

ORDINANCE NO. 2715

AN ORDINANCE OF THE CITY OF REDLANDS ADDING CHAPTER 8.11 TO THE REDLANDS MUNICIPAL CODE RELATING TO THE MAINTENANCE OF VACANT RESIDENTIAL PROPERTIES ACQUIRED THROUGH FORECLOSURE

WHEREAS, to protect its residents from the negative impacts caused by unmaintained vacant buildings, the City of Redlands adopted Ordinance No. 2709 to add Chapter 18.10 to the Redlands Municipal Code establishing regulations governing the registration and maintenance of such vacant, abandoned residences; and

WHEREAS, the increase in foreclosed properties within the City has resulted in the need for additional administrative tools to combat such negative impacts; and

WHEREAS, on July 8, 2008, the Governor for the State of California signed Senate Bill 1137, as urgency legislation relating to mortgages, which added Section 2929.3 to the California Civil Code; and

WHEREAS, Senate Bill 1137 was enacted based on the recognition that the impact of high residential foreclosure rates has adversely affected property values in the State, and will have even greater consequences as residential foreclosure rates continue to rise; and

WHEREAS, Civil Code Section 2929.3 requires legal owners to maintain vacant residential property purchased at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust; and

WHEREAS, if a legal owner of residential property does not maintain such property, local governments, such as the City of Redlands, are authorized to impose civil fines and penalties in amounts up to \$1,000 per day; and

WHEREAS, Civil Code Section 2929.3 remains in effect until January 1, 2013, and as of that date is repealed, unless a statute enacted before January 1, 2013, deletes or extends that date; and

WHEREAS, the City Council of the City of Redlands desires to adopt this Ordinance in order to provide City staff and the City's residents with a clear understanding of the new legislation's provisions and to adopt procedures for holding administrative hearings and imposing penalties pursuant to the legislation;

THE CITY COUNCIL OF THE CITY OF REDLANDS DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 8.11, entitled "Maintenance of Foreclosed Properties," is hereby added to the Redlands Municipal Code to read as follows:

“Chapter 8.11

MAINTENANCE OF FORECLOSED RESIDENTIAL PROPERTIES

8.11.010 Purpose and Pre-Emption. This Chapter is intended to carry out the provisions of California Civil Code Section 2929.3. Nothing in this Chapter shall be interpreted or implemented in a manner that is inconsistent with State law. In the event there is a conflict between the provisions of State law and this Chapter, State law shall control.

8.11.020 Maintenance of Foreclosed Residential Properties and Notice of Violation.

A. The legal owner of vacant residential property purchased by that owner at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust, shall maintain that property in accordance with the requirements of this Code.

B. For purposes of this Chapter, "failure to maintain" means the failure to care for the exterior of the property in accordance with the provisions of Title 8 of this Code, including, but not limited to, permitting excessive foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers or squatters from remaining on the property, failing to take action to prevent mosquito larvae from growing in standing water, or permitting other conditions that create a public nuisance.

8.11.030 Notice of Violation and Time to Cure.

A. If the City intends to impose a fine pursuant to this section, the City shall give notice of the alleged violation, including a description of the conditions that gave rise to the allegation, and notice of the City's intent to assess the civil fine if action to correct the violation is not started within a period of not less than fourteen (14) days and completed within a period of not less than thirty (30) days.

B. The City may provide less than thirty (30) days notice to remedy a condition if the City determines that a specific condition of the property threatens public health or safety and provided that the notice of violation states that there is a threat to public health and safety, and time for compliance is given.

C. Subject to the provisions of this section, the City, through administrative action approved by the City Manager, may establish different compliance periods for different conditions on the same property in the notice of violation mailed to the legal owner.

D. Notice pursuant to this section shall be mailed to the address provided in the deed or other instrument as specified in subdivision (a) of Section 27321.5 of the Government Code, or if none, to the return address provided on the deed or other instrument

8.11.040 Penalty.

A. The City may impose a civil fine of up to one thousand dollars (\$1,000) per day for each day that the owner fails to maintain the property, commencing on the day following the expiration of the period to remedy the violation.

B. In determining the amount of the fine, the City shall take into consideration any timely and good faith efforts by the legal owner to remedy the violation.

C. Fines and penalties collected pursuant to this section shall be directed to the City's nuisance abatement programs.

D. The City may not impose fines on a legal owner under both Civil Code Section 2929.3 and another City ordinance. However, Civil Code Section 2929.3 shall not preempt any City ordinance.

E. The rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law.

8.11.050 Hearing to Contest Fine.

A. The legal owner may contest the fine imposed on his/her property pursuant to this Chapter. A request for a hearing must be filed in writing with the City's Quality of Life Department no later than ten (10) days after the imposition of the fine. The request must state the grounds for the appeal and include a non-refundable appeals processing fee in the amount established by resolution of the City Council of the City. Failure to timely request a hearing or to pay the appeals processing fee constitutes a waiver of the right to appeal and a failure to exhaust administrative remedies.

B. Hearing Procedure.

1. The City Manager or the City Manager's designee shall designate a hearing officer. The hearing officer may be the hearing officer used by the City for conducting other code enforcement hearings.

2. The hearing shall be held not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed. The hearing may be continued from time to time as deemed necessary by the hearing officer. Notice of the time, date and location of the hearing shall be provided to the legal owner no later than ten (10) days before the hearing.

3. At the hearing, the party contesting the fine shall be given the opportunity to testify and to present evidence or witnesses concerning the violation.

4. The failure of the person contesting the violation to appear at the hearing shall constitute a waiver of the hearing, a failure to exhaust administrative remedies and agreement by the person contesting the fine to pay the administrative fine.

5. The notice of violation, fine and any additional report submitted by the person issuing the citation shall constitute prima facie evidence of the respective facts contained in those documents. The burden of proof shall then be on the person contesting the fine to refute such evidence.

6. Neither the rules of evidence as provided by California State law, nor the provisions of the Administrative Procedures Act apply to hearings under this Chapter.

C. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written, final decision to uphold or cancel the fine and shall state in the final decision the reasons for that decision. A copy of the decision shall be served on the legal owner. The decision of the hearing officer shall be final, except for judicial review.

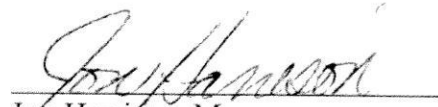
D. If the final decision of the hearing officer affirms the issuance of the fine, the legal owner shall pay the fine to the city within thirty (30) days after service of the decision.

8.11.060 Sunset Date.

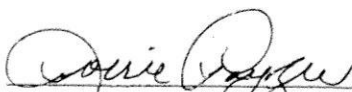
This Chapter, similar to Civil Code Section 2929.3, shall remain in effect until January 1, 2013, and as of that date is repealed, unless the State of California enacts a statute before January 1, 2013, that either deletes or extends that date."

Section 2. If any section, subsection; clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 3. The Mayor shall sign this ordinance and the City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published once in the Redlands Daily Facts, a newspaper of general circulation within the City, and thereafter, this ordinance shall take effect in accordance with law.

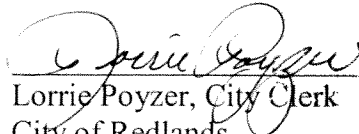

Jon Harrison, Mayor

ATTEST:


Lorrie Poyzer, City Clerk

I, Lorrie Poyzer, City Clerk of the City of Redlands, hereby certify that the foregoing ordinance was duly adopted by the City Council at a regular meeting thereof held on the 3rd day of March, 2009, by the following vote:

AYES: Councilmembers Gilbreath, Gallagher, Aguilar, Bean; Mayor Harrison
NOES: None
ABSENT: None
ABSTAIN: None



Lorrie Poyzer, City Clerk
City of Redlands