

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, REPEALING SECTION 10-617 AND ADDING SECTION 10-617; AMENDING SECTIONS 10-603; AND REPEALING SECTIONS 10-620, 11-335 AND 11-422 OF THE FRESNO MUNICIPAL CODE RELATING TO STANDARDS FOR VACANT BUILDINGS

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

SECTION 1. Section 10-617 of the Fresno Municipal Code is repealed and the following is added to read:

SECTION 10-617. BLIGHTED VACANT BUILDING ORDINANCE

(a) All vacant buildings shall be maintained in a non-blighted condition, consistent with the requirements of this section. A vacant building in a blighted exterior condition shall be deemed a public nuisance. If the Director finds the building is being maintained in a blighted condition, the Director may issue a Notice of Correction to the property owner and the property owner may be subject to fines and penalties as set forth in this section.

(b) All vacant buildings shall be actively maintained, monitored and secured in compliance with all of the following standards:

(1) Maintain all yards visible from any public right of way, including interior yards visible from adjacent properties to be maintained in a safe and sanitary condition, including keeping all

plant materials controlled to avoid Overgrowth as defined in this Article; including park strips, with Landscaping as defined in this Article, installed and maintained in a trimmed, live and healthy condition; the requirements of this subsection to maintain live plant material shall not be effective if and during the time the city has implemented Stage 4 water shortage contingency rationing under its Water Use Reduction Plan.

(2) Maintain the exterior of the building, including but not limited to, paint, finishes, roofing materials, siding, stucco, masonry, railings, steps, gutters, and structural elements in good condition. Painted surfaces shall be deemed in good condition if there is at least 95% coverage of the structural element that is painted.

(3) Remove all trash and debris from exterior of the property within seventy-two (72) hours of notification.

(4) Comply with all applicable state and local codes and regulations, and any applicable city issued permits and site plans in the replacement and repair of all elements of the exterior of the building.

(5) Take all reasonable steps necessary to prevent criminal activity, including, but not limited to, the use and sale of controlled substances, prostitution, and criminal street gang activity, on the premises. Examples of reasonable steps include actively

monitored security alarm systems and frequent physical inspections as defined in subsection 10-603(c).

(6) Secure and maintain the property, both structure and grounds, against trespassers, including maintaining all windows and doors with locks, replacing all broken doors or windows, and securing any other openings into the structure that are readily accessible to trespassers as defined under Chapter 11 of this code or such other means as may be accepted by the Director. Securing windows that are visible from any public right of way shall be done only with rigid transparent material such as clear Lexan type material with a minimum of 3/8 inch thickness to 1/2 inch thickness. No opaque (typically plywood) boarding materials shall be used where visible from a public right of way, following sixty (60) days of the effective date of this ordinance.

(7) Remove all graffiti on the property within forty-eight (48) hours of placement on the property in compliance with Fresno Municipal Code Section 9-2514.

(8) Maintain the property free of all fire hazards.

(9) Maintain the property free of any Attractive Nuisance, as defined in this Article.

(10) All buildings that have been or are expected to be vacant for longer than thirty (30) days may be registered, at no cost, with the city as may be provided on a city website or web

application. The registration shall include the identity of all record owners, the street address of the vacant building, and a local contact, and shall be maintained only for internal use by the city.

(c) Non-compliance. Failure by the property owner to comply with each of the standards set forth in sections (b) (1) through (b) (10) above for the exterior of a vacant building within eighteen (18) days of notification under this section is a separate violation of this code and subject to the following penalties:

(1) Use of any abatement procedure provided in this Article;

(2) Issuance of a criminal citation under Section 1-305, should the owner of a vacant building be found responsible for three or more violations of this Article on three or more separate buildings within a thirty (30) day period;

(3) Issuance of an administrative citation of \$250 per violation, per day, under Section 1-308. There shall be a presumption that a violation continued from day to day between the initial inspection date at which it was observed by the city and a subsequent inspection date at which it continued to exist; and/or

(4) Institution of legal action to pursue any available legal remedy, including receivership or injunction, by the City Attorney upon request by the Director.

(d) Occupancy. If a vacant building has been found to be in violation of this Article, the building shall not be occupied until all fines and abatement costs are paid, or acceptable arrangements with the city for payment have been made, and the owner certifies the property meets all health and safety code standards that are required for occupancy and the property owner receives a written release from the city. The city reserves the right to require an interior inspection of the property to ensure the property meets local and state law requirements for habitability prior to issuing the city's release for occupancy.

(e) Grace period. Owners of newly acquired blighted vacant buildings shall have thirty (30) days from the date of legal possession of the building to be in compliance with this ordinance.

SECTION 2. Section 10-603 of the Fresno Municipal Code is amended to read:

SECTION 10-603. DEFINITIONS.

(a) "Abandoned Vehicle" means a vehicle which is left on a highway, public or private property in such inoperable or neglected condition that the owner's intention to relinquish all further rights or interests in it may be reasonably concluded.

(1) In reaching a reasonable conclusion, one must consider the amount of time the vehicle has been there without being moved, its condition, statements from the owner and witnesses, etc.

(2) In reference to highway or public rights of way, "abandonment" is presumed to have occurred if a vehicle is parked, resting, or otherwise immobilized on any highway or public right of way; and lacks an engine, transmission, wheels, tires, doors, windshield, or other part of equipment necessary to operate safely on the highway in this city. Such vehicles are presumed to be a hazard to public health, safety, welfare and considered an attractive nuisance and may be removed immediately upon discovery.

(b) "Attractive Nuisance" shall mean any condition, instrumentality or machine which is or may be unsafe or dangerous to children by reason of their inability to appreciate the peril therein, and which may reasonably be expected to attract children to the premises and risk injury by playing with, in, or on it, whether in a building or on the premises.

[(c) "Blight" means the condition of a specific property or group of properties which would be offensive in the eyes of the public as compared to the standard of maintenance of the property pursuant to Article 6, Section 10; where the conditions are visible from public streets or right of ways and substantially detract from the aesthetics and economic value of the neighboring properties including health and safety hazards, public nuisance, crime, neglect and deterioration of property.]

[(d)e) "Blighted Building" means a vacant residential, commercial, or industrial building and all yards surrounding the building that [is in

violation of one or more provisions of the Fresno Municipal Code or California state law, and therefore] reduces the aesthetic appearance of its neighborhood, area or district, is offensive to the senses, or is detrimental to nearby properties uses or property values. A blighted building includes a vacant building and the yards surrounding the building that are not being actively maintained, or actively monitored, or actively secured. ~~To actively maintain, monitor, and secure a vacant building, the owner or his or her agent must comply with all sections of this article and do all of the following:~~

~~————(i)——— Maintain all yards in compliance with any applicable development permits. If there are no applicable development permits, maintain all interior yards (those that are not visible to the general public) in a safe condition, including keeping all plant materials controlled to avoid overgrowth; maintain all exterior yards (those that are visible to the general public), including park strips, with landscaping, as defined in this section, installed and maintained in a trimmed, live and healthy condition;~~

~~————(ii)——— Maintain the exterior of the building, including, but not limited to, paint and finishes, in good condition;~~

~~————(iii)——— Remove all trash and debris from their placement or abandonment on the property;~~

~~————(iv) Maintain the building in continuing compliance with all applicable state and local codes and regulations and any applicable city issued permits; and~~

~~————(v) Take all reasonable steps necessary to prevent criminal activity on the premises, including, but not limited to the use and sale of controlled substances, prostitution and criminal street gang activity; and~~

~~————(vii) Remove all graffiti on the property.~~

~~([e]d)~~ "Decorative Landscaping" means decorative non-live materials used to cover dirt in a garden or yard, such as rocks, gravel, bark, or synthetic lawn, and does not include pavement with asphalt, cement or any other impervious surface.

~~([f]e)~~ "Director" shall include any person authorized to issue citations pursuant to Fresno Municipal Code Section 1-308(k).

~~([g]f)~~ "Dismantled Vehicle" means any vehicle that is partially or wholly dismantled.

~~([h]g)~~ "Inoperative Vehicle" means any motor vehicle that cannot be moved under its own power.

~~([i]h)~~ "Landscaping" means at least fifty percent (50%) of the non-paved portions of the exterior yards (those that are visible to the general public) shall be covered with live trees, shrubs, lawns, or other live ~~[or synthetic lawn]~~ materials, and the remaining portion of the non-paved portions of the exterior yards shall be covered with live trees, shrubs,

lawns, or other live plant materials or shall have decorative landscaping installed, so long as weed block is used where decorative landscaping is installed. Notwithstanding the above, all unpaved areas of a park strip may be landscaped with decorative landscaping, so long as weed block is used. The requirements of this subsection to maintain live plant material shall not be effective if and during the time the city has implemented Stage 4 water shortage contingency rationing under its Water Use Reduction Plan.

(~~l~~) "Overgrown" means grass, lawn blades, or weeds that are:

1. Over twelve (12) inches long or any ground covering plant material that extends over twelve (12) inches onto a public right-of-way [street, curb, gutter, or sidewalk or;

2. Over six (6) inches long or any ground covering plant material that extends over six (6) inches on to the public street, curb, gutter or sidewalk when the condition exists in combination with one or more other violations under this Article.]

(~~k~~) "Park Strip" shall mean that portion of a street right of way that lies between the ~~property line~~ [sidewalk] and the outside edge of a, street, gutter, or gutter lip, including a driveway approach. Where no curb exists, "park strip" shall mean the area of property from the ~~property line~~ [sidewalk] to the edge of the street pavement.

(~~l~~) "Property" shall mean any lot or parcel of land. For purposes of this definition, "lot or parcel of land" shall include any alley, sidewalk,

park strip or unimproved public easement abutting such lot or parcel of land. Further, for the purpose of this definition, "unimproved public easement" shall not include an exposed irrigation canal.

(~~[m]~~) "Record Owner" shall mean the person to whom land is assessed as shown on the last equalized assessment roll of the county or current title owner of record, if different.

(~~[n]~~) "Structure" means anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something else attached to the ground.

(~~[o]~~) "Vacant building" means real property with one or more structures, whether residential, commercial, or industrial, that is/are unoccupied or occupied by unauthorized persons. In the case of a multi-unit structure or complex, vacant shall mean ~~when any one unit is~~ [fifty percent (50%) or more of the units are] unoccupied or occupied by unauthorized persons.

(~~[p]~~) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks.

([q]p) "Weed Block" means material that is installed over a dirt surface in order to prevent the growth of weeds and that does not prevent the infiltration or passage of water into the dirt surface.

([r]q) "Wrecked Vehicle" means any vehicle that is damaged to such an extent that it cannot be operated upon the highway.

SECTION 3. Section 10-620 of the Fresno Municipal Code relating to Registration of Vacant Foreclosed Properties is repealed.

SECTION 4. Section 11-335 of the Fresno Municipal Code relating to Standards for Temporarily Boarding a Vacant Building or Structure is repealed.

SECTION 5. Section 11-422 of the Fresno Municipal Code relating to Standards for Temporarily Boarding a Vacant Building or Structure is repealed.

SECTION 6. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2015.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2015
Mayor Approval/No Return: _____, 2015
Mayor Veto: _____, 2015
Council Override Vote: _____, 2015

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Melissa L. White [Date]
Supervising Deputy

MLW:dlv/ns/elb [66764dlv/elb/mlw] Ord. 3/4/15

Date Adopted:
Date Approved
Effective Date:
City Attorney Approval: _____

Ordinance No. _____