

URGENCY ORDINANCE NO. **009-08C.S.**

AN URGENCY ORDINANCE OF THE CITY OF STOCKTON REPEALING CHAPTER 14, PART V, DIVISION 2, SECTIONS 14-520 THROUGH 14-526, AND ADDING SECTIONS 14-520 THROUGH 14-530, REGARDING MAINTENANCE, SECURITY, AND REHABILITATION OF ABANDONED AND VACANT PROPERTY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE

Part V, Division 2 of Chapter 14, Sections 14-520 through 14-526 of the Stockton Municipal Code are hereby repealed.

SECTION 2. AMENDMENT OF CODE

Part V, Division 2 of Chapter 14, of the Stockton Municipal Code is hereby amended to read as follows:

Division 2

MAINTENANCE, SECURITY AND REHABILITATION OF ABANDONED AND VACANT PROPERTY

SEC. 14-520. FINDINGS — DECLARATION OF PURPOSE:

The Council finds that neglected, vacant, and abandoned properties are a major source of blight in residential and non-residential neighborhoods, especially when owners or responsible persons fail to maintain and manage those properties in a manner that ensures they do not become a liability to the surrounding community. Vacant buildings often attract transients and criminals, including drug users and prostitutes. Use of vacant, unsecured buildings by transients and criminals, who may employ primitive cooking or heating methods, creates a risk of fire for the building and adjacent properties and presents a dangerous attractive nuisance to children. Vacant properties are often used as dumping grounds for drug paraphernalia, furniture, tires, garbage, junk and debris, and are frequently overgrown with weeds and vegetation. In addition, the presence of vacant buildings that are simply boarded up for long periods of time to prevent entry by transients or vandals very often discourages economic development and encourages graffiti, disrupting neighborhood stability, retarding appreciation of property values, and promoting blight conditions. As a result, neighboring property owners and occupants are denied full use and enjoyment of their property.

The City currently expends vast resources monitoring and responding to the numerous health, welfare, safety, and economic problems caused by neglected, vacant properties. Because there is already a significant cost to the City for monitoring these properties, as well as a substantial toll on the citizens who are affected by the nuisance

conditions created, the City Council finds there is an urgent need to implement a process by which these buildings are monitored and the costs borne by the owners of these properties, rather than the community.

SEC. 14-521. DEFINITIONS:

For the purposes of this chapter, the following terms shall have the meanings indicated below:

ABANDONED: Any residential property in the city that is vacant or shows evidence of vacancy and:

(1) Is under a current notice of default and/or notice of trustee's sale, pending tax assessor's lien sale; and/or

(2) Was the subject of a foreclosure sale where the title was retained by the beneficiary or trustee of a deed of trust involved in the foreclosure who is the current owner of the property; and/or

(3) Was transferred to the current owner under a deed in lieu of foreclosure or sale.

DANGEROUS BUILDING: Any building or structure that is in violation of any condition referenced in chapter 14, article II, division 8, Uniform Code for the Abatement of Dangerous Buildings.

DEFAULT: The failure to fulfill a contractual obligation, monetary or conditional.

EVIDENCE OF VACANCY: Any condition that on its own or combined with other conditions present leads any person authorized to enforce this Code, in his or her reasonable discretion, or would lead any other reasonable person to believe that the property is vacant. Such conditions include, but are not limited to: overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers, and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents or government employees that the property is vacant.

OWNER: Any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

PROPERTY: Any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

RESIDENTIAL PROPERTY: Any improved real property, or portion thereof, situated in the city, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures 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 and/or zoned for such use.

SECURING: Such measures as may be directed by the director of planning or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be

completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

VACANT: Any building or structure that is unoccupied or occupied by unauthorized persons whether or not it is secured or boarded.

SEC. 14-522. CLASSIFICATION OF NUISANCES:

The following acts and conditions, when performed or existing upon any lot or parcel within the city, are declared to be unlawful and are defined as and declared to be public nuisances per se that are injurious to the public health, safety, and welfare:

(a) Buildings or structures that are under construction or rehabilitation and are not completed during the term of a valid building permit or building permit extension issued by the director of planning or his or her designee.

(b) Unoccupied buildings or structures that have been left unlocked or otherwise open or unsecured from intrusion by persons, animals or the elements.

(c) Buildings or structures for human use or occupancy that have been left vacant for more than 180 days, unless one of the following applies:

1. The building or structure is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the repair or rehabilitation.

2. The building or structure complies with all codes adopted by the City of Stockton, does not otherwise constitute a public nuisance, is ready for use or occupancy and is actively being offered for sale, lease or rent.

3. The building or structure, including the premises on which it is located, does not otherwise constitute a public nuisance and is not likely to become a public nuisance because it is being actively maintained and secured pursuant to Sections 14-523 and 14-524 of this Code.

(d) Every owner, occupant or person having charge or control of a building, structure, or property is liable for violations of this chapter regardless of any contract or agreement with any third party.

SEC. 14-523. MAINTENANCE REQUIREMENTS:

Every owner, lessee, occupant, or person having charge or control of buildings, structures, or property within the city is required to maintain the building, structure or property subject to the following maintenance requirements:

(a) Any condition causing the property to constitute a dangerous building shall be immediately remedied.

(b) Properties must be kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including, but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

(c) The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(d) Visible front and side yards shall be mowed, landscaped and otherwise to the satisfaction of the director of planning or his or her designee. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf or sod designed specifically for residential installation. Weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar materials are not acceptable landscaping. Maintenance of landscaping includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscape and removal of all trimmings.

(e) Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris, or shall be drained and kept dry.

(f) The owner of any vacant building, whether boarded by voluntary action of the owner or as a result of enforcement activity by the city, shall rehabilitate the boarded building for occupancy, in accord with all applicable codes and regulations, within 180 days after the building is boarded, except as provided in subsection 14-522(c)(3) of this Code.

Adherence to this section does not relieve the property owner of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property.

SEC. 14-524. SECURITY REQUIREMENTS:

Any property in the City of Stockton classified as abandoned or vacant shall be subject to the following security requirements:

(a) All windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s) shall be secured so as to prevent access by any unauthorized person. In the case of broken windows, securing means the re-glazing or boarding of the window.

(b) Pools and spas shall be fenced or otherwise secured to prevent access or use by any unauthorized person.

(c) The property shall be posted with name and 24-hour contact phone number of a local property management company. The posting shall be no less than 4" x 6" and shall contain, along with the name and 24-hour contact number, the words "THIS PROPERTY MANAGED BY _____" and "TO REPORT PROBLEMS OR CONCERNS CALL _____." The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to vandals. Exterior posting must be constructed of and printed with weather-resistant materials.

SEC. 14-525. INSPECTION:

The owner shall inspect the abandoned or vacant property on a monthly basis, or more frequently if required by the director of planning or his or her designee, to ensure

that the property is in compliance with the requirements of this chapter and any other applicable laws.

SEC. 14-526. ADDITIONAL REQUIREMENTS:

(a) The owner shall comply with all applicable laws and codes, including zoning, historic preservation, housing, and building codes.

(b) If the owner of a vacant property is a corporation, limited liability company or similar entity or is an "out-of-area" beneficiary, trustee, or owner, the owner shall contract with a property management company to ensure that the requirements of this Division, and any other applicable laws, are being met.

(c) The Chief of Police or his or her designee(s) shall have the authority to require the owner of any property subject to this chapter to implement additional maintenance and/or security measures including, but not limited to: securing any or all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property and prevent the maintenance of an attractive nuisance.

SEC. 14-527: OTHER ENFORCEMENT:

Nothing in this chapter shall preclude the City from demolishing any building on the property or taking any other action authorized by this Division, or other provisions of this Code, or applicable law.

SEC. 14-528: APPEALS:

Any person aggrieved by any of the requirements of this Division may appeal, in accordance with the provisions of Section 1-056.

SEC. 14-529: VIOLATION/PENALTY:

A violation of this Division shall be treated as a strict liability offense regardless of intent. Any person, firm, or corporation that violates any provision of this Division shall be subject to prosecution and administrative enforcement, in accordance with the provisions of Chapter 1.

SEC. 14-530: SEVERABILITY:

If any section or portion of this ordinance shall be determined invalid or unconstitutional, that section or portion shall be deemed severable and all remaining sections or portions shall remain in full force and effect.

SECTION 3. EFFECTIVE DATE

This Ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety, and welfare. The City Council hereby finds that there is a current and immediate threat to the public health, safety, and welfare. The facts constituting such urgency are as follows: The City of Stockton is currently experiencing one of the highest foreclosure rates in the nation. The number of vacant properties due to foreclosure and abandonment is imminently straining local resources, causing blight in severe

numbers, creating harborages for criminal activity, the effect of which is causing an overall devaluation of local properties. The City does not have the resources to devote to the severe blight and management of these properties and, therefore, must initiate measures such as this to prevent the proliferation of criminal activity and blight by the vacant and abandoned properties. This Ordinance shall take effect immediately.

ADOPTED: AUG 19 2008

EFFECTIVE: AUG 19 2008

ATTEST:


EDWARD J. CHAVEZ
Mayor of the City of Stockton


KATHERINE GONG MEISSNER
City Clerk of the City of Stockton



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