

RECEIVED

2015 APR 27 AM 9 01

Agenda Item: ID#15-342 (3:00 P.M.)

Date: 4/30/15

CITY CLERK, FRESNO

FRESNO CITY COUNCIL



Supplemental Information Packet

Agenda Related Item(s) – ID#15-342

Contents of Supplement: Mayor-Council Code Enforcement Task Force Minority Report (April 2015)

Item(s)

WORKSHOP presenting the Report and Recommendations of the Mayor-Council Code Enforcement Taskforce

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

RECEIVED

2015 APR 27 AM 8 41

CITY CLERK, FRESNO CA

**Mayor-Council Code Enforcement Task Force
Minority Report**

April 2015

MINORITY REPORT

EXECUTIVE SUMMARY

We, the undersigned five Task Force members, respectfully submit this Minority Report. After seven months of collegial and fruitful deliberations, we find that on a very few—but important—issues we could not come to consensus with our fellow Task Force Members.

We, therefore, hereby request the City Council incorporate three elements listed here into any ordinance amended or adopted as a result of the Task Force's work. The undersigned Task Force Members believe the recommendations offered herein, when taken together and implemented, will substantially improve the City's ability to address blight in Fresno—today and into the future.

1. Implement and enforce a vacant building registration program for all buildings vacant for longer than 60 days.
2. Require an internal health and safety inspection of all newly unblighted properties (those previously found to be in violation of code) before they are rented to ensure properties are habitable under California law.
3. Allow for non-profit and community groups to enforce the ordinance at no expense to the City by including a private attorney general clause in FMC Chapter 10.

Each of these recommendations is expanded upon in the next section.

Finally, we are thankful for the final report's explicit commitment to a "Phase Two" of the Task Force, to continue the work of reviewing the Municipal code to deal with interior substandard housing conditions that violate California health and safety laws and endanger tenant families. However, we would additionally recommend a commitment to reconvene for that phase before the end of 2015 and to intentionally include Fresno tenants currently living in low-income neighborhoods. Our goal is to ensure that every resident has access to decent, safe, affordable, and accessible housing now and in the future.

Respectfully submitted,
Dr. Matthew Jendian, Co-Chair
Rev. David Joseph Criner
Rev. Booker T. Lewis II
Dr. Janine Nkosi
Rev. Phil Skei

MINORITY REPORT RECOMMENDATIONS

Background

While this report provides recommendations aimed at eliminating blight in Fresno, we understand the scope of the problem did not emerge overnight. Blight is the visible result of decades of outward expansion, economic challenges, and social forces that have impacted the city of Fresno over many decades. To address Fresno's housing problems--vacant blighted properties and occupied substandard living conditions--the City needs a comprehensive plan of action that allows for strong implementation, creates robust partnerships across sectors, engages residents, community, and faith leaders, and holds problem property owners accountable.

Much research illustrates that vacant blighted properties devastate neighborhoods and reduce a community's overall property values. Three core reports, *Financial Impact of Blight on the Tri-COG Communities* (2013), *The Cost of Blight* (2011), and *Vacant Properties: The True Cost to Communities* (2005), detail the financial impact of blight. Blight attracts criminal activity (Skogan, 1992), creates safety issues, threatens public health (Cohen, 2003), and conveys images of unsafe damaged communities. It is evident that those who suffer most from abandoned blighted properties are neighboring residents. However, the direct and indirect costs of blight stretch far beyond the parcel or neighborhood in which the property resides (Fraser, 2011). Studies conducted across the nation estimate that vacant, abandoned, and blighted properties cost cities and their taxpayers millions of dollars each year. Vacant blighted properties undermine property values within a community (Campbell et al., 2011; Cotterman, 2001; Harding et al., 2009; Immergluck & Smith, 2006; Shuetz et al., 2008); cost cities significant dollars in the form of code enforcement, police, fire, and public works (Fraser, 2011; National Vacant Properties Campaign, 2005) and have damaging psychosocial effects on neighborhood residents (Guite et al., 2006; Litt et al., 2010).

In Fresno, the number of vacant blighted properties is estimated in the thousands. Different reporting systems (i.e., USPS and HUD, US Census, American Housing Survey, Valassis Lists) offer varying estimates on the number of vacant properties in the city of Fresno. According to the US Census (2010), 12,939 vacant housing units were recorded in Fresno. The City currently lacks a mechanism to determine the number of vacant units that are blighted. Furthermore, because vacant blighted properties are concentrated in south Fresno, they disproportionately impact children and families residing in these areas and have become a problem that is hidden in plain sight. Figure 1 illustrates this point, as it shows the location of over 400 vacant blighted properties documented by community leaders, residents, and Fresno State students in 2014. Properties are concentrated in neighborhoods where the majority of residents are people of color in lower socioeconomic status. Residents throughout the city may not be aware of the magnitude of the problem, how children and families are impacted, or the true costs such properties have on the entire city.

The Fresno Police Department considers 45% of the city's abandoned properties a "public nuisance" because houses are used for drug sales and use, prostitution, gang hangouts and other illegal activities. Furthermore, vacant lots often become dumping grounds, which can attract vermin that spread disease. All of these issues compromise the safety and well-being of those living in blighted neighborhoods. Vacant and boarded up properties also attract the attention of arsonists resulting in higher costs for fire abatement services. The number of arson related crimes in Fresno has risen by 130% over the last ten years (Fresno Police Department, 2014). In 2014 alone, 90 vacant property fires concentrated in south Fresno (Figure 2) cost taxpayers an estimated \$200,000 to \$500,000 (Fresno Fire Department, 2014).

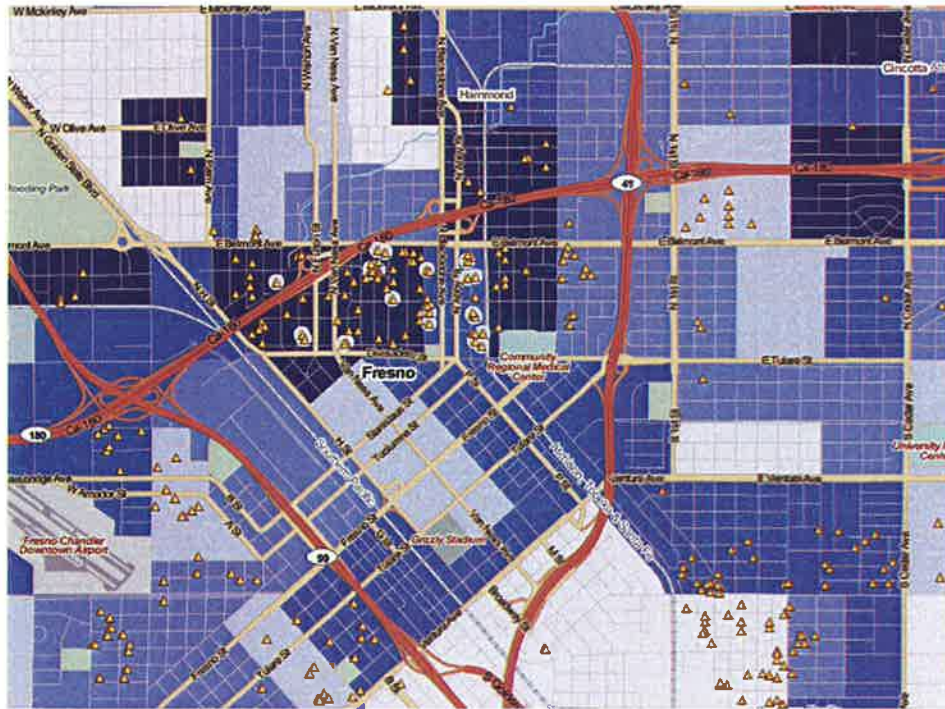


Figure 1. Sampling of vacant blighted properties documented in the city of Fresno in 2014



Figure 2. Map of fires in vacant properties in the city of Fresno in 2014

Broken windows, graffiti, trash and debris, and run-down vacant properties have burdened residents on a daily basis for decades. Blight can create a sense of cynicism or despair, especially when people witness the decline of their neighborhood over many years. The City of Fresno is at a historic moment. We are on the verge of creating the vital components needed to implement a comprehensive plan that will move our city one step closer to becoming one healthy Fresno.

With that, this minority report presents four recommendations to be considered in conjunction with the majority report, which does include many elements which we support, but which--without these additions--we ultimately fear will fall short of its intended goal. Recommendations are presented based on a thorough review of the literature on best practices implemented in cities throughout the nation to address blight and substandard living conditions conducted by community and faith leaders, researchers, tenants, tenant advocates, and college students. Phone conferences were held with select cities to gain insight beyond the literature and understand how best practices are implemented on the "front lines." Surveys were developed and administered to City staff, in Fresno and other areas, to gather information that would ultimately shape the recommendations put forth in this report. Further, to gain as much knowledge as possible about the scope of the problem and potential for solutions in the city of Fresno, community and faith leaders, residents, researchers and college students canvassed neighborhoods to document blight, conducted interviews with residents to understand how they are impacted by blight and/or substandard housing conditions, and held community forums to speak directly with residents, educators, and business owners about how they are impacted by deteriorating housing conditions.

Also noteworthy is that one of the most significant challenges reported by City staff regarding challenges to enforcement of Fresno's municipal code was lack of human resources and funding. Therefore, each of the recommendations presented in this report were crafted with implementation in mind in order to ensure City staff would have the necessary tools to enforce the municipal code.

Recommendations

First, we call for a vacant building registration program for all buildings that have been or are expected to be vacant for longer than 60 days. On or before day 60, the property owner shall register and pay a service fee to the City of Fresno for an external inspection and monitoring. The service fee will be determined based on the cost of code enforcement staff to inspect, process, and monitor the property. If the property remains vacant for more than a year, the property owner shall be required to pay an annual monitoring fee.

The Center for Community Progress (<http://www.communityprogress.net/>) is considered the "national leader on solutions for vacant, abandoned, and problem properties." This organization is "a resource for local, state, and federal policies and best practices that address the full cycle of property revitalization, from blight prevention, through the acquisition and maintenance of problem properties, to their productive reuse." The Center offers an online clearinghouse of literature on best practices to address blight, which have been implemented and evaluated by cities throughout the nation. A critical first step to address problems associated with vacant properties, cited throughout the research at the Center for Community Progress, is to document and track the inventory of vacant properties.

An effective practice for documenting, tracking, and monitoring vacant properties is the implementation of a vacant property registration ordinance (Martin, 2010). Safeguard Properties (<http://www.safeguardproperties.com/>) hosts a public database of information on municipalities across the United States with various ordinances, including vacant property registration ordinances (VPRO). The database contains information on 131 cities in California, of which approximately 120 have VPROs. Table 1 provides a snapshot of VPROs by city or county along with the fees and timeline for registration.

Table 1. *Sample of Cities in California with Vacant Property Registration Ordinances, Along with Fees and Registration Timeframes*

City/County	Fees	Registration Timeframe
Alameda	\$632; annually	90 days
Chowchilla	\$150 first time; \$100 renewal	10 days
Coalinga	\$150 per calendar year	10 days following vacancy
Fresno	none (no initial fee)	10 days following vacancy (Ordinance); upon foreclosure (Form)
Hanford	\$200; pro-rated after July 1st each year	10 days
Kerman	\$50; annually renewal on Jan. 1	10 days following transfer or vacancy
Kern County	\$152	30 days following vacancy
Kingsburg	\$50 annually	10 days
Madera	\$55	10 days
Madera County	\$150; annually	10 days following vacancy
Modesto	\$203; quarterly fees varying per schedule	10 days
Pomona	\$408	10 days following vacancy; annually
Selma	\$200; annually	10 days
Tulare	\$70	10 days
Vallejo	TBD; annual monitoring fee	90 days following vacancy

Twenty-five cities were surveyed to gather feedback on the effectiveness of their vacant property registration ordinance (tracking, processing, monitoring, and addressing blight). In addition, participants were asked to offer recommendations to cities considering implementing or reforming a VPRO. One noteworthy recommendation offered by respondents was to “have definitive requirements for maintenance, registration, and monthly reporting.” One city responded with “the [VPRO] has been effective however we have found that we underestimated the amount of time it takes to manage the program and should have considered a higher registration fee to cover staff costs. Our fee is \$100 dollars and probably should have been \$200 to be able to recover all costs of managing the program effectively.” One city noted that the VPRO has been effective at drastically reducing blight, stating, “We track the [numbers] of inspections, findings, resolution, revenue, new registrations, etc. on a quarterly basis. Our program resulted in reducing a 50% blight rate from when we started in 2012 to 3.8% last year. We also provide a quarterly report to the City Council and public with updated tracking information.”

In evaluating Fresno’s current vacant property registration ordinance (see Appendix A, FMC Section 10-617 & 10-620), at least two areas can be improved:

- 1) require property owners to register their property after a specified time period. We recommend 60 days, as there was consensus among property owners on the Task Force that 60 days is a sufficient amount of time to obtain permits and bring a property to habitability, and
- 2) charge a reasonable fee for service so City staff can track, process, inspect, and monitor vacant properties.

As noted by Alameda County (see Appendix B), vacant properties (termed vacant parcel in the ordinance) “are often used as a dumping ground for debris, are often overgrown with weeds and grass, and may become a dumping ground for toxic hazardous substances and used drug needles. It is the responsibility of the property ownership to prevent owned property from becoming a burden to the neighborhood and community and threat to public health, safety or welfare.”

The Vallejo model (see Appendix C), which was presented by the City of Fresno staff during initial Task Force meetings, “requires the registration, maintenance, and security of vacant and foreclosed residential properties including single-family houses, multi-family complexes, and condominiums up to 4 units within the City of Vallejo. The registration requirement is triggered within 10 days after either of the following occurs: 1) A Notice of Default has been recorded; 2) The building becomes a ‘vacant building’ subject to Section 7.62.035 of the Ordinance; or 3) Within 10 days of acquiring the property at a trustee sale.”

Requiring property owners to register properties after 60 days of vacancy will: 1) ensure owners of vacant properties are known to the City and property owners can be reached if necessary; 2) ensure owners of vacant properties are aware of the obligations of ownership under relevant codes and regulations; 3) ensure owners meet minimum standards of maintenance of vacant properties; and 4) assist City staff (code enforcement, police, fire) with up-to-date information necessary for their safety and the health and safety of all residents.

Second, we propose a required internal health and safety inspection on all newly unblighted properties (those which have previously been found to be in violation of Code) before they are rented. Property owners would need to obtain a “Release for Occupancy” based on a health and safety inspection. Health and safety standards are outlined in CA Civil Code §1941.1 and Health and Safety Code §17920.3. This will ensure vacant rental properties meet minimum health and safety standards prior to a tenant moving in, which ultimately reduces the burden on the City’s scarce resources.

In the report *Shame of the City--The Sequel: Slum Housing LA's Hidden Health Crisis* (2010), a coalition of healthcare providers, community health workers/promotoras, tenant and community organizers, and affordable housing and human rights advocates documented the harmful effects of substandard living conditions among a sample of 3,150 units of extreme slum housing inhabited by low-income families. Researchers noted, “the health effects of slum housing are vast and profound, ranging from the development and aggravation of asthma and allergy conditions to chronic lead poisoning; from chronic sinusitis to chronic skin diseases; from insect and rodent bites as well as diarrheal illnesses to anxiety and other mental health conditions. Many tenants suffer not only from structural conditions of their home but also from constant fear of eviction, displacement and banishment, increasing their susceptibility to and/or exacerbating mental illness.” According to the US Department of Housing and Urban Development (HUD), in 2009, there were 72,410 low-income households in the Fresno metropolitan area; 82% of those low-income residents reported issues with their housing (US Housing Survey, 2009). In the Fresno municipal area in 2009, there were 955 substandard housing units reported and 10,615 housing units reported being overcrowded (US Housing Survey, 2009). In 2009, according to HUD, 47,445 low-income households reported being housing cost burdened in the Fresno metropolitan area. With a 50% rental rate in the city of Fresno (US Census, 2010) and a high concentration of poverty (22 identified neighborhoods of concentrated poverty), negligent property owners will take advantage of such conditions, especially among the most vulnerable populations, including low-income families, minority groups, migrant workers, single mothers, and elderly, to name a few.

In 2013, community groups and Fresno State students conducted a pilot study in the Lowell Neighborhood to gain insight into the living conditions of residents who occupied properties in neighborhoods of concentrated blight. Fresno State students conducted observations and interviews with renters to learn about the living conditions of tenants renting homes or apartments. The survey instrument included a list of housing issues, which violate habitability standards outlined by CA Civil Code §1941.1 and Health and Safety Code §17920.3.

The survey instrument included questions about satisfaction with the neighborhood (i.e., safety and amenities), housing concerns (i.e., maintenance and pests), and landlord response to maintenance/repair requests. Of the 26 interviews conducted, 24 were the renters of the property.

Table 1 shows that 18 of the 26 respondents had children living in the home. According to Cohen (2003), children are at greatest risk of health and safety issues when residing in substandard living conditions. “The relationship between boarded-up housing and health outcomes remained quite strong even in a regression model that included measures of socioeconomic status (income, education, and employment) as well as a measure of racial/ethnic minority status” (p. 470).

Table 1. *Children Living in the Apartment or Home*

<i>Children</i>	<i>N</i>	<i>%</i>
Yes	18	69%
No	8	31%
Total	26	100%

Table 2 provides a snapshot of the housing issues reported by renters in the Lowell neighborhood study. Of the 26 respondents, 20 (77%) reported they had one or more problems with maintenance or repairs. An issue related to the presences of pests (rats, roaches, and insects) was the highest reported problem (85%) among renters with maintenance issues.

Table 2. *Housing Issues Reported that Violate CA Health and Safety Code Habitability*

<i>Question: Problems with any of the following...</i>	<i>Responses (N)</i>	<i>% of problems</i>
Damp/leaking ceiling	9	15.8%
Holes in walls/floors/carpet	6	10.5%
Falling plaster/peeling paint	8	14%
Lack of/inadequate water	4	7%
Missing/broken smoke detectors	1	1.8%
Rats, roaches, insects	17	29.8%
Unsafe stairs/railings	2	3.5%
Inadequate security/locks	3	5.3%
Defective electrical wiring	3	5.3%
Problems w/ air cond. units	4	7%
*Total issues reported	57	

Note: Table 2 shows the number of respondents who indicated that they had an issue with one or more of the listed housing issues; 20 out of 26 respondents indicated that they had one or more habitability issues; *Total issues reported are duplicate headcount, as tenants reported more than one maintenance problem related to habitability.

In spring 2015, Fresno State student engaged in similar research projects to continue exploring the living conditions of tenants in neighborhoods of concentrated blight throughout Fresno. Findings will be made available to community leaders and elected officials.

Implementing a “release for occupancy” by the City, which requires a basic health and safety inspection, is a proactive approach to dealing with substandard housing units. Incorporating a basic health and safety inspection according to CA Civil Code §1941.1 and Health and Safety Code §17920.3 will prevent the compounding effects of occupied, substandard housing in our city. This is a proactive solution that will save taxpayers and ensure health and safety of tenant families before they move into newly unblighted properties.

Third, we recommend that a private attorney general clause be included in Chapter 10 of the Fresno Municipal Code. A private attorney general clause “standing to sue” already exists in FMC Section 12-411 (see Appendix D). Historically, a common concern has existed regarding funding for enforcement. Although the current FMC allows for criminal misdemeanor charges to be filed by the City Attorney against negligent property owners, not a single case has been prosecuted. In addition, the current Code allows the City to pursue receivership on properties that have been vacant for extended periods of time with excessive Code violations and uncollected fines. However, not a single receivership has ever been processed. Such properties are a drain on City services and create health and safety hazards for residents throughout the city. The private attorney general clause allows for non-profit and community groups to enforce the ordinance at no expense to the City.

Finally, we call for a public commitment by elected leaders to reconvene the Mayor-Council Code Enforcement Task Force sometime in 2015 to continue its work and “review all municipal code processes, procedures and priorities within the Department of Development and Resource Management” specifically related to internal substandard housing conditions which violate CA Civil Code §1941.1 and Health and Safety Code §17920.3. We also ask that when the Task Force re-convenes, tenants are included that specifically represent low-income neighborhoods.

Conclusion

Over the years, the problem of vacant blighted properties has increased and the resources to enforce Fresno’s municipal code have diminished. To create one healthy Fresno, a place where all families have access to safe and healthy homes and neighborhoods, we need unprecedented leadership and collaboration from the City, Council, private sector, non-profit partners, community leaders, and residents. To rid Fresno of the blight and disinvestment, which has held us back from reaching our full potential--we all must do our part.

We believe the majority recommendations--which we support many of and helped to craft--are enhanced with these three additions from the minority and, when taken together, will establish a comprehensive approach to dealing with blight in the city of Fresno and will ultimately set the stage for strong collaboration and implementation.

APPENDIX A: FMC 10-617 AND 10-620

- MUNICIPAL CODE OF THE CITY OF FRESNO

CHAPTER 10 - REGULATIONS REGARDING PUBLIC NUISANCES AND REAL PROPERTY CONDUCT AND USE

ARTICLE 6 PUBLIC NUISANCE ABATEMENT

ARTICLE 6 PUBLIC NUISANCE ABATEMENT

SEC. 10-617. BLIGHTED BUILDINGS; VACANT BUILDING PLAN.

SEC. 10-620. REGISTRATION OF VACANT FORECLOSED PROPERTIES.

SEC. 10-617. BLIGHTED BUILDINGS; VACANT BUILDING PLAN.

In a proceeding under this article for a blighted building, the Director may issue an Order to Submit a Vacant Building Plan to the property owner and require the payment of a fee as required under this section.

- (a) Vacant Building Plan. If required under this section, a Vacant Building Plan shall be submitted along with the fee required under subsection (b). A Vacant Building Plan shall be approved by the Director if it contains the information required below and the Director finds, after inspecting the property, that the information in the plan is sufficient to meet the requirements of this article. If the Director rejects the plan, they shall do so in writing, providing the basis for the rejection along with a reasonable deadline for submitting a new plan or appealing the Director's decision. The Vacant Building Plan shall include the following information:
- (i) Name and address of person submitting the Vacant Building Plan;
 - (ii) Name and address of all property owners of the subject property;
 - (iii) The name and address of a local agent, if the property owner(s) is/are not local, that the Director may contact related to enforcement of this article;
 - (iv) The expected period of vacancy;
 - (v) A plan to make any buildings ready for occupancy that could not be legally occupied under State and local law at the time for submission of the plan;
 - (vi) If required by the Director, a plan to either occupy, sell, lease, or demolish the building within one-hundred eighty (180) days or such other time as determined reasonable by the Director under the circumstances;
 - (vii) A plan for actively monitoring, maintaining and securing the property, as defined in subsection 10-603(c);
 - (viii) A letter of written consent by the property owner(s) to the Director to allow City code enforcement inspectors to enter the property for inspections consistent to enforce the provisions of this article;
 - (ix) Any other information required by the Director in rules and regulations adopted under this article.
- (b) Vacant Building Plan Fee. When a property owner is ordered to submit a Vacant Building Plan by the Director they shall also be required to pay a fee to the City to monitor or inspect the building and to review and approve the Vacant Building Plan. The Director shall have discretion to determine the number of inspections required to monitor the subject building upon submission of the plan, based upon the type and condition of the property, and the history of violations at the subject property. The amount of the fee shall be as follows:
- (i) No fee shall be charged for the initial Vacant Building Plan;
 - (ii) Five-Hundred Dollars (\$500.00) for a second Vacant Building Plan;
 - (iii) Eight-Hundred Dollars (\$800.00) for a third Vacant Building Plan;

- MUNICIPAL CODE OF THE CITY OF FRESNO
CHAPTER 10 - REGULATIONS REGARDING PUBLIC NUISANCES AND REAL PROPERTY CONDUCT AND USE

ARTICLE 6 PUBLIC NUISANCE ABATEMENT

- (iv) One-Thousand Dollars (\$1,000.00) for a fourth and subsequent Vacant Building Plan.
- (c) Recording. The Vacant Building Plan shall be recorded and indexed in the grantor-grantee index in the Fresno County Recorder's Office and shall be released by the Director when he or she determines that the property is no longer vacant. Any fees or costs associated with recording the Vacant Building Plan or filing a release from the Vacant Building Plan shall be the responsibility of the property owner and collectible under Article 5 of Chapter 1
- (d) Appeal. An Order to Submit a Vacant Building Plan and/or a decision by the Director rejecting a Vacant Building Plan are appealable to an Administrative Hearing Officer under the procedures found in Article 4 of Chapter 1. Both an Order to Submit a Vacant Building Plan and a rejection of a Vacant Building Plan must be appealed within fifteen (15) days from personal service of the notice of the order or rejection or eighteen (18) days from mailing a notice of the order or rejection by certified mail.
- (e) Approved Plan. A Vacant Building Plan is enforceable immediately upon notice to the property owner of the approval of the Vacant Building Plan until the Director releases the property from the approved Vacant Building Plan. An approved plan shall be valid for no more than one hundred eighty (180) days from the date of its approval. If a plan expires after one hundred eighty (180) days and the Director has not yet released the property from the approved Vacant Building Plan, the Property Owner is automatically required to seek a renewal of the approved Vacant Building Plan and pay a fee for that renewal as set forth in Subsection (b) of Section 10-617 of this Article.
- (f) Non-compliance. Failure by the property owner to submit a Vacant Building Plan or comply with a Vacant Building Plan that has been approved by the Director under this section or pay a fee as required under this section is a violation of the Code and may be remedied by any of the following:
 - (i) Use of any abatement procedure provided in this article;
 - (ii) Issuance of a criminal citation under Section 1-305
 - (iii) Issuance of an administrative citation under subsection (g); or
 - (iv) Institution of legal action by the City Attorney upon request by the Director; or
 - (v) Notwithstanding contrary provisions in the Dangerous Building Ordinance, use of the procedures for demolition of a building found in the Dangerous Building Ordinance (Chapter 11, Article 4) if the Vacant Building Plan included a requirement by the Director to either occupy, sell, lease or demolish the building and the property owner has failed to comply with the requirement under the terms of the Vacant Building Plan and the hearing officer determines that such a remedy is reasonable under the circumstances, in consideration of the condition of the property and the history between the city, the property, and the property owners.
- (g) Administrative Penalty for Non-Compliance. The City may immediately issue a first administrative citation for an administrative penalty against the property owner(s) when they are in violation of this section for failing to submit a required Vacant Building Plan by the deadline set by the City, pay a fee, or comply with an approved Vacant Building Plan. Thereafter, the City may issue subsequent administrative citations for each thirty (30) day period the property owner(s) are in violation of this section for failing to submit a required Vacant Building Plan by the deadline set by the City, pay a fee, or comply with an approved Vacant Building Plan. The amount of the administrative citations shall be limited as follows:
 - (i) up to one-thousand dollars (\$1,000.00) for the first citation;
 - (ii) up to three-thousand dollars (\$3,000.00) for the second citation; and

- MUNICIPAL CODE OF THE CITY OF FRESNO
CHAPTER 10 - REGULATIONS REGARDING PUBLIC NUISANCES AND REAL PROPERTY CONDUCT AND USE

ARTICLE 6 PUBLIC NUISANCE ABATEMENT

(iii) up to seventy-five hundred (\$7,500.00) for the third and subsequent citations.

The amount of the administrative citation penalties shall be doubled for Property Owners who have two (2) or more properties with vacant buildings that are in violation of this Section for failing to submit a required Vacant Building Plan by the deadline set by the City, pay a fee, or comply with an approved Vacant Building Plan.

Citations shall be issued consistent with the procedures set forth in Municipal Code section 1-308. Citations issued under this section shall be appealable under the provisions of Article 4 of Chapter 1 and collectible under the provisions of Article 5 of Chapter 1.

- (h) **Transfer of Vacant Building.** The transferee of a vacant building is subject to the requirements of this section. If the property is subject to a Vacant Building Plan and the plan has been properly recorded with the County Recorder's Office, the transferee is subject to the terms of the Vacant Building Plan. The transferee may apply to the Director to be released from the requirements of the Vacant Building Plan. It shall be in the Director's discretion to grant such an application. The Director's decision shall be final.
- (i) **Service.** Service of an Order to Submit a Vacant Building Plan, notice of rejection, or approval of a vacant building plan shall be made on the property owner by personal service or first class mail. Proof of service shall be documented at the time of service by a declaration under penalty of perjury executed by the person effecting service, declaring the time and manner in which service was made. If service is by mail, the property owner will be considered noticed as of the fourth day after mailing.

(Added Ord. 2003-17, § 3, 4-22-03; Am. Ord. 2004-111, § 1, eff. 12-05-04; Am. Ord. 2006-9, § 2, 3-13-06; Am. Ord. 2008-68, §§ 1—4, eff. 1-15-09).

SEC. 10-620. REGISTRATION OF VACANT FORECLOSED PROPERTIES.

- (a) **Intent and Purpose.** The Council of the City of Fresno hereby finds and declares that the current housing foreclosure crisis facing Fresno is widespread and national in scope. It is the purpose and intent of the Council of the City of Fresno, through the adoption of this ordinance, to establish a vacant foreclosed property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of vacant foreclosed properties.
- (b) **Scope of Chapter.** This Chapter shall apply to all vacant properties in the City of Fresno that have come within ownership or control of a trustee or beneficiary as a result of the default of the borrower and/or the foreclosure process. This chapter shall also apply to properties where the deed of trust 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.
- (c) **Registration of Property.** Any trustee or beneficiary holding a deed of trust on a property located within the City of Fresno shall inspect the property that is the security for the deed of trust, upon default by the trustor, prior to recording notice of default with the Fresno County Recorder. If the property is found to be vacant, it is deemed to fall within the provisions of this chapter and shall be registered with the Planning Director or the Planning Director's designee within ten (10) days of inspection. If the property is occupied at the time of inspection, it shall be inspected on a monthly basis until (a) the default is remedied by the trustor or other party or (b) the property is found to be vacant, at which time it shall be registered within ten (10) days.
- (d) **Registration Fee.** No fee shall be charged for the registration of property.

- MUNICIPAL CODE OF THE CITY OF FRESNO
CHAPTER 10 - REGULATIONS REGARDING PUBLIC NUISANCES AND REAL PROPERTY CONDUCT AND USE

ARTICLE 6 PUBLIC NUISANCE ABATEMENT

- (e) Registration Process. Registration shall be made in writing to the Planning Director or the Planning Director's designee. The trustee or beneficiary shall provide the following information to the Planning Director or the Planning Director's designee:
- (1) Name, address, and telephone number of the trustee and/or beneficiary,
 - (2) Address and assessor's parcel number of the vacant property,
 - (3) Name, address, and telephone number of the property maintenance company responsible for the property, if applicable,
 - (4) Name, address, and telephone number of all known lien holders and/or individuals with ownership interest or other legal interest in the property,
 - (5) If no trustee or beneficiary resides within the County of Fresno, the name, address, and phone number of a party residing within the County of Fresno who shall be designated as the local responsible party or agent for the purposes of notification in the event of an emergency affecting the public health, safety, or welfare and for purposes of service of process or any notices associated with registration of the property.
 - (6) Provide express authorization for City Employees to enter the property for the purpose of ensuring compliance with this chapter. The primary purpose of this authorization is to provide consent for City Employees to access the exterior of the property to inspect and/or abate. City Employees will not enter the interior of the structure unless the health, safety and/or welfare of the public is at risk.
- (f) Duration of Registration. Registration of a property shall be valid for one (1) year from the date of registering with the Planning Director or the Planning Director's designee. The trustee and/or beneficiary shall renew the registration of the property annually prior to the expiration of the current registration.
- (g) Maintenance Requirements. Properties registered pursuant to this chapter shall be maintained according to the following standards:
- (1) Landscaping. Maintain all yards and landscaping by watering, cutting, pruning, and mowing all lawns and vegetation. Yards and lawns shall be kept free of weeds.
 - (2) Trash and Debris. The property shall be kept free of trash and debris. Trash and debris shall be removed from the property within seven (7) days of placement on the property.
 - (3) Graffiti. The property shall be kept free of graffiti. Graffiti shall be removed from the property within 48 hours of placement on the property.
 - (4) Swimming Pools. Any swimming pool or spa shall be properly maintained and kept in working order so the water remains clear, free of pollutants and debris, and does not become a breeding place for mosquitoes and other insects. Any pool or spa not maintained in this manner shall be drained and kept dry. Properties with pools or spas shall comply with the minimum security fencing requirements of the State of California.
 - (5) Security. The property shall be secured against unauthorized entry. This includes, but is not limited to, locking all doors, windows, and gates that would allow access to the interior of the structure or onto the lot where the property is located. Boarding of doors and windows will be allowed only if they may not be secured by other means.
 - (6) Posting. The property shall be posted with a sign indicating the name and a 24-hour telephone number for the trustee/beneficiary or property management company responsible for maintenance and security of the property. The sign shall read substantially as follows: "This property is managed by []. To report problems or concerns call []." The sign shall be visible from the street and located at the front of the property. The sign shall be placed on

- MUNICIPAL CODE OF THE CITY OF FRESNO

CHAPTER 10 - REGULATIONS REGARDING PUBLIC NUISANCES AND REAL PROPERTY CONDUCT AND USE

ARTICLE 6 PUBLIC NUISANCE ABATEMENT

the interior of a window, affixed to the exterior of the structure, or on a stake placed in the front yard. Exterior posting shall be constructed on and printed with weather resistant material.

- (h) Enforcement. Notwithstanding any other remedies available by law, failure to comply with the provisions of this chapter may result in the following enforcement action:
 - (1) Notice of Violation. The Planning Director or the Planning Director's designee may issue a Notice of Violation according to the provisions set forth in Municipal Code section 10-607
 - (2) Notice and Order. The Planning Director or the Planning Director's designee may issue a Notice and Order according to the provisions set forth in Municipal Code section 10-608
 - (3) Administrative Citation. The Planning Director or the Planning Director's designee may issue an Administrative Citation according to the provisions set forth in Municipal Code section 1-308. The amount of administrative penalties for failure to comply with the provisions of this section shall be as follows: First violation, up to One Thousand Dollars (\$1,000), plus any abatement, actual, administrative and enforcement costs and administrative expenses incurred; On a second violation of this article within a rolling 12 month period, up to Ten Thousand Dollars (\$10,000), plus any abatement, actual, administrative and enforcement costs and administrative expenses incurred; On a third or subsequent violation of this article within a rolling 12 month period, up to Fifty Thousand Dollars (\$50,000), plus any abatement, actual, administrative and enforcement costs and administrative expenses incurred.
 - (4) The Director may request the City Attorney to institute legal action.
- (i) Appeals. A Notice and Order or Administrative Citation issued for failure to comply with the provisions of this chapter shall be appealed pursuant to the provisions of Municipal Code section 1-407

(Added Ord. 2008-67, § 1, eff. 1-15-09).

APPENDIX B: ALAMEDA BOARDED BUILDING AND VACANT PARCEL ORDINANCE

13-14 - BOARDED BUILDINGS AND VACANT PARCELS.

13-14.1 - Declaration of Purpose.

13-14.2 - Definitions.

13-14.3 - Boarded Building and Vacant Parcel Penalty.

13-14.4 - Administrative Penalty.

13-14.1 - Declaration of Purpose.

The City Council finds that boarded buildings and vacant parcels are a major cause and source of blight in both residential and nonresidential neighborhoods, especially when the owner of the parcel fails to actively maintain and manage the building or parcel. Vacant buildings which are boarded, substandard or unkempt properties, and long-term vacancies discourage economic development, retard appreciation of property values and constitute a public nuisance.

Vacant parcels are often used as a dumping ground for debris, are often overgrown with weeds and grass, and may become a dumping ground for toxic or other hazardous substances and used drug needles. It is a responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety or welfare. Boarded buildings and vacant parcels which are not actively and well maintained and managed can be the core and cause of spreading blight.

(Ord. No. 2705 N.S. § 2)

13-14.2 - Definitions.

Building Official shall mean the Chief Building Inspector, Fire Marshall or Code Enforcement Officer, or their appointed or designated representatives.

Boarded building shall mean a building whose doors and windows have been covered with plywood or other material for the purpose of preventing entry into the building by persons or animals.

Vacant parcel shall mean a parcel of real property upon which there is an improvement of any type on any part or portion of said parcel and the parcel is unoccupied or unused by the owner or any person with the owner's consent.

(Ord. No. 2705 N.S. § 2)

13-14.3 - Boarded Building and Vacant Parcel Penalty.

a.

The owner of any boarded building or vacant parcel, whether boarded by voluntary action of the owner or as a result of enforcement activity by the City, shall cause the boarded building or vacant parcel to be rehabilitated for occupancy within ninety (90) days after the building is boarded or the parcel is vacant.

b.

No person shall allow a boarded building or vacant parcel to stand vacant for more than ninety (90) days unless one of the following applies:

1.

There is a valid building permit for repair, rehabilitation or construction of a building and the owner is progressing diligently to complete the repair, rehabilitation or construction;

2.

The building complies with all codes, does not contribute to blight, is ready for occupancy, and is actively being offered for sale, lease, or rent;

3.

The Building Official determines that the boarded building or vacant parcel does not contribute to and is not likely to contribute to blight because the owner is actively maintaining and monitoring the boarded building or vacant parcel so that it does not contribute to blight. Active maintenance and monitoring shall include:

(a)

Maintenance of landscaping and plant materials in good condition;

(b)

Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition;

(c)

Regular removal of all exterior trash, debris and graffiti;

(d)

Maintenance of the boarded buildings and vacant parcels in continuing compliance with all applicable codes and regulations;

(e)

Prevention of criminal activity on the premises, including but not limited to use and sale of controlled substances, prostitution and criminal street gang activity.

(Ord. No. 2705 N.S. § 2)

13-14.4 - Administrative Penalty.

a.

Any owner of a boarded building or vacant parcel which remains in violation of subsection 13-14.3 shall be liable for an administrative penalty in an amount not to exceed One Thousand (\$1,000.00) Dollars per calendar year per boarded building or vacant parcel.

b.

A second or subsequent administrative penalty imposed upon any owner pursuant to this section shall be in an amount not to exceed Five Thousand (\$5,000.00) Dollars per calendar year per boarded building or vacant parcel.

(Ord. No. 2705 N.S. § 2)

13-15 - **BOARDED BUILDING AND VACANT PARCEL MONITORING FEE.** ⁽³⁾

13-15.1 - Declaration of Purpose.

13-15.2 - Definitions.

13-15.3 - Boarded Building and Vacant Parcel Monitoring Fee.

13-15.1 - Declaration of Purpose.

Boarded buildings and vacant parcels are a major cause and source of blight in residential and non-residential neighborhoods, especially when the owner of the building or parcel fails to maintain and manage the building or parcel to ensure that it does not become a liability to the neighborhood. Boarded buildings and vacant parcels often attract transients and criminals, including drug users, and accumulate debris and refuse, all of which impair the quality of life and reduce property values. Use of boarded buildings and vacant parcels by transients and criminals, who may employ primitive cooking or heating methods, creates a risk of fire for the boarded building, vacant parcel and adjacent properties. Boarded buildings and vacant parcels are often used as dumping grounds for debris, are often overgrown with weeds and grasses, and may include, among other things, hazardous or toxic substances and used drug needles. Buildings and vacant parcels which are boarded up to prevent entry by transients and other long-term vacancies discourage economic development and retard appreciation of property values.

Because of the potential economic and public health, welfare and safety problems caused by boarded buildings and vacant parcels, the City needs to monitor boarded buildings and vacant parcels, so that they do not become attractive nuisances, are not used by trespassers, are properly maintained both inside and out, and do not become a blighting influence in the neighborhood. City departments involved in such monitoring include the Police Department, the Fire Department, Planning Department and Public Works Department. There is a substantial cost to the City for monitoring boarded buildings and vacant parcels, which should be borne by the owners of the boarded buildings and vacant parcels.

(Ord. No. 2706 N.S. § 1)

13-15.2 - Definitions.

Boarded building shall mean a building whose doors and windows have been covered with plywood or other material for the purpose of preventing entry into the building by persons or animals.

Vacant parcel shall mean a parcel of real property upon which there is an improvement of any type on any part or portion of said parcel and the parcel is unoccupied or unused by either the owner or any person with the owner's consent.

(Ord. No. 2706 N.S. § 1)

13-15.3 - Boarded Building and Vacant Parcel Monitoring Fee.

a.

Fee Imposed. There is hereby imposed upon every owner of a boarded building or vacant parcel an annual boarded building and vacant parcel monitoring fee (hereinafter, "Monitoring Fee"), in an amount to be set by resolution of the City Council. The Monitoring Fee shall not exceed the estimated reasonable cost of monitoring the boarded building and vacant parcel. The Monitoring Fee shall be payable as to any boarded building, residential or non-residential; or vacant parcel which:

1.

Is boarded up by voluntary action of the owner or as the result of enforcement activities by the City; or

2.

Is vacant for more than ninety (90) days for any reason, except where all owners or occupants are continuously and temporarily absent from their place of residence and intend to return thereto.

b.

Fee Waiver. The Monitoring Fee shall be waived upon a showing by the owner that:

1.

The owner has obtained a building permit, or if a building permit is not required, is progressing diligently to prepare the premises for occupancy; or

2.

The boarded building or vacant parcel meets all applicable codes and is actively being offered for sale, lease or rent; or

3.

Imposition of the fee would impose a substantial economic hardship on the owner or would hinder the rehabilitation of the boarded building or vacant parcel; or

4.

All of the owners or occupants have been continuously and temporarily absent from their place of residence for over ninety (90) days and intend to return.

c.

Procedure. The Monitoring Fee shall be billed to the owner of the property and mailed to the owner as such owner's name and address appear on the last equalized assessment roll of the County Assessor.

Any owner billed may apply for a waiver on the grounds set forth in subdivision (b) of this subsection by submitting a written statement of the grounds for the waiver, and the owner's daytime telephone number, to the Chief Building Inspector within thirty (30) days after the billing is mailed to the owner. The Chief Building Inspector shall review the written statement and may contact the owner to discuss the application for waiver. The Chief Building Inspector shall prepare a written decision which shall be mailed to the owner.

(Ord. No. 2706 N.S. § 1)

APPENDIX C: VALLEJO VACANT BUILDING ORDINANCE

ORDINANCE NO. 1672 N.C. (2d)

AN ORDINANCE OF THE CITY OF VALLEJO AMENDING CHAPTER 7.62 OF TITLE 7 (VACANT BUILDINGS) OF THE VALLEJO MUNICIPAL CODE

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

WHEREAS, the presence of vacant, abandoned residences can lead to neighborhood decline; and

WHEREAS, the presence of vacant, abandoned residences can create an attractive public nuisance; and

WHEREAS, the presence of vacant abandoned residences can contribute to lower property values; and

WHEREAS, the presence of vacant abandoned residences can discourage potential buyers from purchasing a home adjacent to or in neighborhoods with vacant abandoned residences; and

WHEREAS, many vacant abandoned residences are the responsibility of out of area, out of state lenders and beneficial interests; and

WHEREAS, in many instances the lenders and beneficial interests fail to adequately maintain and secure these vacant residences; and

WHEREAS, the city has an obligation to protect its residential neighborhoods from decline and devaluation; and

WHEREAS, on February 26, 2013, the Vallejo City Council has met, reviewed and discussed the proposed ordinance.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 7.62.030 of the Vallejo Municipal Code is hereby amended to read as follows:

7.62.030 Definitions.

A. "Code enforcement manager" or "manager" shall mean the manager of the code enforcement division as designated by the city manager or the designated representative of the code enforcement manager.

B. "Commercial property" means office buildings, industrial property, medical centers, hotels, malls, retail stores, shopping centers, farm land, multifamily housing buildings, warehouses, garages and residential property containing more than four units.

C. "Days" shall mean calendar days. In the event the last day of the specified time period falls on a Saturday, Sunday or holiday observed by the city, the last days of the specified time period shall be extended to the next business day.

D. "Foreclosed" shall mean property for which the foreclosure process has begun with the filing of a notice of default.

E. "Property owner" shall mean the owner or owners of record of real property as shown on the latest equalized assessment roll of Solano county and any person, partnership, co-partnership, association, corporation, beneficiary in a deed of trust, fiduciary, including a trustee or substitute trustee, or any other legal entity having a legal or equitable interest in the subject property as otherwise known to the code enforcement manager or other city official by virtue of more recent and reliable information, including any beneficiary that is pursuing foreclosure of a property subject to this ordinance secured by a mortgage, deed of trust or similar instrument or a Property that has been acquired by the beneficial interest at a Trustee's Sale.

F. "Residential property" means any improved real property, or portion thereof, situated in the City of Vallejo, designed, built or permitted to be used for dwelling purposes, containing up to four units, specifically including the building and structure 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.

G. "Vacant building" shall mean a building or structure which is not occupied or used for more than thirty days, whether made vacant by voluntary action, fire or other damage, or as a result of enforcement action by the city.

H. "Violation" shall mean one or more violations of the provisions of this chapter.

SECTION 2. Section 7.62.035 of the Vallejo Municipal Code is hereby added to read as follows:

7.62.035 Registration requirements for vacant and foreclosed residential buildings

A. The registration requirements under this section shall apply to residential property located within the City of Vallejo. Commercial property, as defined in this chapter, shall be exempt from the registration requirements contained in this section.

B. Any property owner who holds any property interest in any vacant residential building subject to this section where such property is located within the City of Vallejo must register the property with the Code Enforcement Division of the City of Vallejo, on registration forms furnished by the City of Vallejo. The registration form must identify and have contact information stating who initiated the recording of the notice of default, and who will be performing the maintenance obligations related to the property which are required in this chapter and in the Vallejo Municipal Code.

C. The registration requirement is triggered within 10 days after either of the following occurs:

- 1) The building becomes a "vacant building" subject to this section or
- 2) A Notice of default has been recorded.

D. For vacant residential buildings which became vacant or had a notice of default recorded prior to the effective date of this ordinance, the registration requirement is triggered within 10 days of the effective date of this ordinance. The registration requirement for all vacant and foreclosed residential properties continues until the property is legally occupied by permanent tenants, at which

time the property owner will notify the Code Enforcement Manager that the property is legally occupied by furnishing an executed lease, deed, or other proof of legal occupancy.

E. For foreclosed residential buildings subject to registration because a notice of default has been recorded, the registration requirement is triggered for the existing property owner within 10 days of the recording of the notice of default, and for the new property owner, it is triggered within 10 days of acquiring the property at a trustee sale and such requirement continues until the property is legally occupied, and the property owner notifies the Code Enforcement Manager that the property is legally occupied via executed lease, deed, or other proof of legal occupancy.

F. The Vallejo City Council shall establish a registration fee by resolution. An annual registration fee per property 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 31 of the year due. Registration fees will not be prorated.

SECTION 3. Section 7.62.036 of the Vallejo Municipal Code is hereby added to read as follows:

7.62.036 Responsibility for Property Maintenance and Inspections

A. Every property owner, as defined by this Chapter, within the City of Vallejo is responsible for maintaining their property to the applicable standards set forth in Chapters 7.54 and 7.62 of the Vallejo Municipal Code

B. All property owners of vacant and foreclosed residential property subject to the registration requirements in this Chapter shall also have the obligation to perform an initial maintenance inspection within 10 days after becoming subject to the registration requirement, and thereafter, monthly maintenance inspections of the property to ensure that the property is free of trespassers and squatters, and that it complies with all applicable laws and ordinances, including Chapters 7.54 and 7.62 of the Vallejo Municipal Code. Such inspections shall continue until the subject property is no longer subject to the registration requirement and becomes legally occupied. Evidence of subject inspections in the form of comprehensive property pictures and brief written reports shall be submitted to the code enforcement division within ten (10) days after each monthly inspection. A property owner's failure to submit the required inspection evidence to the code enforcement division within ten days of the inspection, is punishable by a fine of \$200 a day for every day that the required inspection evidence is not submitted to the code enforcement division, unless the property owner contacts and receives an extension of time for submittal from the code enforcement manager.

1. In the event a property owner resides out of county or out of state, the property owner's obligation to inspect his or her property shall be satisfied by contracting with an appropriate service provider to inspect and maintain the registered property in accordance with this chapter and by providing such contract to the Code Enforcement Manager.

2. All properties subject to the registration requirement shall also be posted with the name and 24-hour toll-free contact phone number of the property owner, or the agent of the property owner responsible for the inspection and

maintenance of the property. The posting shall be no less than 8 1/2," X 11" and shall contain, along with the name and 24- hour toll free contact number, the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL" or similar. The posting shall be placed in a window adjacent to the entry door or attached to the exterior of the entry door. Exterior posting must be constructed of and printed with, or contained in, weather-resistant materials.

SECTION 4. Section 7.62.040 of the Vallejo Municipal Code is hereby amended to read as follows:

7.62.040 Vacant building requirements.

A. The property owner of any vacant building shall cause the building to be rehabilitated for occupancy within thirty days after the building becomes vacant.

B. The property owner of any vacant building shall not allow the building to stand vacant for more than thirty days, unless one of the following applies:

1. The building is the subject of an active building permit for authorized repair or rehabilitation and the property owner is progressing diligently to complete the repair or rehabilitation.
2. The building meets all codes, is ready for occupancy, and is actively being offered for sale, lease or rent.
3. The code enforcement manager determines that the building is both registered pursuant to section 7.62.035 of this chapter, and does not contribute to and is not likely to contribute to blight because the property owner is actively maintaining and monitoring the building so that it does not contribute to blight. Active maintenance and monitoring shall include:
 - a. Maintenance of landscaping and plant materials in good condition;
 - b. Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition;
 - c. Regular removal of all exterior trash, debris, weeds, litter and graffiti;
 - d. Maintenance of the building in continuing compliance with all applicable codes and regulations; and
 - e. Prevention of criminal activity on the premises of the subject building.

SECTION 5. Section 7.62.050 of the Vallejo Municipal Code is hereby amended to read as follows:

7.62.050 Securing from trespassers.

All vacant buildings subject to this chapter shall be made secure from trespassers in the following manner:

A. All doors and windows of the building shall be in good, working condition and locked.

B. All broken doors and windows shall be replaced or, with the consent of the code enforcement manager, shall be covered in a manner acceptable to the code enforcement manager.

C. The code enforcement manager, in his or her discretion, may require securing the property with steel panels, or having all windows and doors installed and a working theft-

prevention system with an active account with a third-party security company, or any other reasonable measures to prevent trespassers. All property vacant for at least three months may be required to have lighting at entrances and exits from dusk until dawn. All entrance/exit lighting must be installed with automatic timers in accordance with any applicable City codes.

D. A property owner's failure to secure the property from trespassers is a violation of this Code and, in addition to any other remedy at law or in equity, is punishable by a fine of \$200 a day for every day the property is not secured.

SECTION 6. Section 7.62.100 of the Vallejo Municipal Code is hereby amended to read as follows:

7.62.100 Responsibility for property maintenance.

A. Every property owner within the city is required to maintain such property in a manner that does not violate the provisions of this *chapter* and applicable property maintenance ordinances, and such owner remains liable for any violation regardless of any contract or agreement with any third party regarding such property.

B. Every occupant, lessee, tenant or holder of any interest in real property, other than the owner thereof, who has assumed responsibility for maintenance of such property under the terms of a written lease, rental agreement or other contractual arrangement, and to the extent of that legal responsibility, shall maintain the property in a manner so as not to violate the provisions of this chapter. At the request of the code enforcement manager, the person claiming a limitation on his or her responsibility for maintenance shall produce for inspection the document establishing such limitation.

C. To the extent authorized by law, the code enforcement manager may enter on such property at reasonable times to make inspections.

SECTION 7. Section 7.62.110 of the Vallejo Municipal Code is hereby amended to read as follows:

7.62.110 Vacant building monitoring.

Any and all vacant buildings are subject to monitoring by the code enforcement manager. Monitoring is required to **ensure compliance with this Chapter and to ensure** that the property owner is progressing diligently with authorized repair or rehabilitation, the building is ready for occupancy and actively offered for sale, lease or rent, or the property owner is actively maintaining and monitoring the building.

SECTION 8. Sections 7.62.120 is hereby amended to read as follows:

7.62.120 Vacant building monitoring fee.

A. Fee Imposed. There is imposed on every property owner of a vacant building an annual vacant building monitoring fee. The amount of this fee shall be established by city council resolution based on the reasonable cost of monitoring the vacant building. The fee shall be payable as to any vacant building which is vacant for more than thirty days for any reason.

SECTION 9. New Sections 7.62.130 through 7.62.140 are hereby added to read as follows:

7.62.130 Enforcement

Violations of this chapter may be enforced in any combination as allowed in Chapters 1.12, 1.14 and 1.15

7.62.140 Appeals

Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is allowed under Chapter(s) 1.04, 1.12, 1.14 and 1.15.

7.62.150 Violation/ Penalty

Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation who violates any portion of this Chapter shall be subject to prosecution and/or administrative enforcement under Chapter(s) 1.04, 1.12, 1.14 and 1.15.

SECTION 10. **Severability.**

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a 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 and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact one or more provisions may be declared invalid.

SECTION 11. **Effective Date.**

This Ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage.

FIRST READ at a meeting of the Council for the City of Vallejo held on the 26th day of February, 2013 and finally passed and adopted at a regular meeting of the Council held on March 12, 2013 by the following vote:

AYES:	Mayor Davis, Vice Mayor Gomes and Councilmembers Brown, Malgapo, McConnell, Sampayan, and Sunga
NOES:	None
ABSTAIN:	None
ABSENT:	None


OSBY DAVIS, MAYOR

ATTEST:


DAWN G. ABRAHAMSON, CITY CLERK

APPENDIX D: FMC 12-411 “STANDING TO SUE”

- MUNICIPAL CODE OF THE CITY OF FRESNO CHAPTER 12 - LAND USE PLANNING AND ZONING

ARTICLE 4 PROCEDURES APPLICABLE TO ZONING

ARTICLE 4 PROCEDURES APPLICABLE TO ZONING

SEC. 12-411. LEGAL PROCEDURES.

SEC. 12-411. LEGAL PROCEDURES.

This section is in addition to other provisions of this Code and city ordinances relating to the legal status of conditions and activities in the city.

- A. VIOLATION OF CONDITION. If any portion of a privilege authorized by the issuance of a special permit is utilized, all terms and conditions attached thereto shall immediately become effective and must be strictly complied with. The violation of any such term or condition shall constitute a nuisance and violation of this Zoning Ordinance and shall be subject to the same penalties as any other violation of this Code.
- B. VIOLATION A NUISANCE. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of the Fresno Municipal Code, and any use of land, building or premises established, conducted or operated or maintained contrary to the provisions of this Zoning Ordinance, and any violation of any condition of any permit or development entitlement issued under the authority of Chapter 12, including a condition of approval, or a covenant entered into as a condition of the permit or development entitlement issued under the authority of Chapter 12 shall be and the same is hereby declared to be unlawful and a public nuisance; and the matter may be abated or corrected by administrative citation, action by city forces, court process, or by the filing of a criminal action for violation of this Code; said remedies to be cumulative. In addition to any other remedies available in the Zoning Ordinance and the Code, violations may be remedied pursuant to City of Fresno Public Nuisance Abatement Ordinance (Chapter 10, Article 6).
- C. STANDING TO SUE. Any resident or property owner in the city and any resident or property owner within one mile of the city limits shall have standing to obtain a mandatory prohibitory injunction to prevent the violation of this Zoning Ordinance.

(Rep. and Added Ord. 68-57; Am. Ord. 2008-38, § 135, eff. 7-25-08).