CHAPTER 9 RESIDENTIAL PROPERTY REPORT

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5900 Short Title. SHARE ✓

This Chapter shall be known and may be cited as the Residential Property Report Ordinance. (Ord. 99-1155, § 2)

5901 Definitions. SHARE

As used in this Chapter, unless the context otherwise clearly indicates, the following words and phrases are defined as set forth below:

- (a) "Residential care facility" shall have the same meaning as the term is used in California Health and Safety Code Section <u>1520.5</u>.
- (b) "Director" shall mean the Community Development Director or the designee thereof.
- (c) "Owner" shall mean any individual, partnership, copartnership, firm, association, joint stock company, corporation or combination thereof having legal or equitable title in residential real property.

- (d) "Residential property report" shall mean a document issued by the City pursuant to this Chapter.
- (e) "Residential real property" shall mean improved or unimproved real property zoned or used for dwelling purposes and shall include any structures or buildings located on such property.
- (f) "Agreement" shall mean any agreement providing for the transfer of title or conveyance of ownership in residential real property.
- (g) "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 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 (1) 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. (Ord. 99-1155, § 2; Ord. 99-1173U, § 3; Ord. 13-1510, § 7)

5902 Required. SHARE

- (a) No owner of residential real property shall transfer title and/or convey ownership for such property without first providing the prospective buyer with a copy of a valid residential property report for the property.
- (b) No person shall commence operation of a residential care facility on residential real property without first obtaining a residential property report for such property.
- (c) No person shall renew a business license for an existing residential care facility operating on residential real property without first obtaining a residential property report for such property; provided, however, that this paragraph shall not apply to any residential care facility that has previously obtained a residential property report for such property.
- (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 (d)(A)(i) of this Section 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 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 this Section, 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 this Section, prior to the earlier date of either: (i) reoccupancy of such 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 this Section 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.
- (e) 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, 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 subsection (e) shall apply to each property for which a notice of default was recorded on or after October 1, 2009.
- (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 this Section and CMC 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 against one (1) or more beneficiaries who have not separately recorded a notice of default against the property.

(g) 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, 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. (Ord. 99-1155, § 2; Ord. 99-1173U, § 4; Ord. 13-1510, §§ 8 – 10, 14)

5903 Proof of Delivery. SHARE

Within ten (10) City business days after transfer of title or conveyance of ownership for residential real property, the owner(s) of such property shall file with the Community Development Department written proof that a copy of a valid residential property report for such property has been provided to the buyer. This Section may be satisfied by either (i) personal delivery; (ii) facsimile and deposit in the U.S. mail so as to be postmarked within the ten (10) day filing period; or (iii) deposit in the U.S. mail so as to be postmarked within the ten (10) day filing period. Such written proof shall be signed and dated by the buyer and shall contain the substance of the following statement: "I hereby acknowledge under penalty of perjury that I have received a copy of the City of Carson's residential property report for the property located at _______ (address). I also acknowledge that the issuance of the report is not a representation by the City of Carson that this property is in compliance with all applicable laws." (Ord. 99-1155, § 2; Ord. 99-1173U, § 7)

5904 Application. SHARE

Applications for a residential property report shall be filed with the Community Development Department on a form provided by the Director. Each application shall indicate whether or not the owner (i) consents to an inspection of the residential real property by City personnel, and (ii) has made appropriate arrangements with

any affected tenants. No application shall be accepted unless accompanied by an application fee in an amount established by City Council resolution. (Ord. 99-1155, § 2; Ord. 99-1173U, § 5)

5905 Issuance. SHARE

Upon receipt of a complete application, the Director shall prepare a residential property report based on available City records and an inspection of the residential real property. Residential property reports shall be issued within ten (10) City business days following inspection of the subject property. (Ord. 99-1155, § 2; Ord. 99-1173U, § 6)

5906 Scope of Inspection. SHARE ✓

Except as specified in this Section, inspections conducted in conjunction with the preparation of a residential property report shall be limited to the exterior areas of the subject property and to the interior areas of attached garages and/or accessory buildings such as detached garages, laundry rooms and storage sheds. If the Director has reasonable cause to believe that a main dwelling unit has been illegally subdivided, then an interior inspection of such building shall be conducted. Interior inspections also shall be conducted as necessary to determine whether portions of the building were constructed with the proper permits and whether window security bars are equipped with a proper release mechanism. If the applicant refuses to consent to an inspection, or frustrates an inspection for which consent was given, then the inspection shall be conducted pursuant to an inspection warrant as required by law. (Ord. 99-1155, § 2)

5907 Contents. SHARE

To the extent such information is available, residential property reports issued by the Director shall indicate all of the following:

- (a) Street address, assessor number, zone classification and permitted occupancy.
- (b) Description of existing structures and buildings.
- (c) Applicable entitlements (e.g., variance, conditional use permit).
- (d) Applicable special restrictions.
- (e) Existing code violations.
- (f) Building permits required for existing structures and buildings.

The Director may include any additional information on a residential property report as deemed appropriate. (Ord. 99-1155, § 2)

5908 Duration. □ SHARE ✓

Residential property reports shall be null and void six (6) months after the date of issuance unless previously extended by the Director. The Director may extend the validity of a residential property report, free of charge, for a period of four (4) months upon a showing of good cause. (Ord. 99-1155, § 2)

5909 Remediation of Property. SHARE ✓

- (a) All code violations identified on a residential property report shall be corrected in accordance with the following schedule, unless otherwise authorized by the Director: (i) prior to the transfer of title or conveyance of ownership for such property; (ii) prior to the commencement of a residential care facility on such property; or (iii) for existing residential care facilities renewing a business license, within forty-five (45) days from the issuance of such report.
- (b) The Director may authorize an extension of the time periods prescribed by this Section upon a showing of good cause; provided, however, that in no event shall code violations identified on a residential property report be permitted to remain uncorrected more than one (1) calendar year from the issuance of such report.
- (c) The buyer of a residential real property may assume responsibility for correcting code violations identified on a residential property report upon a showing to the satisfaction of City staff that such buyer: (i) is capable, financially and otherwise, of making the corrections; (ii) has consented in writing to a compliance schedule; and (iii) has entered into such security agreement or undertaking, if any, as may be required by City staff to ensure that the violations will be correct within the time permitted by the compliance schedule. (Ord. 99-1155, § 2; Ord. 99-1173U, § 8)

5910 Refunds, Fees and Penalties. SHARE

- (a) By resolution, the City Council may establish such fees as necessary or appropriate for the implementation of this Chapter.
- (b) The City shall refund seventy-five (75) percent of the residential property report application fee if (i) an application is withdrawn prior to the close of the City business day following its submission; and (ii) City staff have not conducted any inspection or research in connection with the application. No refunds shall be awarded after the close of the City business day following submission of a residential property report application.

- (c) Any owner who submits a residential property report application after the transfer of title or conveyance of ownership for the subject property shall pay, in addition to the application fee, a late penalty fee in an amount established by City Council resolution.
- (d) Any residential property report applicant who fails to appear for a scheduled inspection, or who cancels a scheduled inspection less than twenty-four (24) hours prior to commencement, shall pay an inspection cancellation fee in an amount established by City Council resolution.
- (e) Fees and charges for the administration of the regulatory program established by this Chapter 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.
- (f) Fine for Failure to Timely Register a Property with the City.
 - A. Notwithstanding any other provision of this Chapter or Chapter 1 or 7 of Article V 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 in the following amounts:
 - (i) Two hundred and fifty dollars for the first violation in the twelve (12) months preceding the date of such violation;
 - (ii) Five hundred dollars for the second violation in the twelve (12) months preceding the date of such violation;
 - (iii) One thousand dollars for the third and each subsequent violation in the twelve (12) months preceding the date of such violation.
 - B. The special fine amount provisions of this Section shall be applicable to citations issued on or after March 1, 2013, by the City under Chapter 7 of Article V to a beneficiary for a violation of this Chapter. (Ord. 99-1155, § 2; Ord. 99-1173U, § 9; Ord. 13-1510, §§ 11, 13)

5911 Validity of Transactions. SHARE

No sale or transfer of title of residential real property or lease of residential real property for a residential care facility shall be invalidated solely because of a failure to comply with this Chapter. (Ord. 99-1155, § 2; Ord. 99-1173U, § 10)

5912 City Immunity. SHARE

The City shall not be liable for any injury or damage caused by the preparation and delivery of a residential property report, or as a result of an error in or omission of such a report. Nor shall the City bear any liability not otherwise imposed by law. (Ord. 99-1155, § 2)

5913 Exemptions. □ SHARE ✓

The provisions of this Chapter shall not apply to the following:

- (a) The first sale of a residential building or condominium located in a subdivision whose final map has been approved and recorded in accordance with the Subdivision Map Act within two (2) years of such sale.
- (b) Mobilehomes in mobilehome parks, trailers and apartment units on a month-to-month rental or annual lease agreement where land sales are not involved and the use is in compliance with this Code.
- (c) Transfers in which the City is a party to the transaction.
- (d) Transfers pursuant to court order.
- (e) Repealed by Ord. 13-1510.
- (f) Transfers by a fiduciary in the course of the administration of a guardianship, conservatorship or trust.
- (g) Transfers between co-owners.
- (h) Transfers between spouses resulting from a marriage dissolution decree, a legal separation decree or from a property settlement incidental to such decree.
- (i) Transfers by the State Controller in the course of administering the unclaimed property law.
- (j) Transfers to a governmental entity.
- (k) Transactions solely for the purpose of refinancing existing debt secured by the residential real property.
- (I) Transfers into a family trust or living trust where the owner is the beneficiary or trustee of the trust. (Ord. 99-1155, § 2; Ord. 99-1173U, §§ 11, 12; Ord. 13-1510, § 12)