



**DATE:** October 15, 2019

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Introduction of an Ordinance Adding Article 29 to Chapter 10 of the Hayward Municipal Code Related to Vacant Properties and Adoption of a Resolution Amending the Master Fee Schedule to Include Fees Related to the Vacant Property Ordinance

## **RECOMMENDATION**

That the Council introduces the Vacant Property Ordinance (Attachment II) adding Article 29 to Chapter 10 of the Hayward Municipal Code and adopts a resolution amending the Master Fee Schedule (Attachment III) to include fees related to the Vacant Property Ordinance.

## **SUMMARY**

The City recognizes that attention and response to maintaining minimum maintenance and security standards for vacant or abandoned properties can contribute to a reduction of neighborhood blight, criminal activity, and hazards. The proposed vacant property ordinance establishes minimum standards for vacant or abandoned residential and non-residential buildings, structures and properties thereon.

## **BACKGROUND**

Vacant and abandoned buildings that are not maintained may contribute to the deterioration of neighborhoods, increase crime, diminish property values and pose health and safety risk to residents and businesses in the City.

Council has expressed deep concern about finding a way to deal more productively with this growing issue and the negative impacts it has, and will continue to have, on our community. As a result, staff have been in discussion with other jurisdictions seeking various ideas on a positive and effective way to manage the situation given our available resources.

While the City has a long history of identifying what constitutes a public nuisance, and the process by which the City can follow for pursuing abatement of public nuisances, the complexities of addressing vacant properties present an unusual difficulty due to the lack of clear and minimum standards available in the Hayward Municipal Code. Additionally, it is

extremely difficult to identify, locate, and communicate with the "owner" (i.e., the financial institution holding the title to the property). Often the original mortgage has been sold in whole or in parts many times over as part of the flow of real estate mortgages in our financial and investment systems. Any connection that once existed between the original lender and the property owner has long since ceased to exist, thereby breaking any direct or personal-interest ties that might have once existed between the title holder and the physical property or the community in which it is located.

In reviewing various Ordinances, staff selected Ordinances from the City of San Jose, Richmond, Fairfield, San Francisco, and Sacramento as strong models for a Hayward approach. However, as a unique City centered in the heart of the bay area, staff have taken best practices from many of the above-mentioned cities in an effort to craft an ordinance suited for the City of Hayward. Staff presented to the Council Economic Development Committee in June 2019 and received direction to bring forward an ordinance to the City Council.

## **DISCUSSION**

There are three key elements affecting staff's ability to conduct enforcement on abandoned residential properties: (1) knowing when a property has been vacated; (2) knowing who the current owner or authorized representative might be and how to effectively and timely communicate with him or her; and (3) determining the minimum standards for maintenance, security, boarding and site conditions that apply. The primary purpose of this draft Ordinance is to establish a vacant and abandoned property registration and monitoring program, which will allow the City to identify, track, and maintain vacant and abandoned buildings prior to the development of significant health and safety concerns which pose a risk to our business community and residents.

### Monitoring and Initial Steps

Not all vacant buildings will be part of the monitoring program. The ordinance is specifically designed to address those vacant properties which are not maintained in accordance with minimum maintenance standards set forth by the city.

The process to identify properties subject to enrollment into the monitoring program will consist initially of field identification, owner notification and program enrollment by Code Enforcement Staff. Staff will develop a vacant building database and tracking system for ongoing monitoring and enrollment utilizing GIS Technologies and Code Enforcement case management software.

### Registration & Inspection

The ordinance requires that each owner of property located within the city shall perform an inspection of the property prior to recording a notice of default or similar instrument with the Alameda County clerk-recorder's office. If the property is found to be vacant or shows evidence of vacancy it will be deemed to be vacant or unoccupied and must be registered with the Code Enforcement Division's monitoring program.

The owner or responsible agent of the vacant, unoccupied building, lot, or structure which is required to be registered in the vacant property monitoring program will be required to inspect the vacant, unoccupied building, lot, structure once every thirty (30) days, to identify and respond to any emerging concerns.

### Maintenance

The proposed draft ordinance requires maintenance of the property according to minimum standards established in the ordinance as well as compliance with adopted codes, such as the Community Preservation Ordinance or California Building Code. It provides clear minimum standards for such things as: exterior site and landscaping, interior and exterior building maintenance, fire and safety standards for first responders, requiring vacant buildings to be “move-in-ready”.

### Security and Boarding

The proposed ordinance establishes security standards, including: “continuous physical monitoring” and standardized “No Trespassing” signage to prevent unauthorized building access and vandalism. Additionally, in the event of vandalism or destruction, the ordinance establishes boarding standards utilizing vandalism resistant materials such as clear polycarbonate panels to reduce the visual impact of wood boarding. Newer materials, such as polycarbonate panels, provide more resistant structural security for vacant buildings experiencing repetitive vandalism and break-ins.

The proposed ordinance exempts vacant buildings that are maintained in compliance with the maintenance standards established in the ordinance in addition to allowing the City flexibility in providing exemptions to those properties that have entered into a development-related agreement with the city.

### Monitoring

As part of vacant property monitoring, each property required to register under the program will be subject to a minimum of one inspection compliance check per inspection year, starting in 2020. Compliance checks will cover local, state and federal regulations, as well as specific compliance with the proposed vacant property regulations.

### Fees, Fines, and Penalties

Staff recommends registration fees as well as fines and penalties for non-compliance. An annual registration and monitoring fee of \$2,550 has been identified for all vacant properties registered as part of the program. This fee provides full cost recovery for the average time (15 hours) spent on a typical vacant building case (which consists of inspections, investigations and administrative enforcement of the vacant building regulations) at the average hourly cost (\$170 per hour) for staff.

Penalties for non-compliance with proposed standards will be consistent with the City's "Egregious Case" fee structure, placing penalty fees for non-compliance in the range of \$1,500 to \$5,000, on a daily, weekly or monthly basis as needed for compliance. Additionally, secondary measures for continued non-compliance may include Alameda County property tax assessments, title liens, and/or court appointed receivership.

### Staffing

Staff anticipates that this ordinance will require one additional full-time staff person at the Code Enforcement Inspector II level (estimated full burden rate per year \$141,050) to perform the responsibilities of program registration, monitoring, and regulatory compliance. Additional staff duties outside of general code enforcement will include the following: 1. Field observations to establish initial and ongoing program enrollment; 2. Property owner notification of program enrollment; 3. Public outreach and education for program needs. Fees assessed for vacant properties under the registration program will cover the cost of the additional FTE.

Staff will be requesting a two-year limited duration Code Enforcement Inspector II position during the FY 2020 mid-year budget process. After completion of the two-year limited term, the position will be evaluated to determine the need to eliminate or extend the position. Staff estimates that there are in the range of 50 to 200 vacant buildings and properties throughout the city. Initially, there will be a proactive focus on registering vacant properties located along major corridors and gateways in the city. Properties identified will be provided courtesy education materials with references for additional program information to be located on the City's web site.

### **ECONOMIC IMPACT**

The adoption of the Vacant Properties regulations would provide improved enforcement authority on the local level for blighted, dangerous, and problematic properties and structures in the City. It will provide the ability to keep such properties and structures maintained in a manner not detrimental to the City's neighborhoods, businesses or residents. It is anticipated that property owners whose properties are not in compliance with proposed regulations may face some negative financial impacts in the way of penalties, fees and/or other administrative cost due to the compliance and monitoring process. However, these impacts can be avoided or mitigated through responsible stewardship and care of vacant properties by the property owner. Overall, the program is anticipated to have a positive impact on property values throughout the city.

### **STRATEGIC INITIATIVES**

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Strategic Initiative is to support structures, services and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This item supports the following goals and objectives:

Goal 1: Improves the quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 1: Increase neighborhood safety and cohesion

Objective 2: Foster a sense of place and support neighborhood pride

Objective 4: Create resilient and sustainable neighborhoods

Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing

Objective 3: Conserve and improve the existing housing stock

Objective 4: Increase supply of affordable, safe and resilient housing in Hayward

Goal 3: Develop a Regulatory Toolkit for Policy Makers

Objective 1: Update, streamline, and modernize zoning and codes

Objective 3: Develop and refine other regulatory tools

## **FISCAL IMPACT**

Based on the fiscal impact analysis conducted by Development Services Department staff, an annual Vacant Property Monitoring fee of \$2,550 per property has been proposed to allow the City to recover its reasonable regulatory costs associated with administering and enforcing the Vacant Property Ordinance.

Staff anticipates that the Vacant Property Monitoring Program will generate approximately \$127,500 in program registration fees and approximately \$279,000 from fines, and/or penalties annually during the initial three (3) years of the program. The work will require one additional full time Code Enforcement Inspector II for a limited term of two years. The estimated annual impact of the limited term position is \$141,050. The additional workload associated with the program may also have some impact on current Code Enforcement staffing levels due to currently existing programs within the Code Enforcement Division.

## **PUBLIC CONTACT**

On June 3, 2019, staff presented the proposed draft to the public and Council Economic Development Committee (CEDC), for feedback and comments on the proposed Ordinance. On July 12, 2019 and July 16, 2019, work sessions open to the public were held with the Chamber of Commerce Government Relations Council (GRC) and Downtown Hayward Improvement Association (DHIA).

At all three sessions, members of the public spoke in favor of the proposed vacant properties regulations. Speakers included many downtown business and property owners as well as staff from the Rental Housing Association (RHA). Additionally, a letter of support was received in favor of the proposed regulations from the GRC. Overall, the CEDC, DHIA and its attendees expressed support for the establishment of vacant property regulations.

On September 30, 2019 a copy of the proposed Ordinance was published for public review in

the Hayward Daily Review. Notice of hearing on this item was published on October 4 and October 11 in the Daily Review, in compliance with the requirements of the Government Code.

#### **NEXT STEPS**

If Council introduces the Ordinance this evening and subsequently adopts the Ordinance, staff will begin preparing any necessary informative materials for the public to be mailed by December 1, 2019. Additionally, staff will move to identify properties subject to compliance and begin implementation of the monitoring and compliance program starting January 1, 2020.

*Prepared by:* Phillip Nichols, Code Enforcement Manager

*Recommended by:* Laura Simpson, Director of Development Services

*Approved by:*

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written over a horizontal line.

---

Kelly McAdoo, City Manager