

# ORDINANCES

## SECOND READING/RECOMMENDATIONS

Description of Vote:

Maker/Second    Ayes/Noes/Abstain/Absent

Legend:

JD: Dear      RR: Ruiz-Raber      DH: Davis-Holmes      MG: Gipson      ES: Santarina

ITEM NO.	ORD. NO.	TITLE	DISPOSITION
10	13-1510	AN ORDINANCE OF THE CITY CARSON, CALIFORNIA, AMENDING ARTICLE V, CHAPTER 7 (PROPERTY MAINTENANCE) AND ARTICLE V. CHAPTER 9 (RESIDENTIAL PROPERTY REGISTRATION) OF THE CARSON MUNICIPAL CODE, INCLUDING AMENDMENTS TO SECTIONS 5702, 5902, 5910 AND 5913	Introduced: 2/5/13 Item No. 14 MG/ES 5/0

ORDINANCE NO. 13-1510

AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, AMENDING ARTICLE V, CHAPTER 7 (PROPERTY MAINTENANCE) AND ARTICLE V, CHAPTER 9 (RESIDENTIAL PROPERTY REGISTRATION) OF THE CARSON MUNICIPAL CODE, INCLUDING AMENDMENTS TO SECTIONS 5702, 5902, 5910 AND 5913

WHEREAS, the California housing market has shown only marginal improvement since the start of the 2008 national economic downturn and the related housing market collapse; and

WHEREAS, this prolonged downturn, aggravated by high rates of unemployment, within the City of Carson, continues to keep the number of foreclosed properties in the City of Carson uncommonly high as unemployed households struggle to make monthly mortgage payments; and

WHEREAS, such homes are acquired by banks, financial institutions and large real estate conglomerates that have little to no connection to the communities in which they own property; and

WHEREAS, most of these foreclosed homes are vacated prior to the conclusion of the foreclosure process. Homes sit empty for months, and 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 building codes. As the mortgagees are often times large financial institutions located out of state, enforcement of building code violations poses an immense challenge; and

WHEREAS, City code violations include, and may in the future foresee ably 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 Carson and California, but nationwide. Banks and financial institutions refuse to maintain properties, and City building inspectors have great difficulty in determining who the responsible parties are and how to contact them to correct code violations; and

WHEREAS, through the amendments of Chapter 7 and Chapter 9, the City can implement a new program designed to prevent and address the adverse impacts large numbers of vacant properties have the potential to create; and

WHEREAS, the inventory of vacant foreclosed properties within the City of Carson remains relatively high as a result of the prolonged nature of the current economic downturn; and

WHEREAS, according to most economic forecasts there is little indication that the adverse economic conditions that have led to historically high foreclosure rates will fully abate any time prior to the year 2016.



NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1.** The foregoing recitals are true and correct.

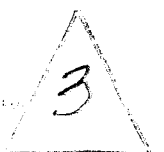
**Section 2.** The City Council has conducted a public hearing on [DATE 1], to consider the adoption of this ordinance, including the amendment to the provisions of Chapters 7 and 9 of the Carson Municipal Code. After the conclusion of the [DATE 1], public hearing, the City Council approved the first reading of this ordinance. The second reading of this ordinance was approved by the City Council at its regular meeting of [DATE 2].

**Section 3.**

The City Council finds and determines as follows:

- A. When the owner of a foreclosed vacant residential property fails to actively maintain and manage the building, the building can become a major cause of blight in both residential and nonresidential neighborhoods. Foreclosed vacant residential properties which are boarded, substandard and or long-term vacancies discourage economic development and depreciate property values.
- B. It is a responsibility of the foreclosed vacant residential property owner to prevent the condition of unoccupied property from becoming a burden or blight to the neighborhood and or a threat to the public health, safety, and welfare.
- C. Once 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.
- D. Owners of multiple foreclosed vacant residential properties, either concurrently or serially, that are blighting to the community are significant problems in the City. Owners of multiple properties who fail to correct deficiencies and blighted conditions contribute to the decline of neighborhoods to a greater extent than owner-occupied residences. It is in the interest of the welfare of neighborhoods that owners of multiple vacant residential properties who fail to maintain properties be subject to imposition of higher penalties in order to encourage these owners to maintain their properties or correct violations of proposed Chapter 7 or proposed Chapter 9, in a prompt manner.
- E. Without the legal mechanisms provided under Chapters 7 and 9, the City would not be able to address problems and potential dangers to the community associated with the large inventory of unoccupied residential. Accordingly, the City Council hereby finds and determines that the changes applicable to chapters 7 and 9 is a necessary

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and reasonable response to the ongoing adverse economic conditions that continues to plague the State of California and the City of Carson.

**Section 4.** Article V., Chapter 7 (Property Maintenance), Section 5701, of the Carson Municipal Code is hereby amended to read as follows:

“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 9 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 note 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 9.”

**Section 6.** Article V, Chapter 7 (Property Maintenance), Section 5702 (Property Maintenance) of the Carson Municipal Code is hereby amended to read, in its entirety, as follows:

“5702(v) Maintenance of Property.

A. Properties which are abandoned or vacant shall be, in comparison to the neighborhood standard, maintained by the beneficiary and 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 beneficiary shall maintain such property 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. In general, the maintenance of abandoned or vacant property by the beneficiary shall comply with the standards set forth in Section 7.040 and HUD Mortgagee Letter 2007-03, dated January 25, 2007, or such other standard as may hereafter be ordered in writing addressed to the beneficiary by the Chief Building Official. Adherence to the maintenance and monitoring standard set forth in 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.

B. Each Property which is acquired by a beneficiary following the recordation of a notice of default, whether acquired by such

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beneficiary by foreclosure, deed in lieu of foreclosure or judgment of foreclosure, shall be maintained by the beneficiary so as not to constitute a public nuisance under Chapter 7 of the Carson Municipal Code and other applicable laws, for so long a period of time as the beneficiary may own such property.”

**Section 7.** Article V, Chapter 9 (Property Maintenance), Section 5901 of the Carson Municipal Code is hereby amended to read, in its entirety, as follows:

“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 9 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 note 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 9.”

**Section 8.** Article V, Chapter 9 of the Carson Municipal Code is hereby amended by the addition of a new Section 5902(d) to read, in its entirety, as follows:

“5902(d) Foreclosed Vacant Residential Property.

- A. The beneficiary or its agent shall register the property with the Chief Building Official, 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. The provisions of subsection (i) of the preceding sentence of this Section 5902 shall apply to each property for which a notice of default is recorded on or after July 31, 2010.
- B. Property which is acquired by a beneficiary following the recordation of a notice of a notice of default, whether acquired by such beneficiary by foreclosure, deed in lieu of foreclosure or judgment of foreclosure, shall also be subject to compliance with the provisions of Carson Municipal Code Section 5902, upon the sale, exchange, transfer or other conveyance of such property by the beneficiary to a third person.
- C. Property which is vacant or abandoned at the time of acquisition by a beneficiary, whether acquired by such beneficiary by foreclosure, deed in lieu of foreclosure or judgment of foreclosure shall also be subject to compliance with the provisions of Carson Municipal Code Section 5902, prior to the earlier date of either: (i) re-occupancy of such

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property by any tenant of the beneficiary; or (ii) sale, exchange, transfer or other conveyance of such property by the beneficiary to a third person.

- a. Property which is occupied by either the trustor or a tenant of the trustor at the time of acquisition by a beneficiary, whether acquired by such beneficiary by foreclosure, deed in lieu of foreclosure or judgment of foreclosure, shall also be subject to compliance with the provisions of Carson Municipal Code Section 5902 prior to the earlier date of either: (i) the re-occupancy of such property by any successor tenant to the trustor or such other successor tenant to the tenant in possession of the property at the time of the beneficiary's acquisition of the property; or (ii) sale, exchange, transfer or other conveyance of such property by the beneficiary to a third person."

**Section 9.** Article V, Chapter 9 of the Carson Municipal Code is hereby amended by the addition of a new Section 5902 to read, in its entirety, as follows:

"5902 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 their conveyance to a third person of a property registered with the City under this Chapter 9, 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."

**Section 10.** Article V, Chapter 9 of the Carson Municipal Code is hereby amended by the addition of a new Section 5902(e) to read, in its entirety, as follows:

"5902 Re-Registration of Property Subject to this Chapter

- A. The beneficiary or its agent shall annually renew a registration of each property which the beneficiary has previously registered with the City under this Chapter 9, 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.

- B. The provisions of this Section 5902(e), shall apply to each property for which a notice of default was recorded on or after October 1, 2009.”

**Section 11.** Article V, Chapter 9, Section 5910(e) of the Carson Municipal Code is hereby amended to read, in its entirety, as follows:

“5910 Refunds, Fees and Penalties

Fees and charges for the administration of the regulatory program established by this Chapter 9 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.”

**Section 12.** Article V, Chapter 9, Section 5913(e) is hereby repealed in its entirety.

**Section 13.** Article V, Chapter 9 of the Carson Municipal Code is hereby amended to add a new Section 5910(f) to read, in its entirety, as follows:

“5910(f) Fine for Failure to Timely Register a Property with the City

- A. Notwithstanding any other provision of this Chapter or Chapter 1 or Chapter 7 to the contrary, the City may impose a fine on a beneficiary for its failure to timely register a property with the City under this Chapter 9 in the following amounts:

- (i) Two Hundred and Fifty Dollars (\$250.00) for the first violation in the 12 months preceding the date of such violation;
- (ii) Five Hundred Dollars (\$500.00) for the second violation in the 12 months preceding the date of such violation;
- (iii) One Thousand Dollars (\$1,000.00) for the third and each subsequent violation in the 12 months preceding the date of such violation.

- B. The special fine amount provisions of this Section 5910 shall be applicable to citations issued on or after March 1, 2013, by the City under Chapter 7 of the Code to a beneficiary for a violation of this Chapter 9.”



**Section 14.** Article V, Chapter 9 of the Carson Municipal Code is hereby amended to add a new Section 5902(f) to read, in its entirety, as follows:

“5902(f) 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 5902 and 5910.
- 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 Chapter 9 against one or more beneficiaries who have not separately recorded a notice of default against the property.”

**Section 15.** Inconsistent Provisions. Any provision of the Carson 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 16.** CEQA Exemption. The adoption of this Ordinance and the implementation of the regulatory programs authorized under Sections 4 through 12 of this Ordinance, 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 17.** Severability. 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.

**Section 18.** Effective Date. The Mayor shall sign and the City Clerk attest to the passage of this ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This ordinance shall become effective 30 days from its adoption.

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**PASSED, APPROVED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Mayor Jim Dear

ATTEST:

\_\_\_\_\_  
City Clerk Donesia L. Gause, CMC

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

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