

ORDINANCE NO. 1468

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FOUNTAIN VALLEY, CALIFORNIA, ADDING CHAPTER 8.53 TO THE FOUNTAIN VALLEY MUNICIPAL CODE RELATING TO VACANT PROPERTIES SECURITY, MAINTENANCE AND REGISTRATION OF PROPERTY IN FORECLOSURE

WHEREAS, recent events in the housing market have led to a drastic rise in the number of foreclosed houses in the City of Fountain Valley and elsewhere in the State. In cities all over the nation, homes are being left empty as result of the foreclosure crisis. These homes are frequently acquired by banks, financial institutions and large real estate conglomerates that have little or no connection with the municipality in which they own property; and

WHEREAS, many of these foreclosed homes are vacated prior to the conclusion of the foreclosure process. Homes sit empty for months, and may even remain vacant for years, awaiting the final foreclosure sale; often creating an attractive public nuisance. Some homes are in violation of multiple aspects of City municipal codes. The mortgagees are often times large financial institution located out of state, making enforcement of violations of City municipal codes very difficult; and

WHEREAS, these City code violations may include, among other things multiple violations, unoccupied buildings susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unlocked houses, overgrown grass and bushes, and unsecured swimming pools that are not only a threat to children but become breeding grounds for infectious insects such as mosquitoes; and

WHEREAS, this problem exists not only in Fountain Valley and elsewhere in California, but also is a national problem. Banks and other financial institutions are refusing to maintain properties, and city building inspectors have great difficulty in determining who the owners are and how to contact them to correct code violations; and

WHEREAS, many other cities around the nation are facing similar problems and searching for solutions in order to keep up the quality of life for residents. Chula Vista, California was one of the first cities in the State to pass a comprehensive ordinance requiring all financial institutions that foreclose on a property to register, to pay an administrative fee, and to appoint a local property maintenance company to maintain the property once a week. Many other municipalities have approved similar laws or regulations to address this issue; and

WHEREAS, claims have been filed in courts across the nation against these large institutions for housing code violations, resulting in the courts imposing hefty fines and liens on these institutions. Although financial institutions have long been

disconnected from the communities they serve and immune from responsibility, cities across the country have filed lawsuits under novel legal theories, which seek to hold financial institutions responsible for the maintenance and security conditions of these vacant properties. Some lenders assert that they are not responsible for property maintenance and security, but fail to address the fact that most mortgage contracts contain an abandonment and waste clause that grants the lender the authority to enter the property prior to foreclosure in order to secure and maintain the collateral, the home; and

WHEREAS, the information set forth in the Recital paragraphs of this Ordinance is true and correct. The City Council hereby acknowledges its receipt of a City staff report regarding the proposed adoption of this Ordinance, and

WHEREAS, when the owner of a vacant building fails to actively maintain and manage the building, the building can become a major cause of blight in both residential and nonresidential neighborhoods. Vacant buildings that are boarded, substandard or unkempt properties and long-term vacancies discourage economic development and cause depreciation of property values; and

WHEREAS, it is a responsibility of property ownership to prevent the condition of unoccupied property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare; and

WHEREAS, one vacant building in a neighborhood that is not actively monitored by the owner for maintenance and appropriate security can be the core and cause of spreading blight; and

WHEREAS, owners of multiple buildings, both concurrently or serially, that are vacant and a blight to the community are a significant problem in the City. Owners of multiple buildings who fail to correct deficiencies and blighted conditions contribute to the decline of neighborhoods to a greater extent than owners who own only one building. It is in the interest of the welfare of neighborhoods that owners of multiple properties who fail to maintain properties and vacant and blighted buildings are subject to imposition of higher administrative penalties in order to encourage these owners to correct violations of proposed Chapter 8.53 in a prompt manner;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FOUNTAIN VALLEY DOES ORDAIN AS FOLLOWS:

**SECTION 1.** That Chapter 8.53 IS HEREBY ADDED TO TITLE 8 OF THE FOUNTAIN VALLEY MUNICIPAL CODE TO READ AS FOLLOWS:

“Chapter 8.53 VACANT PROPERTIES SECURITY, MAINTENANCE AND REGISTRATION OF PROPERTY IN FORECLOSURE”

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**8.53.010 Purpose/scope**

It is the purpose and intent of the Fountain Valley City Council, through the adoption of this Chapter, to establish vacant building security and maintenance standards and registration of property in foreclosure program as a mechanism to protect neighborhoods from becoming blighted.

**8.53.020 Definitions**

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

“Abandoned” means any property that is vacant and is under a current notice of default and/or notice of trustee’s sale, and/or any property which has been the subject of a foreclosure sale trustee sale or judicially authorized sale where the title was retained by the beneficiary under its deed of trust upon the conclusion of the foreclosure and any property transferred by the trustor under a deed in lieu of

foreclosure/sale to either the beneficiary, the trustee or to another authorized entity as approved by the beneficiary.

"Accessible property" means a property that is accessible through a compromised/breached gate, fence, wall, etc.

"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.

"Agreement" means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.

"Assignment of rents" means an instrument that assigns rents from and income generated by the tenant of a property to the mortgage lender in the case of a default on the mortgage.

"Beneficiary" means a lender under a promissory note to pay money secured by a deed of trust on property. The word "beneficiary" as used in this Chapter 8.53 means and includes any assignee or successor to such beneficiary, whether such assignee or successor acquires its interest in the beneficiary's promissory note either before a notice of default is recorded on the property securing the obligation payable to the beneficiary or after a notice of default is recorded. In the event that a property may provide security for the loan or obligation of more than one beneficiary, the beneficiary who causes its notice of default to be recorded shall be responsible for registering the property as set forth in this Chapter.

"Boarded" or "Boarding" shall mean and refer to the coverings of all entry points to a building or structure, including all doors, windows and roof openings, with plywood or other materials for the purpose of preventing entry into the building by any person except the owner or an authorized agent of the owner. For the purposes of residential property, the standards for boarding a vacant residential building or structure shall be substantially in accordance with those established by separate resolution of the City Council. For the purpose of commercial or industrial use property, the standards for boarding a vacant commercial or industrial building or structure to prevent unauthorized entry into the building shall be as directed by written instruction of the Director of Planning and Building based upon an inspection of the vacant building by the Director of Planning and Building or his/her designee.

"Buyer" means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

"Dangerous building" means any building/structure that is violation of any condition referenced in Chapter 8.04 of this code.

"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. 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 an instrument 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.

"Default Inspection" means a physical inspection of the exterior areas of the property conducted by the beneficiary or its designee following the occurrence of a default by the trustor under a deed of trust. When practicable, each default inspection shall be conducted upon prior reasonable notice and consent of the trustor and/or the occupant of the property. In instances when the trustor and/or the occupant consent cannot reasonably be obtained despite due and diligent inquiry by the beneficiary, or where the trustor or the occupant may expressly refuse to give the beneficiary consent to a default inspection, the beneficiary or its agent shall conduct the default inspection of the exterior areas of the property which may be viewed from the adjacent public right-of-way or from adjacent property on which the owner or occupant of such adjacent property has consented to entry onto such adjacent property by the beneficiary for the purpose of conducting a default inspection of the adjoining property. The beneficiary, or its agent, shall maintain a written record of the time and date of each default inspection and shall identify the individual who conducted the default inspection. The written record of each default inspection shall at a minimum indicate whether, at the time of the default inspection, the property was: (i) occupied or vacant, and if vacant, set forth facts to support the evidence of vacancy; (ii) in compliance with the general maintenance and monitoring standard set forth in Section 8.53.040; and (iii) if security appliances have been installed on the property by either the trustor, the beneficiary or its agent, or by another entity, the Default Inspection report shall indicate whether the installed security appliances are intact and in good and serviceable condition. A Default Inspection report shall contain such other property-specific information as the Director of Planning and Building may direct in writing to the beneficiary.

"Distressed" means a property that is under a current notice of default and/or notice of trustee's 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.

"Evidence of vacancy" means any set of facts or conditions that on its own or combined with other facts and 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, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

"Foreclosure" means the process by which a property, 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 states that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale. This is part of the foreclosure process.

"Owner" means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

"Owner of record" means the person having recorded title to the property at any given point in time the record is provided by the County of Orange County Recorder's Office.

"Property" means any residential, commercial or manufacturing zoned or occupied real property or portion thereof, situated in the City and includes the buildings or structures located on such property, regardless of condition.

"Residential building" means any improved real property, or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as "residential" whether or not it is legally permitted and/or zoned for such use.

"Securing" means such measures as may be directed by the Director of Planning and Building or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the installation or repair of fences and walls, chaining/padlocking of gates, the repair or boarding of door, window and/or other openings. In the case of residential buildings the boarding of doors, windows and/or other openings shall be installed in accordance with those standards established by separate resolution of the City Council

"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 unoccupied or not legally occupied.

"Vacant building" means and refers to any building that is unoccupied or occupied by a person without a legal right of occupancy.

### **8.53.030 Required Boarding and Maintenance of Vacant Buildings**

- a) Each vacant building shall be boarded by the owner when the building can no longer be secured against intrusion by unauthorized persons by means of the closing and locking of doors and windows.
- b) Vacant buildings that are immediately dangerous are defined in Chapter 8.04 of this Code, and if any such vacant building is open and accessible to the general public, it may be summarily boarded by the City, pursuant to Chapter 8.04 of this Code.
- c) Any building that is boarded, whether by voluntary action of the owner, or as a result of enforcement activity by the City, shall be boarded in compliance with the standard as set forth in Section 8.53.020, under the definition of the term "boarded".
- d) Each vacant building shall be actively maintained and monitored by the owner of the parcel of land on which the vacant building is located.

### **8.53.040 Maintenance and Monitoring of Vacant Buildings**

Active maintenance and monitoring of each vacant building or structure on each parcel of land shall include all of the following:

- a) If the property is owned by a corporation and/or out-of-area beneficiary/trustee/owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this Section, and any other applicable law, are being satisfied.
- b) Maintenance of landscaping and plant materials on the parcel of land on which the vacant building is located in good condition.
- c) Maintenance of the exterior of the building and exterior signage and signage structures, in good condition.
- d) Regular removal of all exterior trash and debris from the parcel of land on which the vacant building is located. Including junk mail, flyers, and or newspapers.

- e) Maintenance of the vacant building in continuing compliance with all applicable codes and regulations.
- f) Prompt removal of graffiti which has been applied to any exterior surface on the vacant building or fencing surrounding the building, including graffiti applied to any sign attached to the vacant building.
- g) Prevention of criminal activity on the premises (vacant building and/or the parcel of land on which the vacant building is located), including but not limited to use and sale of controlled substances, prostitution and criminal street gang activity.

### **8.53.050 Vacant Building Regulations**

#### a) Application

No owner shall allow a building designed for human use or occupancy to be a vacant building for more than thirty (30) days, unless one of the following applies:

- 1) The building is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the work of repair or rehabilitation.
- 2) The condition of the building complies with all codes, does not contribute to blight, is ready for occupancy, as evidenced by a current certificate of occupancy, and is both actively being:
  - (i) offered by the owner for sale, lease, or rent; and
  - (ii) maintained and monitored by the owner as provided in Section 8.53.040; or

Notwithstanding the above, this section shall not apply when the occupant is temporarily away and has provided for the maintenance of the property in his/her absence.

#### b) Posting Required

A vacant property shall be posted with name and address of the beneficiary and shall include a 24-hour contact phone number of the local property management company. 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. [XXXXXXXXX] OR CALL THE CITY OF FOUNTAIN VALLEY AT (714) 593-4444" 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.

**8.53.060 Security and Maintenance Requirements for Property in the Foreclosure Process**

- a) Properties in the foreclosure process shall be maintained by the beneficiary in a manner to comply with the standards set forth in Section 8.53.040 and Section 8.53.050.
- b) The local property management company shall make available to the City upon request written confirmation that the property has been inspected not less frequently than once per week to confirm that the property is in compliance with the requirements of this chapter.

**8.53.070 Additional Authority**

In addition to the enforcement remedies established in this Chapter , the Director of Planning and Building , or his or her designee, shall have the authority to require the beneficiary/trustee/owner and/or owner of record 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 or other measures as may be reasonably required to arrest the decline of the property and/or the vacant building.

**8.53.080 Fees**

Fees and charges for the administration of the regulatory program established by this Chapter 8.53 shall be set by resolution of the City Council including without limitation the fee for registering with the City a property for which a notice of default has been recorded, and the separate fee for registering with the City a property which either the beneficiary or the City has found to be vacant or abandoned.

### **8.53.090 Monitoring Fee for Vacant Nuisance Properties**

Any vacant building that also constitutes a public nuisance, as defined under this Code or as declared to be a public nuisance by the City Council or by the City Manager in a manner permitted by other applicable law, shall be subject to monthly monitoring fee and a enforcement response fee, to recover the City's regulatory costs to monitor and respond to the vacant building. The separate monthly monitoring fee and enforcement response fee as authorized under this section. shall be in an amount set by resolution of the City Council and payable by the owner of the parcel of land on which the vacant building is situated. The monitoring fee shall be applicable even in the absence of any action, administrative or otherwise, by the City pursuant to any other provision of the City code. The monitoring fee shall be imposed upon the initial determination that the vacant property or building constitutes a public nuisance. The fee shall thereafter be imposed during each thirty (30) day period following the imposition of the initial monitoring fee and until the property changes its status. On buildings requiring more than one (1) involuntary city enforcement response within any thirty (30) day period, an additional and separate enforcement response fee shall be imposed upon the owner of the property, for each response, upon the owner. Monitoring fees shall be imposed as long as the vacant building remains a public nuisance as provided in this section. Any monitoring fee imposed pursuant to this section may be appealed by the owner of the parcel of land on which the vacant building is situated to the City in the same manner as is specified in Chapter 1.17 of this Code.

### **8.53.100 Administrative Penalty**

#### a) Application

Pursuant to the provisions of Section 1.1.13.070 of this Code, any owner of a parcel of property on which a building is situated which is in violation of Section 8.53.030 or Section 8.53.040 shall be subject to an administrative penalty, in an amount not to exceed One Hundred Dollars (\$100) per building for the first violation.

#### b) Subsequent Violations

A second administrative penalty shall be imposed upon an owner pursuant to this chapter if the owner's building remains in violation of Section 8.53.030 or Section 8.53.040 thirty (30) days following the imposition of the first administrative penalty in an amount not to exceed Two Hundred Dollars (\$200). Additional penalties may be imposed for each succeeding thirty (30) day period following the imposition of the preceding administrative penalty under this chapter. Additional penalties may be imposed for each violation so long as the violation continues. Subsequent penalties shall be in an amount not to exceed Five Hundred Dollars (\$500.00).

#### c) Obligation to Correct Violation

Nothing in this chapter shall be interpreted to mean that because a responsible party has paid the administrative fine he, she, or it is excused from correcting the violation. If the responsible party fails to correct the violation(s), subsequent administrative citations may be issued for the same violation(s). The amount of the fine for failure to correct the violation shall increase at a rate specified in this chapter.

d) Discretion of Penalty

The issuance of an administrative citation under this chapter is solely at the discretion of the enforcement official and is one option the city of Fountain Valley has to address violations of this code. The procedures established in this chapter shall supplement and be in addition to any criminal, civil or other remedy established by law or under the provisions of this code to address violations of this municipal code or violations of any other Fountain Valley ordinance. Issuance of an administrative citation shall be cumulative to, and shall not limit or be deemed a waiver of, the use of any other remedy.

**8. 53.110 Registration of Properties in the Foreclosure Process**

- a) Prior to recording a notice of default on a property located in the City of Fountain Valley which is subject to a deed of trust, the beneficiary, or its trustee, shall conduct a default inspection. Property which is vacant at the time of such default inspection shall be deemed abandoned for the purposes of this Chapter. Properties that have already filed a notice of default and are currently in the foreclosure process shall be subject to the same requirements of this section.
- b) The beneficiary, or its agent shall register the property with the Director of Planning and Building, on forms provided by the City within ten (10) days from the earlier of the following dates: (i) the date a notice of default is recorded on a property; or (ii) the date of a default inspection which indicates that the property is vacant or abandoned.
- c) In the event that at the time of the initial Default Inspection, the property is not vacant, the beneficiary or its agent shall conduct subsequent Default Inspections of the property at least once per month, commencing thirty (30) days after the date of the recordation of the notice of default, until such time as:
  - 1) the trustor cures the breach or event of default under the deed of trust and the notice of default is rescinded by the beneficiary or the trustor; or
  - 2) the property is deemed abandoned, and the beneficiary or its agent, has registered the property as abandoned with the Director of Planning and Building on forms provided by the City; or

- 3) the trustor has surrendered the property to the beneficiary as evidenced by either a letter from the trustor addressed to the beneficiary confirming such surrendered, or by the trustor's delivery of the keys to the property to the beneficiary or its agent, and the beneficiary or its agent has registered the property as abandoned with the Director of Planning and Building on forms provided by the City; or
- 4) the beneficiary has obtained possession of the property under State of California Code of Civil Procedure Sections 1161 or 1161a or 1161b, as applicable, following the completion of the foreclosure proceeding, and the beneficiary or its agent has registered the property as abandoned with the Director of Planning and Building on forms provided by the City.

#### **8.53.120 Re-Registration of Property Subject to this Chapter**

The beneficiary or its agent shall annually renew a registration of each property which the beneficiary has previously registered with the City under this section, and in which such beneficiary retains either an equitable or legal interest as of the first anniversary of the registration of such property with the City. The beneficiary or its agent shall re-register the property on forms provided by the City.

#### **8.53.130 Enforcement**

A violation of this Chapter may be enforced by any means authorized by Chapter 1.13 of this Code.

#### **8.53.140 Fine for Failure to Timely Register a Property with the City**

Notwithstanding any other provision of this Chapter or Chapter 1.13 the City may impose a fine on a beneficiary for its failure to timely register a property with the City.

#### **8.53.150 Special Provisions Where Property is Encumbered with the Security Interests of Multiple Beneficiaries**

- a) In the event that a property is encumbered by the security interests of more than one beneficiary at the time when a notice of default is recorded, the beneficiary who

causes a notice of default for its security interest to be recorded shall be responsible for registering the property with the City as provided in Section 8.53.110 and 8.53.120.

- b) Upon the recordation of a notice of default on a property by any beneficiary, regardless of the security lien interest priority of such beneficiary in the property in relation to the priority of the security interests of the other beneficiaries in the same property, the City, in its discretion may elect to enforce the provisions of this Section against one or more beneficiaries who have not separately recorded a notice of default against the property.

### **8.53.160 Appeals**

- a) Any person entitled to notice of the hearing who has participated in that hearing and who is dissatisfied by the determinations of the hearing officer, may appeal those determinations by filing an appeal with the city clerk within ten days of the date of the order and by paying the appeal fee set by resolution. The appeal shall specify:
  - (1) A description of the property;
  - (2) The proceedings appealed;
  - (3) The owner's legal or equitable interest in the property;
  - (4) A statement of disputed and undisputed facts;
  - (5) A statement specifying that portion of the proceedings that are being appealed, together with any evidentiary or supporting materials that would support the appeal;
  - (6) A verification of the truth of all matters asserted.
- b) The planning commission, in its sole discretion, may determine whether or not to grant an appeal. If an appeal is not granted, the decision of the hearing officer shall be considered the final action on the matter and the appellant shall be so notified.
- c) If the planning commission determines to grant an appeal, it may limit the issues on appeal, may consider the record produced before the hearing officer, and may allow additional evidence to be produced. If the planning commission determines to grant such an appeal, it shall provide the appellant with a notice utilizing substantially the same procedure as required for the hearing before the hearing

officer. In said notice the appellant will be apprised of the scope of the appeal. If an appeal is allowed, the decision of the planning commission shall be final action and the property owner shall be so notified of its determinations.

#### **8.53.170 Notice by Beneficiary to City of Disposition of Registered Property**

- a) Within ten (10) days following the release of a notice of default and the reinstatement of the loan of the trustor, the beneficiary or its agent shall give the City written notice of such release and reinstatement.
- b) Within ten (10) days following the sale, transfer or other conveyance to a third person of a property registered with the City under this Section, the beneficiary or its agent, shall give the City written notice of such sale, transfer or other conveyance together with current contact information for such *bona fide* purchaser/successor-in-interest to the beneficiary in such property.

#### **8.53.180 Violation/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 Chapter shall be subject to prosecution under Chapter 1.16 and/or administrative enforcement under Chapter 1.13”.

### **Section 2. Inconsistent Provisions**

Any provision of the Fountain Valley Municipal Code or appendices thereto inconsistent with the provisions of one or more Sections of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

### **Section 3. CEQA Exemption**

The adoption of this Ordinance and the implementation of the regulatory programs do not require further review under the California Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061, in view of the fact that the regulatory programs are hereby enacted, apply to existing structures and buildings and are intended to provide for

continuous and appropriate maintenance and protection of such structure and buildings for so long as the structures and buildings may remain unoccupied or vacant.

#### **Section 4. Constitutionality**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

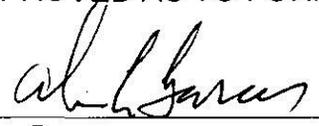
PASSED, APPROVED AND ADOPTED THIS 15TH day of November, 2011.

  
\_\_\_\_\_  
Steve A. Nagel  
Mayor of the City of Fountain Valley

ATTEST:

  
for  Kathy Bailor  
City Clerk of the City of Fountain Valley

APPROVED AS TO FORM

  
\_\_\_\_\_  
Alan Burns  
City Attorney

**VOTE**

STATE OF CALIFORNIA        }  
COUNTY OF ORANGE        } ss.  
CITY OF FOUNTAIN VALLEY   }

I, Kathleen Heard, Deputy City Clerk of the City of Fountain Valley, do hereby certify that the foregoing Ordinance was introduced to the Council at its regular meeting held on the **1st day of November 2011**, and was adopted at its regular meeting held on the **15th day of November 2011**, by the Council by the following roll call votes, during each meeting to wit:

AYES:           Council Members:   McCurdy, Collins, Crandall, Vo, Nagel  
NAYES:          Council Members:   None  
ABSENT:         Council Members:   None  
ABSTAIN:        Council Members:   None

  
Deputy City Clerk

**AFFIDAVIT**

STATE OF CALIFORNIA        }  
COUNTY OF ORANGE        } ss.  
CITY OF FOUNTAIN VALLEY   }

I, Kathleen Heard, Deputy City Clerk of the City of Fountain Valley, California, do hereby certify that I did cause the foregoing ordinance to be posted and published in an adjudicated paper of general circulation pursuant to law.

WITNESS my hand and seal this 16<sup>th</sup> day of November 2011.

  
Deputy City Clerk