

ORDINANCE NO. 2008-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA, AMENDING TITLE 9: GENERAL REGULATIONS OF THE CITY OF DESERT HOT SPRINGS MUNICIPAL CODE BY ADDING CHAPTER 100, ABANDONED RESIDENTIAL PROPERTY REGISTRATION, REQUIRING LENDERS TO MAINTAIN HOMES THEY SEIZE AND REGISTER THE ABANDONED PROPERTIES WITH THE CITY

WHEREAS, the City of Desert Hot Springs desires to amend Title 9, General Regulation of City of Desert Hot Springs Municipal Code by adding Chapter 100, Abandoned Residential Property Registration; and

WHEREAS, current estimates indicate that about 990 homes in the City of Desert Hot Springs are currently in various stages of foreclosure – preforeclosure, auction or bank-owned; and

WHEREAS, the City Council finds that the presence of vacant, abandoned residences can lead to neighborhood decline, create an attractive public nuisance, contribute to lower property values, discourage potential buyers from purchasing a home adjacent to or in neighborhoods with vacant abandoned residences; and

WHEREAS, the City of Desert Hot Springs desires to establish an abandoned 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

WHEREAS, notice of the public hearing of the City Council of the City of Desert Hot Springs to consider the proposed Ordinance Zoning was given in accordance with applicable law; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS DOES HEREBY ORDAIN:

SECTION 1. That this Ordinance is adopted pursuant to City's police, public health, welfare and safety powers and findings incorporate the purpose of the Ordinance, as stated in Section 100.10 (Purpose/scope) of Chapter 100, as set forth in Exhibit A, and incorporated by reference herein; and

SECTION 2. That Title 9: General Regulation of City of Desert Hot Springs Municipal Code is hereby amended by adding Chapter 100, Abandoned Residential Property Registration as set forth in Exhibit A, and incorporated by reference herein, requiring lenders to maintain homes they seize and register the abandoned properties with the City of Desert Hot Springs; and

SECTION 3. CEQA. That the requested text amendment was found to be Categorically Exempt under Class 5, Minor Alterations in Land Use Limitations (Section 15305 of the CEQA Guidelines). Therefore, no further environmental review is required; and

SECTION 4. SEVERABILITY. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be effected thereby; and

SECTION 5. CONFLICT. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed; and

SECTION 6. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance. The City Clerk shall post this Ordinance within the time and manner prescribed by law. This

Ordinance shall take effect thirty (30) days after the date of its adoption, and prior to the expiration of fifteen (15) days from that passage thereof shall be published at least once in a newspaper of general circulation in the City of Desert Hot Springs, and henceforth and thereafter, the same shall be in full force and effect.

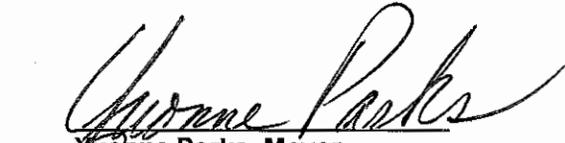
PASSED, APPROVED, AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting held on the first day of April, 2008 by the following vote:

AYES, and in favor thereof, Council members: **5**

NAYS, Council members: **0**

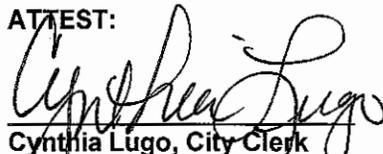
ABSENT, Council members: **0**

ABSTAINING, Council members: **0**



Yvonne Parks, Mayor

ATTEST:



Cynthia Lugo, City Clerk

APPROVED AS TO CONTENT:



Rick Daniels, City Manager

APPROVED AS TO LEGAL FORM:



Ruben Duran, City Attorney

Title 9: General Regulations

Chapter 100.00 ABANDONED RESIDENTIAL PROPERTY REGISTRATION

Sections:

- 100.10 Purpose/scope.
- 100.20 Definitions.
- 100.30 Recordation of transfer of loan/deed of trust/assignment of rents.
- 100.40 Registration.
- 100.50 Maintenance requirements.
- 100.60 Security requirements.
- 100.70 Additional authority.
- 100.80 Fees.
- 100.90 Enforcement.
- 100.100 Appeals.
- 100.110 Violation/penalty.
- 100.120 Severability.

100.10 Purpose/scope.

It is the purpose and intent of the City of Desert Hot Springs City Council, through the adoption of this chapter, to establish an abandoned 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. The City Council finds that the presence of vacant, abandoned residences can lead to neighborhood decline, create an attractive public nuisance, contribute to lower property values, discourage potential buyers from purchasing a home adjacent to or in neighborhoods with vacant abandoned residences.

100.20 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.

"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 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.

"Buyer" means any person, partnership, co-partnership, association, corporation, fiduciary or any legal entity that 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(s), standards and/or regulations referenced in Chapter 150, Building Regulations of Desert Hot Springs Municipal 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. 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, whether monetary or conditional.

"Distressed" means a property that is under a current notice of default and/or notice of trustee's sale and/or pending tax assessor's lien 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 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.

"Local" means 5 road/driving miles distance of the subject property.

"Neighborhood standard" means those conditions that are present on a simple majority of properties within a 300-foot radius of an individual property. A 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 5 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 any real property.

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

"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.

"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 City Manager or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current United States Department of Housing and Urban Development securing standards at the time the boarding is completed or required.

"Trustee" means the person, partnership, co-partnership, association, corporation, or fiduciary 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.

100.30 Recordation of transfer of loan/deed of trust/assignment of rents.

Within 10 days of the purchase and/or transfer of a loan/deed of trust secured by residential property the new beneficiary/trustee shall record, with the Riverside County Recorder's Office, an assignment of rents, or similar document, that lists the name of the corporation, and/or individual, the mailing address and contact phone number of the new beneficiary/trustee responsible for receiving payments associated with the loan/deed of trust.

100.40 Registration.

Any beneficiary/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, prior to recording a notice of default with the Riverside County Recorder's Office. 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, within 10 days of the inspection, register the property with the City Manager or his or her designee on forms provided by the City.

If the property is occupied but remains in default it shall be inspected by the beneficiary/trustee, or his or her designee, on monthly basis until (1) the trustor or another party remedies the default; or (2) it is found to be vacant or shows evidence of vacancy, at which time it is deemed abandoned, and the trustee shall, within 10 days of that inspection, register the property with the City Manager or his or her designee on forms provided by the City.

In either case the registration shall contain the name of the beneficiary/trustee (co-partnership, partnership, association, fiduciary, corporation, any legal entity or individual), the direct street/office mailing address of the beneficiary/trustee, excluding P.O. boxes, a direct contact name and phone number for the beneficiary/trustee and, 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 said property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. 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 and fees are due January 1st of each year and must be received no later than January 31st of the year due. Registration fees will not be prorated.

This section 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.

Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this section as long as the properties remain vacant.

Any person, firm, partnership, co-partnership, association, fiduciary corporation or any legal entity that has registered a property under this chapter must report any change of information contained in registration and required by this chapter, within 10 days of the change.

100.50 Maintenance requirements.

Properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, 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 the appearance that the property is abandoned.

The 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.

Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required.

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, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.

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

Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or 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 property owner of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property.

100.60 Security requirements.

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to any unauthorized persons.

Secure manner includes but is not limited to the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s). In the case of broken windows securing means the reglazing or boarding of the window.

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 laws, are being met.

The property shall be posted with name and 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." 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.

The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter. If the property is found to be in noncompliance, or if notification of noncompliance is reported to the local property management company, the local property management company, or its designee, shall bring the property back into compliance within 72 hours of notice thereof.

100.70 Additional authority.

In addition to the enforcement remedies established in Title VIII (Code Enforcement), Chapters 80 through 89 of the City of Desert Hot Springs Municipal Code, and any other enforcement remedies permitted under the law, the City Manager 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.

100.80 Fees.

The fee for registering an abandoned residential property shall be set by resolution of the City Council.

100.90 Enforcement.

In addition to Section 100.70, violations of this chapter may be enforced in any combination as permitted by Title VIII (Code Enforcement), Chapters 80 through 89 of the City of Desert Hot Springs Municipal Code and any other enforcement and legal remedies available to the City under the law.

100.100 Appeals.

Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is permitted under the applicable sections of Title VII (Code Enforcement) of the City of Desert Hot Springs Municipal Code.

100.110 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 section shall be subject to prosecution, public

nuisance abatement and/or administrative enforcement pursuant to Title VIII (Code Enforcement) of City of Desert Hot Springs Municipal Code.

100.120 Severability.

Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

RESOLUTION NO. 2008-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA SETTING THE ABANDONED RESIDENTIAL PROPERTY REGISTRATION PROGRAM FEE AMOUNT PURSUANT TO ORDINANCE NO. 2008-07.

WHEREAS, the City Council of the City of Desert Hot Springs, California did on _____ by Ordinance No. 2008-07 establish a Abandoned Residential Property Registration program; and

WHEREAS, Section 100.80 of Ordinance No. 2008-07 requires the City to adopt by resolution the fee for registering an abandoned residential property; and

WHEREAS, the City Council, in determining the amount of the fee, desires to insure that the fee recovers all associated costs for implementing the program.

NOW, THEREFORE BE IT RESOLVED, based on the above findings, that the Desert Hot Springs City Council adopts this Resolution setting the Abandoned Residential Property Registration program Fee amount and sets forth that amount and the basis for determining that amount as follows:

\$60.00 per residential lot.*

* That fees are due January 1st of each year and must be received no later than January 31st of the year due. Registration fees will not be prorated.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting held on the ___ day of _____, 2008 by the following vote:

AYES, and in favor thereof, Council members:

NAYS, Council members:

ABSENT, Council members:

ABSTAINING, Council members:

Yvonne Parks, Mayor

ATTEST:

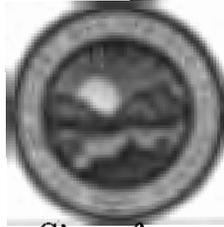
APPROVED AS TO CONTENT:

Cynthia Lugo, City Clerk

Rick Daniels, City Manager

APPROVED AS TO LEGAL FORM:

Ruben Duran, City Attorney



City of

Desert Hot Springs

Community Development Department

Registration Form for Abandoned Residential Property

Please fill out the information requested below and deliver this form to the Public Services Building reception desk or mail to the Community Development Department, City of Desert Hot Springs, 65950 Pierson Boulevard, Desert Hot Springs, CA, 92240.

Registered Residence Address: _____

Desert Hot Springs, zip code: _____

Assessor Parcel Number: _____

Notice of Default Recordation # _____ (Please attach copy to this form)

Lender/Lien Holder: _____

Contact: _____ Contact Phone: (____) _____

Lender/Lien Holder Mailing Address:

Property Manager: _____ Business License # _____

Contact: _____ 24 Hour Phone #: (____) _____

Property Management Company Local Mailing Address:

Standard Annual Fee: \$ 60.00 Please check one: New registration Renewal registration

An annual registration fee shall accompany this registration form. 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 and fees are due January 1st of each year and must be received no later than January 31st of the year due. Registration fees will not be prorated. [DHSMC 100.40].

Initiated By: _____

Back of Registration Form for Abandoned Residential Property

City of Desert Hot Springs Municipal Code, Chapter 100.00, ABANDONED RESIDENTIAL PROPERTY REGISTRATION Section 100.10:

It is the purpose and intent of the Desert Hot Springs City Council, through the adoption of this Chapter, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security fo abandoned properties.

Owner Responsibility under Desert Hot Springs Municipal Code Chapter 100.00:

- Within ten (10) days of the purchase and/or transfer of a loan/deed of trust secured by residential property, the new beneficiary/trustee shall record, with the Riverside County Recorder's Office, an Assignment of Rents.
- If the property is vacant or abandoned, the beneficiary/trustee shall register the property with the City using this form within ten days of transfer, vacancy or subsequent vacancy. [DHSMC 100.40].
- Maintain the property on a weekly basis. [DHSMC 100.60].
- Secure the property [DHSMC 100.60].
- Post the property with the property manager's name, address and 24-hour contact phone number. [DHSMC 100.60].
- Report to the City any change of address and change of contact in information within ten days of said change. [DHSMC 100.60].

A copy of this or any municipal code of the City of Desert Hot Springs may be downloaded at:

http://www.cityofdhs.org/Code_Enforcement

65950 Pierson Boulevard Desert Hot Springs, California 92240