



DEPARTMENT OF
PLANNING AND DEVELOPMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
SACRAMENTO, CA

May 12, 1993

Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

SUBJECT:

1. An Ordinance Imposing an Annual Vacant Building Monitoring Fee
2. An Ordinance Imposing an Administrative Penalty on Owners of Long-Term Boarded and Vacant Buildings Which Are Not Under Repair or Actively Offered for Sale, Lease or Rent

ADMINISTRATION
ROOM 300, 95814-2987
(916) 264-5571
FAX (916) 264-7185
BUILDING INSPECTIONS
ROOM 200, 95814-2998
(916) 264-5716
FAX (916) 264-7016
ECONOMIC DEVELOPMENT
ROOM 300, 95814-2987
(916) 264-7223
ENVIRONMENTAL SERVICES
ROOM 301, 95814-3982
(916) 264-7037
PLANNING
ROOM 200, 95814-2998
(916) 264-5381

812 TENTH STREET
SACRAMENTO, CA 95814-2694
NEIGHBORHOOD SERVICES
(916) 264-5948
FAX (916) 264-7722

LOCATION AND COUNCIL DISTRICT: City

The ordinances presented in this report were prepared at the request of Deborah Ortiz, Councilmember, District 5.

RECOMMENDATION

This report recommends that the Law and Legislation Committee review two proposed ordinances relating to vacant buildings and their blighting influence and refer them to the full City Council with a recommendation to enact them.

CONTACT PERSON: Max Fernandez, Substandard Housing/
Dangerous Buildings Coordinator, 264-5404

FOR LAW AND LEGISLATION COMMITTEE MEETING OF: May 18, 1993

SUMMARY

Councilmember Deborah Ortiz asked the Substandard Housing/Dangerous Buildings Coordinator and the City Attorney's Office to develop two ordinances relating to vacant buildings for

presentation to the Law and Legislation Committee. One ordinance requires the owners of vacant buildings to pay an annual vacant building monitoring fee in an amount to be set by resolution of the City Council to cover the estimated actual costs to the City of monitoring a vacant building. The second ordinance authorizes the Housing Code Advisory and Appeals Board to impose an administrative penalty of not more than \$1,000.00 (\$5,000.00 on a second or subsequent occasion) on the owner of any boarded building which remains boarded in excess of 90 days or any other building which remains vacant for more than 90 days. Both ordinances contain waiver and exemption provisions for owners who are responsible managers of their vacant properties.

BACKGROUND INFORMATION

Ordinance Imposing Annual Building Monitoring Fee

This ordinance makes findings concerning the contribution to blighted conditions made by vacant buildings. It notes that significant City resources, including the Police Department, Fire Department, Code Enforcement and Housing and Dangerous Buildings, are necessarily devoted to monitoring vacant buildings and finds that those costs should be borne by the owners of the vacant buildings.

Responsible owners of vacant buildings will be able to obtain a waiver from the fee if:

1. The owner has obtained a building permit and is progressing diligently to repair the premises for occupancy, or
2. The building 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 rehabilitation of the building.

The billing of a fee for a particular building would be initiated by Substandard Housing/Dangerous Buildings staff. Those owners objecting to the fee would be entitled to review of their bill by both the Building Inspections Manager and the Housing Code Advisory and Appeals Board.

Administrative Penalty Ordinance

The administrative penalty ordinance also contains findings about the blighting influence of vacant and boarded buildings and declares:

"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.

One vacant property which is not actively and well maintained and managed can be the core and cause of spreading blight."

The ordinance assumes that a boarded building contributes to blight and requires it to be rehabilitated for occupancy within 90 days after the building is boarded. If it remains boarded in excess of 90 days, the Manager of Building Inspections may recommend to the Housing Code Advisory and Appeals Board that an administrative penalty be imposed upon the owner. This recommendation would not be made if the owner is making diligent efforts to complete the rehabilitation.

Similarly, an administrative penalty may be imposed upon the owner of a building designed for human use or occupancy which stands vacant for more than 90 days. However, there are significant exceptions to this rule which will prevent imposition of the administrative penalty upon responsible property owners. The penalty shall not be imposed if:

1. The building 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 meets all codes, does not contribute to blight, is ready for occupancy, and is actively being offered for sale, lease, or rent.
3. The Manager of Building Inspections determines that the building does not contribute to and is not likely to contribute to blight because the 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 and graffiti.
 - d. Maintenance of the building 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.

The penalty is waived if the Manager of Building Inspections or the Housing Code Advisory and Appeals Board finds that imposition of the penalty would work a substantial economic hardship on the owner or would hinder the rehabilitation of the building. The decision of the Board is final.

Each proposed ordinance will provide that an unpaid fee or penalty may be made a special assessment to be collected along with annual real property taxes. The specific language has not yet been drafted.

FINANCIAL CONSIDERATIONS

The annual monitoring fee shall be set to cover the estimated actual costs to the City of monitoring a vacant building. The staff recommendation for the amount of the annual monitoring fee will be presented to the full City Council if the Committee recommends that the Council enact the fee ordinance. Without some program experience it is difficult to predict the revenue which may be generated from the fee or the administrative penalty.

POLICY CONSIDERATIONS

The ordinances as drafted present suggested answers to several policy considerations, which may be revised as desired by the Committee.

Annual Monitoring Fee

1. Should the fee apply to both residential and nonresidential properties, as proposed?
2. Is a vacancy of 90 days the correct threshold for imposing the fee?
3. Shall an owner's appeal of the fee be directed to the Housing Code Advisory and Appeals Board whose decision shall be final, as proposed?

Administrative Penalty

1. Should the penalty program apply to both residential and nonresidential properties, as proposed?
2. Is a limit of 90 days on boarded buildings and vacant buildings the appropriate limit?

Law and Legislation Committee
Re: **Ordinances re: Vacant Buildings**
May 12, 1993
Page 5


3. Is \$1,000 an appropriate maximum for the first penalty? Is \$5,000 an appropriate maximum for second and subsequent penalties?

4. Shall the decision of the Housing Code Advisory and Appeals Board to impose a penalty be reviewable by the City Council, or shall the Board's decision be final? If it is, the property owner's recourse for review of the Board's decision would be a petition for writ of mandated filed in the Superior Court.

MBE/WBE

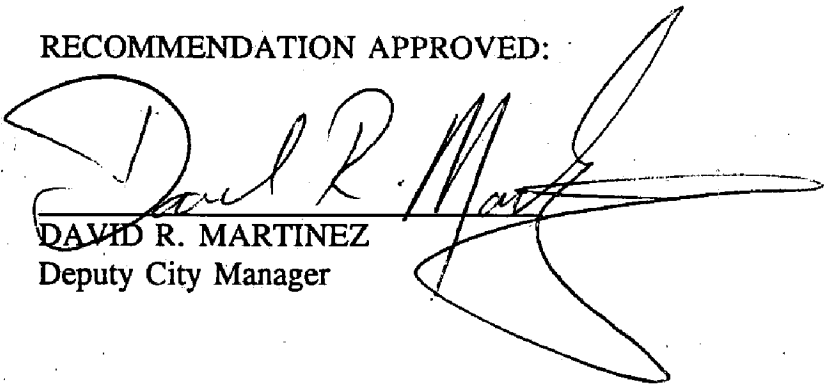
This report does not relate to procurement of goods or services.

Respectfully submitted,


TIM SULLIVAN, Manager
Building Inspections Division


DIANNE GUZMAN, Director
Department of Planning and Development

RECOMMENDATION APPROVED:


DAVID R. MARTINEZ
Deputy City Manager

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADDING CHAPTER 49.15 TO TITLE 49 OF THE SACRAMENTO CITY CODE, IMPOSING AN ANNUAL VACANT BUILDING MONITORING FEE

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 49.15 (Sections 49.15.1501 through 49.15.1502) is hereby added to the Sacramento City Code, to read as follows:

49.15.1501. Findings -- Vacant Buildings.

The City Council finds as follows:

Vacant buildings are a major cause and source of blight in residential and non-residential neighborhoods, especially when the owner of the building fails to maintain and manage the building to ensure that it does not become a liability to the neighborhood. Vacant buildings often attract transients and criminals, including drug users. Use of vacant buildings by transients and criminals, who may employ primitive cooking or heating methods, creates a risk of fire for the vacant building and adjacent properties. Vacant properties are often used as dumping grounds for junk and debris and are often overgrown with weeds and grass. Vacant buildings 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 community problems caused by vacant buildings, the City needs to monitor vacant buildings, 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, Code Enforcement, and Housing and Dangerous

- 1 -

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

Buildings. There is a substantial cost to the City for monitoring vacant buildings (whether or not those buildings are boarded up) which should be borne by the owners of the vacant buildings.

49.15.1502. Vacant Building Monitoring Fee.

- (a) **Fee imposed.** There is hereby imposed upon every owner of a vacant building an annual vacant building monitoring fee in an amount to be set by resolution of the City Council. The fee shall not exceed the estimated reasonable cost of monitoring the vacant building. The fee shall be payable as to any building, residential or non-residential, 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 90 days for any reason.
- (b) **Fee waiver.** The vacant building monitoring fee shall be waived upon a showing by the owner that:
1. The owner has obtained a building permit and is progressing diligently to repair the premises for occupancy, or
 2. The building 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 building.
- (c) **Procedure.** The vacant building monitoring fee shall be billed to the owner of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the County Assessor.

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

Any owner aggrieved by the decision of the Manager relating to an application for waiver may appeal the Manager's decision to the Housing Code Advisory and Appeals Board by submitting a written notice of appeal to the Building Inspections Manager. The procedure on appeal shall be that set forth in Chapter 50.06 of Title 50 of the City Code, except that the decision of the Housing Code Advisory and Appeals Board shall be final and there shall be no appeal to the City Council.

If the fee is not paid within 60 days after billing, or within 60 days after the decision of the Building Inspections Manager or the Housing Code Advisory and Appeals Board becomes final, [may be collected as the personal obligation of the owner by any method deemed appropriate by the Manager, or may be made a lien upon the property and after hearing by the council shall be made a special assessment payable with real property taxes].

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

ATTEST:

MAYOR

CITY CLERK

- 3 -

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

8

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADDING CHAPTER 49.16 TO TITLE 49 OF THE SACRAMENTO CITY CODE, IMPOSING AN ADMINISTRATIVE PENALTY ON OWNERS OF LONG-TERM BOARDED AND VACANT BUILDINGS WHICH ARE NOT UNDER REPAIR OR ACTIVELY OFFERED FOR SALE, LEASE OR RENT

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 49.16 (Sections 49.16.1601 through 49.16.1606) is hereby added to the Sacramento City Code, to read as follows:

49.16.1601. Findings -- Vacant and Boarded Buildings.

The City Council finds as follows:

Vacant buildings are a major cause and source of blight in both residential and nonresidential neighborhoods, especially when the owner of the building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood. Vacant buildings which are boarded, substandard or unkempt properties, and long-term vacancies discourage economic development and retard appreciation of property values.

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.

One vacant property which is not actively and well maintained and managed can be the core and cause of spreading blight.

- 1 -

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ORDINANCE NO.: _____

DATE ADOPTED: _____

49.16.1602. Definition - Boarded Building.

For the purposes of this chapter, the term "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.

49.16.1603. Boarded and Vacant Building Penalty.

- (a) The owner of any boarded building, whether boarded by voluntary action of the owner or as a result of enforcement activity by the City, shall cause the boarded building to be rehabilitated for occupancy within 90 days after the building is boarded.
- (b) No person shall allow a building designed for human use or occupancy to stand vacant for more than 90 days, unless one of the following applies:
 - 1. The building 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 meets all codes, does not contribute to blight, is ready for occupancy, and is actively being offered for sale, lease, or rent.
 - 3. The Manager of Building Inspections determines that the building does not contribute to and is not likely to contribute to blight because the owner is actively maintaining and monitoring the building so that it does not contribute to blight. Active maintenance and monitoring shall include:
 - (i) Maintenance of landscaping and plant materials in good condition.
 - (ii) Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition.
 - (iii) Regular removal of all exterior trash, debris and graffiti.
 - (iv) Maintenance of the building in continuing compliance with all applicable codes and regulations.
 - (v) Prevention of criminal activity on the premises, including but not limited to use and sale of controlled substances, prostitution and criminal street gang activity.

49.16.1604. Administrative Penalty.

Any owner of a boarded building which remains boarded in violation of Section 49.16.1603(a) or any owner of a building which remains vacant in violation of Section 49.16.1603(b) shall be liable for an administrative penalty in an amount not to exceed \$1,000 per calendar year per building.

A second or subsequent administrative penalty imposed upon any owner pursuant to this section shall be in an amount not to exceed \$5,000.

49.26.1605. Administrative Penalty - Procedure.

The administrative penalty shall be imposed by the Housing Code Advisory and Appeals Board upon the recommendation of the Manager of Building Inspections and after the owner shall have been afforded a hearing before the Board. The hearing shall be conducted in accord with the provisions of Sections 49.11.1111 through 49.11.114. The decision of the Board shall be final.

The administrative penalty shall be due and payable within 30 days after the decision of the Board. If it is not paid within 45 days after the decision of the Board [lien/special assessment language]

49.16.1606. Administrative Penalty - Waiver.

The administrative penalty shall be waived if the Manager of Building Inspections or the Housing Code Advisory and Appeals board finds that imposition of the penalty would work a substantial economic hardship on the owner or would hinder the rehabilitation of the building.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

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