

**ORDINANCE 24-08 N.S.**

URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND  
ESTABLISHING PROCEDURES FOR IMPOSING FINES PURSUANT TO CALIFORNIA CIVIL  
CODE SECTION 2929.3 ON LEGAL OWNERS OF FORECLOSED RESIDENTIAL  
PROPERTIES FOR FAILURE TO MAINTAIN SUCH PROPERTIES BY ADDING CHAPTER  
2.63 TO THE RICHMOND MUNICIPAL CODE

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The City Council of the City of Richmond do ordain as follows:

**SECTION I. Chapter 2.63 - Foreclosed Residential Properties**

Chapter 2.63 of the Richmond Municipal Code is hereby added to read as follows:

**Chapter 2.63**

**Foreclosed Residential Properties**

Sections:

- 2.63.010 Purpose
- 2.63.020 Legal Owner Shall Maintain Foreclosed Properties – Civil Fine
- 2.63.030 Notice of Violation and Opportunity for Hearing
- 2.63.040 Appeal Hearing
- 2.63.050 Liens and Special Assessments on the Property
- 2.63.060 Cumulative Remedies
- 2.63.070 Revenue
- 2.63.080 CEQA
- 2.63.090 Findings of Urgency
- 2.63.100 Expiration Date

2.63.010 Purpose

The City is facing an unprecedented threat to its economy because of skyrocketing residential property foreclosure rates. These foreclosures mean less money for public safety and other key services.

The main issues with such foreclosures are property maintenance, trash, debris, weeds, broken windows and unsecured, vacant houses, theft of wiring and plumbing from interiors, use of the vacant and unsecured houses by transients, squatters and criminals. These conditions result in decreasing property values, increased criminal activity and decreased property tax revenue to the City. These foreclosed properties violate numerous City ordinances regulating the upkeep of properties, and are considered public nuisances under the Richmond Municipal Code. Neither the property owners nor the legal owners who foreclose upon such properties have been willing to expend the funds and time to remain good neighbors and keep such properties in good condition.

It is often very difficult to track down the bank or loan company that is responsible for the property. It sometimes takes six to eight weeks to find the right parties. Because of this delay, it is essential that the notification, fine and lien process set be expedited.

2.63.020 Legal Owner Shall Maintain Foreclosed Properties – Civil Fine

(a) A legal owner shall maintain vacant residential property purchased by that owner at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust.

(b) In any proceeding under this Ordinance, the Code Enforcement Division shall impose a civil fine of \$1,000 per day for each day that the owner fails to maintain the property, commencing on the day following the expiration of the period to remedy the violation established in the Notice of Violation.

#### 2.63.030 Notice of Violation and Opportunity for Hearing

(a) The Notice of Violation shall notify the legal owner of the date, time and place of a hearing at which such owner shall be given an opportunity to contest any fine imposed. The hearing shall generally be approximately 30 days following expiration of the compliance period set forth in the Notice of Violation, in which case the maximum fine imposed at this initial hearing would be \$30,000, in addition to assessment of abatement costs. The Notice of Violation shall also advise that the fines will continue to accumulate following the hearing if the violation is not abated; and that fines will continue to accrue unless and until the Code Enforcement division inspects the property and issues a compliance certificate which the legal owner must produce at the hearing. It is the responsibility of the legal owner to arrange for such inspection and obtain the compliance certificate.

(b) The legal owner shall be granted 30 days to remedy the violation prior to the imposition of a civil fine. However, a period of less than 30 days' notice to remedy a condition before imposing a civil fine may be imposed if it is determined that a specific condition of the property threatens public health or safety. The Notice of Violation shall specifically note such determination and the lesser time for compliance. The enforcement officer may establish different compliance periods for different violations, subject to the minimums set forth above.

(c) The Notice of Violation shall notify the legal owner of the date, time and the hearing shall generally be approximately 30 days following expiration of the compliance period set forth in the Notice of Violation, in which case the maximum fine imposed at this initial hearing would be \$30,000, in addition to assessment of abatement costs. The Notice of Violation shall also advise that the fines will continue to accumulate following the hearing if the violation is not abated. The fines will continue to accrue unless and until the Code Enforcement Division inspects the property and issues a compliance certificate which the legal owner must produce at the hearing. It is the responsibility of the legal owner to arrange for such inspection and obtain the compliance certificate.

(d) The hearing may be continued for good cause shown.

(e) Should the owner fail to appear at the hearing, the maximum fine shall be imposed by the Hearing Officer.

#### 2.63.040 Appeal Hearing

(a) The Hearing Officer shall be designated as provided in Richmond Municipal Code section 2.62.080. Failure to appear at the hearing shall constitute a failure to exhaust administrative remedies for purposes of judicial review.

(b) In determining the amount of the fine, the Hearing Officer shall take into consideration any timely and good faith efforts by the legal owner to remedy the violation.

(c) The Hearing Officer shall notify the legal owner of his or her decision in writing and served as provided in 2.63.040(c). If the Hearing Officer determines that the evidence supports a finding of violation, the decision shall state the evidence and the finding. The decision shall also indicate the amount of the fine, the amount of any abatement fees, costs and charges to be imposed pursuant to the authority set forth in Government Code section 54988 and Richmond Municipal Code section 2.62.100. The decision shall contain a statement advising the legal owner of the right to appeal the Hearing Officer's decision pursuant to Richmond Municipal Code section 2.62.105

(d) The Hearing Officer's decision shall also notify the legal owner that fines will continue to accumulate if the violations are not abated following the hearing, and shall

notify the owner of the time and place of a subsequent hearing at which additional fines under this ordinance may be imposed if the violation is not abated. At such hearing and any and all subsequent hearings, the Hearing Officer shall receive any additional evidence received from the Code Enforcement officer and the legal owner, and shall render another decision in accordance with these procedures.

#### 2.63.050 Liens and Special Assessments on the Property

Any initial or subsequent fine imposed by the Hearing Officer, together with any abatement fees, costs and charges, may become a lien on the property, and collected in the same time and manner as property taxes are collected, if not paid within 45 days, in accordance with and following the procedures set forth in the Richmond Municipal Code except to the extent modified herein. Notice of the lien hearing before the City Council may be mailed by certified and regular mail prior or subsequent to the date upon which the fine and costs become delinquent, so that the City Council may determine whether such lien should be confirmed as soon as possible after delinquency. Should the fine and costs be paid in whole prior to the hearing, the legal owner shall be advised that no hearing will be held. Notice of the lien hearing may be incorporated into the Hearing Officer's decision. In such a case, the written decision referred to in 3.C, above, shall be served by certified and regular mail.

#### 2.63.060 Cumulative Remedies

The rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law. All procedures herein are intended to obtain the abatement of public nuisances and compliance with those provisions of the Richmond Municipal Code which are declared to be public nuisances. As such, recovery of administrative expenses and costs in pursuing the rights and remedies under these procedures are allowable as fees, costs and charges incurred by the City in the abatement of public nuisances.

#### 2.63.070 Revenue

Pursuant to Government Code section 2929.3, fines, costs and penalties collected pursuant to this Ordinance shall be directed to the City's Code Enforcement budget for nuisance abatement purposes. The City may not impose fines under both this procedure and any other chapter of the Richmond Municipal Code for the same violation.

#### 2.63.080 CEQA

Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.), the City Council finds that it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b) (3).

#### 2.63.090 Findings of Urgency

The City Council adopts this urgency ordinance for the immediate preservation of the public peace, health or safety. The Council finds that California is facing an unprecedented threat to its state economy and local economies because of skyrocketing residential property foreclosure rates in California. Residential property foreclosures increased sevenfold from 2006 to 2007. In 2007, more than 84,375 properties were lost to foreclosure in California, and 254,824 loans went into default, the first step in the foreclosure process. In addition to these findings the City Council incorporates by reference as though fully set forth herein all the findings set forth in Senate Bill 1137.

In the City of Richmond, the Code Enforcement Division conservatively estimates that they deal with 10 to 12 foreclosed properties every week, and that at least 25% to 30% of all houses in Richmond have some kind of foreclosure activity. The main issues with such foreclosures are property maintenance, trash, debris, weeds, broken windows and unsecured, vacant houses, theft of wiring and plumbing from interiors, use of the vacant and unsecured

houses by transients, squatters and criminals, all resulting in decreasing property values, increased criminal activity and decreased property tax revenue to the City. These properties violate numerous city ordinances regulating the upkeep of properties, and are considered public nuisances under the Richmond Municipal Code. Neither owners, tenants nor the legal owners who foreclose upon such properties have been willing to expend the funds and time to remain good neighbors and keep such properties in good condition.

High foreclosure rates have adversely affected property values in California, and will have even greater adverse consequences as foreclosure rates continue to rise. According to statistics released by the HOPE NOW Alliance, the number of completed California foreclosure sales in 2007 increased almost threefold from 1,902 in the first quarter to 5,574 in the fourth quarter of that year. Those same statistics report that 10,556 foreclosure sales, almost double the number for the prior quarter, were completed just in the month of January 2008. More foreclosures mean less money for public safety and other key services.

It is often very difficult to track down the bank or loan company that is responsible for the property. Some of the loan companies sell the loans, some go bankrupt and some are bought out by other loan companies. It sometimes takes six to eight weeks to find the right parties. Because of this delay, it is essential that the notification, fine and lien process set forth herein be expedited.

Passage of this ordinance as an urgency measure will enable the Code Enforcement Division to notify the legal owners of such properties as soon as possible, thus reclaiming houses and neighborhoods as soon as possible to prevent public nuisances, neighborhood deterioration, and further decreases in property values.

#### 2.63.100 Expiration Date

This Ordinance shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute succeeding Civil Code section 2929.3, that is enacted before January 1, 2013, deletes or extends that date.

#### SECTION II. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

#### SECTION III. Effective Date.

This ordinance shall become effective immediately upon introduction with a four-fifths vote pursuant to the authority set forth in Government Code section 36937(b). The ordinance shall be published once within fifteen (15) days in the West County Times, a newspaper of general circulation in the City of Richmond.

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First read at and adopted as an Urgency Ordinance at a meeting of the City Council held on October 21, 2008, by the following vote:

AYES: Councilmembers Bates, Butt, Lopez, Marquez, Rogers, Sandhu,  
Thurmond, Viramontes, and Mayor McLaughlin

NOES: None

ABSTENTIONS: None

ABSENT: None

DIANE HOLMES  
CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

GAYLE McLAUGHLIN  
Mayor

Approved as to form:

RANDY RIDDLE  
City Attorney

State of California            }  
County of Contra Costa       : ss.  
City of Richmond             }

I certify that the foregoing is a true copy of Ordinance No. 24-08, finally passed and adopted by the Council of the City of Richmond at a meeting held on October 21, 2008.