§54.1110 Penalty for Failure to Comply with Registration Requirements

Any *responsible party* that fails to comply with the registration requirements of this section may be liable for an administrative civil penalty in the amount of \$100 per day for each day of non-compliance, not to exceed \$5,000 in a calendar year.

(*“Penalty for Failure to Comply with Registration Requirements” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.*)

§54.1111 Right to Appeal Penalty

An appeal of a penalty imposed under this Division shall follow the procedures set forth in Division 5 of Article 2 of Chapter 1 of this Code.

(*“Right to Appeal Penalty” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.*)

§54.1112 Failure to Pay Penalties

The failure of any person to pay a penalty imposed under this Division within the time specified by the City in a written notice may result in the City using any legal means to recover the civil penalties, including referring the matter to the City Treasurer to file a claim with the Small Claims Court.

(“Failure to Pay Penalties” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.)

§54.1113 Allocation of Penalty

Civil penalties collected pursuant to this Division shall be payable directly to the City Treasurer and deposited in the civil penalties fund established pursuant to Section 13.0402 of the San Diego Municipal Code.

(“Allocation of Penalty” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.)

§54.1114 Termination of Registration Requirement

If a registered property is no longer subject to the registration requirements of this Division, the *responsible party* shall report this information to the *Director* within 10 calendar days.

(“Termination of Registration Requirement” added 12-18-2012 by O-20228 N.S.; effective 2-16-2013.)