

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 15, CHAPTER 15.32, TO THE STOCKTON MUNICIPAL CODE, RELATED TO MAINTENANCE, SECURITY AND REHABILITATION OF ABANDONED AND VACANT PROPERTY

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

SECTION I. FINDINGS AND INTENT.

Vacant buildings and properties are a major cause and source of blight, especially when the owner fails to actively maintain and manage the property. Vacant buildings, whether boarded, substandard, unkempt, or long-term vacant discourage economic development, hinder the appreciation of property values, and have a detrimental impact on the economic viability of commercial areas. Vacant buildings are an attractive nuisance to children, a harborage for rodents, an increased fire hazard and invite criminal activity, such as squatting, vandalism and dumping. These activities and the eyesore of boarded, substandard, and unkempt vacant buildings deter would-be customers from the area and negatively impact surrounding neighborhoods.

One (1) vacant building that is not actively and well maintained and managed can be the core and cause of spreading blight. A long-term vacant building, even in the absence of code violations, is detrimental to the health, safety, and welfare of the community and contrary to the intended property use. Vacant buildings require more frequent monitoring by code enforcement, police, fire, and Building Department staff. This is a disproportionate use of resources that diverts staff time and resources away from addressing other issues in the community and results in a greater cost to the City. These costs should be borne by the property owner and not the community at large.

The purpose of these code amendments is to discourage property owners from allowing buildings to remain vacant, ensure they are properly secured and maintained, help prevent the buildings from becoming a burden to the residents and taxpayers of the City and provide the basis for returning the properties to their intended use.

The provisions of this section are to be supplementary and complementary to all the provisions of the City Code, State and Federal law, and any other statutes or regulations, and nothing in this section shall be read, interpreted, or construed in any manner so as to limit any existing right or power of the City to abate or prosecute any and all violations and nuisances.

SECTION II. AMENDMENT OF CODE.

The following sections of Title 15, Chapter 15.32 of the Stockton Municipal Code are hereby amended as follows:

15.32.010 Findings—Declaration of purpose.

- A. The Council finds that neglected, vacant, and abandoned properties are a major source of blight in residential and nonresidential 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.
- B. 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.

(Prior code § 14-520; Ord. 009-08 C.S. § 2)

15.32.020 Definitions.

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

“Abandoned” means any 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.

"Commercial building" means a building, accessory structure, mobile or modular structure, or other structure adapted to permanent occupancy for commercial purposes. A "commercial building" also includes any structure, or any portion of a structure, located within the city and designed or intended for occupancy as a hotel or motel.

"Commercial unit" means each separate space within a commercial building designed or intended for occupancy.

"Dangerous building" means any building or structure that is in violation of any condition referenced in Chapter 15.24, Property Maintenance Code.

"Default" means the failure to fulfill a contractual obligation, monetary or conditional.

"Evidence of vacancy" means 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.

"Out of area" means, in the case of a natural person, having a primary residence in excess of 100 miles from the subject property, and in the case of any other person, having a principal place of business in excess of 100 miles from the subject property.

"Owner" means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

"Property" means 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.

"Securing" means 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” means any building or structure, except for commercial buildings, that is unoccupied or occupied by unauthorized persons whether or not it is secured or boarded. In the context of commercial buildings, “vacant” means a commercial building where greater than fifty percent (50%) of the commercial units within the building have been unoccupied for more than 180 days.

15.32.030 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 city building official 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, excluding standard maintenance and repairs, and the owner is progressing diligently to complete the repair or rehabilitation.

2. The owner or leaseholder has filed an application for required permits for the lawful use and occupancy of the building, where the application is still pending with the applicable review entity.

3. In the case of a structure or portion of a structure designed or intended as a hotel or motel the owner or operator is actively engaged in operating such premises as a hotel or motel. At a minimum, active engagement as a hotel or motel requires that the owner or operator participate as a certified registrant of the Uniform Transient Occupancy Tax Ordinance of the City of Stockton with respect to such premises. At least 50% of units within a hotel or motel must be occupied during the preceding 180 days to fall within this exception.

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

5. 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 15.32.040 and 15.32.050 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.

15.32.040 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. Properties must be maintained in accordance with Chapter 15.24 Property Maintenance Code.

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

C. 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.

D. 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.

E. 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.

F. 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.

G. 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 Section 15.32.030 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.

15.32.050 Security requirements.

Any property in the City 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 the trustee, beneficiary, owner, realtor, or a local property management company. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a font that is legible from a public right of way 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.

15.32.060 Inspection.

A. A city building official or their appointee may inspect or cause to be inspected any premises in the city for the purposes of enforcing and assuring compliance with the provisions of this chapter and safeguarding the health, safety, and welfare of the general public. Upon the request of the city building official or a designated appointee, an owner shall provide access to all interior portions of any vacant building and premises or suspected vacant building in order to permit a complete inspection.

B. The Stockton Fire Department Fire Chief or a designated appointee is authorized to enter and inspect, or cause to be inspected, all vacant commercial buildings and premises for the purpose of conducting a fire code compliance inspection.

C. The owner(s) or their local property manager shall inspect the abandoned or vacant property on a monthly basis, or more frequently if required by the city building official or his or her designee, to ensure that the property is in compliance with the requirements of this chapter and any other applicable laws.

15.32.070 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 chapter, 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.

(Prior code § 14-526; Ord. 009-08 C.S. § 2)

15.32.080 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 chapter, or other provisions of this code, or applicable law.

(Prior code § 14-527; Ord. 009-08 C.S. § 2)

15.32.090 Appeals.

Any person aggrieved by any of the requirements of this chapter may appeal, in accordance with the provisions of Section 1.32.040.

(Prior code § 14-528; Ord. 009-08 C.S. § 2)

15.32.100 Violation—Penalty.

A. A violation of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm, or corporation that violates any provision of this chapter shall be subject to prosecution, public nuisance abatement and/or administrative enforcement, in accordance with the provisions of Title 1 or any other enforcement and legal remedies available to the City under the law.

B. All penalties assessed shall be payable directly to the city.

C. Any and all civil penalties assessed under this section shall be billed to the owner or other responsible party. Failure or refusal to pay any and all such penalties permits the city to pursue any and all available legal remedies for the enforcement and collection of such penalties; including but not limited to, civil actions being filed in any court of competent jurisdiction, abatement of nuisances maintained in violation of this chapter, institution of injunction, mandamus, or other appropriate action or proceedings to enforce the penalty provisions of this chapter.

SECTION III. AMENDMENT OF CODE.

Title 15, Chapter 15.32, Section 15.32.110 of the Stockton Municipal Code is hereby adopted and shall read as follows:

15.32.110 Liability insurance.

The property owner shall maintain liability insurance on vacant commercial buildings subject to this chapter. A certificate of insurance for each vacant commercial building shall be provided to the City upon request of a city designated officer. All insurance policies for vacant commercial buildings shall require notice to the City in the event of cancellation of insurance or a reduction in coverage. The minimum coverage amount shall be \$1,000,000.00 dollars of general liability coverage. The City Manager may adjust or waive the coverage amount if insurance coverage in an amount less than the minimum coverage amount is, in the City's sole discretion, in the public interest.

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SECTION IV. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions, or applications of the fact which can be given without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION V. EFFECTIVE DATE.

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

ADOPTED: _____

EFFECTIVE: _____

CHRISTINA FUGAZI
Mayor of the City of Stockton

ATTEST:

KATHERINE ROLAND, CMC
City Clerk of the City of Stockton