

Desert Hot Springs Municipal Code**Up Previous Next Main Collapse Search Print No Frames**Title IX GENERAL REGULATIONS**Chapter 100 ABANDONED RESIDENTIAL PROPERTY REGISTRATION****Note**

* Prior ordinance history: Ord. 2008-07.

100.01 Purpose and findings.

It is the purpose and intent of the City Council of the City of Desert Hot Springs, through the adoption of this chapter, to establish an abandoned and distressed residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties and to establish uniform and reasonable regulations to prevent immediate risk and detrimental effects associated with abandoned and distressed properties.

The City Council of the City of Desert Hot Springs finds that abandoned and distressed residential properties pose a risk to the public peace, health and safety of citizens in that the detrimental effects from the lack of security and maintenance of abandoned and distressed residential properties endangers children unprotected from unsecured pools and other attractive nuisances, lead to neighborhood decline, contribute to lower property values, discourage potential buyers from purchasing a home adjacent to or in the neighborhoods with abandoned and distressed residences, and further endangers neighborhoods affected by the resulting squatting, vandalism, burglaries and other crimes.

The City Council of the City of Desert Hot Springs further finds that the City will incur additional costs in administering and implementing the abandoned and distressed residential properties registration program and that it is in the best interests of the public for the City to recover the said costs through imposition of a registration fee. (Ord. 2008-23, adopted 12-16-2008)

100.02 Definitions.

The following terms and phrases, whenever used in this chapter, shall be construed as defined in this section:

“Abandoned property” means a residential 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, or a residential property that 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 a residential property transferred under a deed in lieu of foreclosure/sale.

“Accessible property” means an abandoned property, and any structure or building on the abandoned property, that is accessible through a compromised, breached or broken gate, fence, wall, window, door, and similar entry points and/or is unsecured in such way as to allow access to interior space by unauthorized person or trespasser.

“Agreement of sale” 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.

“Beneficiary” means a lender under a note secured by a deed of trust. Beneficiary shall also include beneficiary’s authorized agent, property management company or property manager.

“Buyer” means any person, partnership, co-partnership, association, corporation, fiduciary or any entity that agrees to transfer anything of value in consideration for property described in the agreement of sale, as defined in

this chapter.

“Days” means consecutive calendar days.

“Deed of trust” means an instrument, describing the real property and by which title to real property is transferred to a third party trustee as security for repayment of a real property loan or an obligation. This definition applies to any and all subsequent deeds of trust, including but not limited to 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, whether monetary or conditional.

“Distressed property” means a residential property that is occupied by a person(s) having the right to use or having right of possession of the property and under a current Notice of Default and/or Notice of Trustee’s Sale or pending Tax Assessor’s Lien Sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary or trustee via Deed In Lieu of Foreclosure/Sale.

“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, statements, based on observations, 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 an auction to satisfy the debt if the trustor (borrower) defaults.

“Landscape” includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastics sheeting, mulch, indoor-outdoor carpet or any similar material.

“Landscape maintenance” includes, but is not limited to, regular watering, irrigation, cutting, pruning, mowing and removal of all trimmings of required landscape.

“Local” means within 35 road/driving miles distance of the abandoned or distressed property.

“Neighborhood standard” means those conditions that are present on a simple majority of properties within a 300-foot radius of an distressed or abandoned property. The abandoned or distressed property that is the subject of a neighborhood standard comparison, or any other abandoned property within the 300-foot radius, shall not be counted toward the simple majority.

“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.

“Out-of-area” means in excess of 35 road/driving miles distance of the subject property.

“Owner” means any person, partnership, co-partnership, association, corporation, fiduciary or any other legal entity having a legal or equitable title or any interest in the property.

“Owner of record” means the person, partnership, co-partnership, association, corporation, fiduciary or any other legal entity having recorded title to real property at any given point in time the record is provided by the Riverside County Recorder’s Office.

“Residential property” means any improved real property, or portion thereof, situated in the City of Desert Hot Springs, designed, built or permitted to be used for dwelling purposes, specifically including 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 or zoned for such use.

“Secured” means treated with such measures as may be directed by City Manager or designee that assist in rendering the abandoned property inaccessible to unauthorized persons, squatters, trespassers, including, but not limited to, the closure, locking, pad-locking, chaining, repair and/or boarding of fence(s), wall(s), gate(s), window(s), door(s) (walk-through, sliding and/or garage), and/or other openings of such size that may allow a child access to the interior of the accessible property. In case of broken windows, secured includes the reglazing or boarding of the window. Boarding 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 additionally require painting the boards with an exterior grade paint that matches the color of the accessible property.

“Trustee” means the person, partnership, co-partnership, association, corporation, or fiduciary holding a deed of trust on a property. Trustee shall include any authorized agent, property management company or property manager of a trustee.

“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. (Ord. 2008-23, adopted 12-16-2008)

100.03 Inspection, registration and fees.

A. Inspection and Registration. Any beneficiary or trustee, who holds a deed of trust on a property located within the City of Desert Hot Springs, shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor and prior to recording a notice of default with the Riverside County Recorder’s Office.

1. If the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the beneficiary or trustee shall, within ten days of the inspection or the date of vacancy, whichever is earliest, register the property with the City Manager or designee on forms provided by the City.

2. If the property is occupied but remains in default, it shall be deemed distressed, and it shall be inspected by the beneficiary or trustee, on monthly basis until either (a) the trustor or another party remedies the default; or (b) it is found to be vacant or shows evidence of vacancy, at which time it is deemed abandoned, and the trustee shall, within ten days of that inspection or the date of vacancy, register the property with the City Manager or designee on forms provided by the City.

B. Contents of Registration. The registration required under this chapter shall contain: (1) the name of the beneficiary/trustee (co-partnership, partnership, association, fiduciary, corporation, any legal entity or an individual); (2) the direct street/office mailing address of the beneficiary/trustee, excluding P.O. boxes; (3) a direct contact name and phone number for the beneficiary/trustee; and (4) in the case of a corporation or out-of-area beneficiary/trustee, the local property management company responsible for the security, maintenance and marketing of the property. Any change of the information in the registration required under this paragraph shall be reported within ten days of the change.

C. Registration Fee. The fee for registering an abandoned residential property as set by resolution of the City Council. An annual registration fee shall accompany the registration form. The abandoned residential properties registration fee will be used to finance the cost of inspection, administering and enforcement under this chapter. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations are due January 1st of each year and must be received no later than January 31st of the year due. Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this chapter as long as the properties remain vacant.

D. Out-of-area Trustee/Beneficiary. An out-of-area beneficiary or trustee shall retain a local management property, which shall inspect the property as required by this chapter to determine whether the abandoned property is in compliance with the requirements of this chapter.

E. If any beneficiary or trustee fails to register the residential property, as required by this chapter, the City may register the residential property and impose the annual registration fee. Notice shall be provided pursuant to pertinent sections of Chapter 84, as they apply to violations related to real property, except that notice shall be provided to: (1) beneficiary or trustee, prior to completion of foreclosure or deed in lieu of foreclosure/sale transaction; or (2) to owner or owner of record after completion of foreclosure or deed in lieu of foreclosure sale transaction, as the address appears on the last equalized assessment roll or as known to the City Manager or designee. The notice shall provide the amount due for the registration fee, shall state that the property has not been registered as required by this chapter and shall constitute enrollment in the City's abandoned residences registration program. Any unpaid registration fee shall be deemed a civil debt owing to the City, and shall be collected in any manner authorized by law, including but not limited to, imposing a lien on the property pursuant to Section 85.47, and imposing a special assessment pursuant to Section 85.48 of the City's Municipal Code, or as these sections may from time to time be amended. (Ord. 2008-23, adopted 12-16-2008; Am. Ord. 506, adopted 6-2-2009)

100.04 Maintenance requirements.

Abandoned property shall be maintained in a manner comparable to the neighborhood standard. At minimum:

- A. Abandoned property shall be maintained so as to be kept free of evidence of vacancy;
- B. Abandoned property shall be maintained free of weeds, dry brush, dead vegetation, trash, junk, debris and excessive foliage growth that diminishes the value of surrounding properties;
- C. Abandoned property shall be maintained free of mosquito larvae from growing in standing water;
- D. Abandoned property shall be maintained free of any building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state or local law), discarded personal items, including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give appearance that the property is abandoned;
- E. Abandoned property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure, following a notice pursuant to Section 95.77 or notice pursuant to California Civil Code Section 2929.3, whichever applicable;
- F. Maintenance of abandoned properties shall include landscape maintenance of visible front and side yards; and
- G. Pools and spas shall either: (1) be kept in working order so the water remains clear and free of pollutants and debris; or (2) drained and kept dry. In either case, properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.

Adherence to this section does not relieve the beneficiary/trustee or owner of any obligations set forth in any local, state or federal laws or any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property. (Ord. 2008-23, adopted 12-16-2008)

100.05 Security requirements.

Any abandoned property shall be secured, as defined in this chapter. In addition, the abandoned property shall be secured in a manner that would prevent trespassers, squatters or unauthorized persons from entering and/or remaining on the property. (Ord. 2008-23, adopted 12-16-2008)

100.06 Signage requirements.

Any abandoned property shall be posted with the name and 24-hour contact phone number of the trustee/beneficiary or a local property management company that must be retained by an out-of-area beneficiary/trustee. 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." The posting shall be placed on the interior of a window facing the street to the front of the abandoned 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; 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.

The local management company shall inspect the property on weekly basis to determine if the property is in compliance or if notification of non-compliance is reported to the local property management company local property management company, or designee, shall bring the property back into compliance within 72 hours. (Ord. 2008-23, adopted 12-16-2008)

100.07 Declaration of public nuisance.

Pursuant to the City's police powers authorized in Article XI, Section 7 of the California Constitution, as well as under Sections 100, 100, 500 and 600 of City's Charter and the City of Desert Hot Springs Municipal Code and other provisions of California law, including, but not limited to, California Government Code Section 38771, the City Council hereby declares that violation of this chapter, including but not limited to the maintenance and security requirements of this chapter shall constitute a public nuisance. (Ord. 2008-23, adopted 12-16-2008)

100.08 Additional authority.

In addition to any other remedies authorized by the City of Desert Hot Springs Municipal Code and/or any other enforcement remedies permitted under the law, the City Manager or 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 and all door(s), window(s) 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. (Ord. 2008-23, adopted 12-16-2008)

100.09 Notice of and civil penalty.

Whenever the City Manager or designee or Code Enforcement Officer finds that a provision of this chapter has been violated, he or she may issue the responsible person a Notice of Violation, ("NOV"), pursuant to pertinent sections of Chapter 84, as they apply to real property related violations. (Ord. 2008-23, adopted 12-16-2008)

100.10 Civil penalty imposed.

A. Pursuant to California Civil Code Section 2929.3, the City of Desert Hot Springs, may impose a civil penalty in the amount not to exceed \$1,000.00 per day for failure to maintain and secure the abandoned property, as required by this chapter, provided that notice requirements of Civil Code Section 2929.3 are satisfied as

follows:

1. The City first issues a Notice of Violation, as provided in Section 100.09, which also states that the City shall impose the civil penalty pursuant to this section if actions necessary to address the violation(s) at the abandoned property are not commenced within a period of not less than 14 days and completed within a period of not less than 30 days, from the date of mailing of Notice of Violation; and

2. In addition, the Notice of Violation shall be mailed to the address provided in the deed of trust or other instrument specified in California Government Code Section 27321.5 including deed of trust, instrument conveying title, mortgage with power of sale; or if none, to the return address provided on the deed or other instrument.

B. The City shall not impose a civil penalty pursuant to this section together with administrative citations or fines authorized by Chapters 85 and 99 of City of Desert Hot Springs Municipal Code.

C. The civil penalty imposed by this section shall stay in effect until January 1, 2013, the expiration date of Section 2929.3 of California Civil Code, unless extended by the state legislature.

D. Failure to pay the civil penalty imposed pursuant to Section 100.10(A), shall be deemed a civil debt owing to the City, and shall be collected in any manner authorized by law, including, but not limited to, imposing a lien on the property pursuant to Section 85.47, and imposing a special assessment pursuant to Section 85.48 of the City's Municipal Code, or as these sections may from time to time be amended. (Ord. 2008-23, adopted 12-16-2008; Am. Ord. 506, adopted 6-2-2009)

100.11 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, public nuisance abatement and/or administrative enforcement pursuant to Chapters 80 through 89, Chapters 90, 95 and 99 of Desert Hot Springs Municipal Code or any other enforcement and legal remedies available to the City under the law. (Ord. 2008-23, adopted 12-16-2008)

100.12 Enforcement.

In addition to Section 100.10, violations of this chapter may be enforced in any combination as permitted by Chapters 80 through 89, Chapters 90, 95 and 99 of Desert Hot Springs Municipal Code or any other enforcement and legal remedies available to the City under the law. However, in no event shall the City impose a civil fine pursuant to Section 100.10 together with administrative citations or fines authorized by Chapters 85 and 99 of City of Desert Hot Springs Municipal Code. (Ord. 2008-23, adopted 12-16-2008)

100.13 Appeals.

Any person aggrieved by the imposition of a civil penalty pursuant to Section 100.10 of this chapter, may appeal the penalty pursuant to procedures for an appeal of administrative citations, as provided in Sections 99.30 through 99.55 of Chapter 99 of the City of Desert Hot Springs Municipal Code. (Ord. 2008-23, adopted 12-16-2008)