

ORDINANCE NO. 3770-C.S.

ORDINANCE AMENDING SECTIONS OF ARTICLE 6, “VACANT AND BOARDED BUILDINGS” OF TITLE 9 “BUILDING REGULATIONS”, CHAPTER 9, “PROPERTY MAINTENANCE CODE,” OF THE MODESTO MUNICIPAL CODE, TO ENHANCE MAINTENANCE AND SECURITY OF VACANT BUILDINGS

WHEREAS, vacant and boarded buildings are a major cause and source of crime and blight in both residential and nonresidential neighborhoods; and

WHEREAS, vacant buildings which are boarded, unkempt, and kept vacant for long periods of time discourage economic development and harm property values; and

WHEREAS, increasing and enforcing maintenance and signage requirements for vacant and boarded buildings may improve conditions of blight caused by vacant and boarded buildings; and

WHEREAS, the City has determined that it is in the public interest and welfare to amend Sections of Article 6 of Title 9, Chapter 9, of the Modesto Municipal Code.

NOW, THEREFORE, the City Council of the City of Modesto does ordain as follows:

SECTION 1. FINDINGS

The City Council of the City of Modesto finds that all of the above Recitals and within this Ordinance are true and correct and incorporated herein by reference.

SECTION 2. AMENDMENT OF MUNICIPAL CODE

Sections 9-9.606, 9-9.607 and 9-9.608 of Title 9, Chapter 9, Article 6 of the City of Modesto Municipal Code is hereby amended to read as follows:

9-9.606 - Vacant Building Registration Requirement and Process

(a) Every owner or responsible party of a vacant building must register the building with the City of Modesto Planning Division within sixty (60) days of the building becoming vacant. If the City determines that a building shows evidence of vacancy for at least sixty (60) days, it may be deemed vacant.

(b) Every owner or responsible party seeking to register a vacant building must submit to the Planning Division, a complete, written application on a form provided by the City, which shall contain the following contents:

(1) The name and address of each owner, responsible party, and property management company, that are responsible for any security, maintenance, marketing, or sales or rentals, of the vacant building. The applicant shall designate a twenty-four (24) hour contact among the parties listed on the application.

(2) A maintenance and security plan describing how the applicant will meet all requirements of Modesto Municipal Code section 9-9.607(d).

(c) Any registration of a vacant building that is approved by the City is valid for up to one (1) year, and shall be required to be renewed annually for as long as the building subject to the registration remains vacant.

(d) Any change in ownership, responsible party, or property management company responsible for a vacant building, must be reported to the Planning Division no later than ten (10) days after the change.

9-9.607 Boarded or Vacant Building; Time Period Maintenance.

No responsible party shall allow a building to stand vacant for more than sixty (60) days and shall register the building with the City in accordance with Modesto Municipal Code section 9-9.606, unless one of the following applies:

- (a) The building is the subject of an active building permit and the owner is progressing diligently to repair the premises for occupancy;
- (b) The building meets all applicable codes in existence at either the time of its construction or at the time of its alteration or modification and is actively being offered for sale, lease, or rent;
- (c) The building is being maintained in a safe and orderly manner and does not contribute to blight conditions;
- (d) Maintenance in a safe and orderly manner shall include:
 - (1) Maintenance of any landscaping and plant materials in good condition,
 - (2) Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition,
 - (3) Regular removal of all exterior trash, debris and graffiti, and
 - (4) Maintenance of the building in continuing compliance with all applicable codes and regulations.
 - (5) Posting of a sign no smaller than 18 by 24 inches on the front of the exterior building or structure so it is legible from the public-right-of-way, with the following information:
 - (i) name and twenty-four-hour contact telephone number and address of the owner, responsible party, or property management company; and

- (ii) the statement that “THIS PROPERTY IS MANAGED BY” with the appropriate name inserted and “TO REPORT PROBLEMS OR CONCERNS CALL” with the twenty-four-hour telephone number listed. The sign shall be constructed and printed with weather resistant materials.
- (6) Installing and maintaining in good working order, a security system such that breaches of any doors or windows, or the presence of intruders, alert the property owner, a property manager, and/or a security company, upon immediate notice of intruders and imminent dangers, including but not limited to fires, can be abated.
 - (7) Installing and maintaining in good working order, a smoke detector that upon being triggered by the presence of smoke, fire, or excess heat, alerts the property owner, responsible party, twenty-four hour contract as designated in the application for vacant building registration, and the Modesto Fire Department, so that imminent dangers, including but not limited to fires, can be abated.
 - (8) Posting a minimum of one “No Trespassing” sign in accordance with the Modesto Police Department sign and size requirements. Signs must be displayed along property frontage and visible to the public. The sign must be no smaller than 17 by 22 inches in size, with lettering no smaller than 1 inch in height.
 - (9) Conducting sufficient inspections so that the presence of intruders or illegal and / or dangerous activities in the building may be discovered, so that appropriate remedial action can be taken to terminate the illegal and / or dangerous activities.

9-9.608 - 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 nonresidential, 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 sixty (60) days for any reason.

(b) Fee Waiver. The vacant building monitoring fee may be waived by the Director 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;
- (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.

(1) 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.

(2) 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 Director within thirty (30) days after the billing is mailed to the owner. The Director shall review the written statement and may contact the owner to discuss the application for waiver. The Director shall prepare a written decision which shall be mailed to the owner.

(3) Any owner who disagrees with the decision of the Director may submit a written notice of appeal to the Director within thirty (30) days of receipt of the decision. Failure to timely appeal the decision of the Director relating to a denial of a waiver constitutes a waiver of all rights to an administrative hearing and determination of the matter subject only to review pursuant to Section 1094.5 of the California Code of Civil Procedure.

(4) If the fee is not paid within sixty (60) days after billing, or within sixty (60) days after the decision of the Director or after the decision upon appeal by the owner becomes final, the fee may be specially assessed against the property involved and made a personal obligation of the owner. If the fee is to be specially assessed against the property, a hearing officer, as designated by the City Manager, shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

(5) The designated hearing officer may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee.

SECTION 3. SEVERABILITY.

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application any other person or circumstance. The City Council or the City of Modesto hereby declares that it would have adopted each section, sentence, clause, or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of this Ordinance be declared invalid, unenforceable or unconstitutional.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION.

At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in the Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this Ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2023, by Councilmember Ricci, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
SUE ZWAHLEN, Mayor

ATTEST:

By: _____
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 22nd day of August, 2023, Councilmember Wright moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams,
Wright, Mayor Zwahlen
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: _____
SUE ZWAHLEN, MAYOR

ATTEST: _____
DIANE NAYARES-PEREZ, City Clerk

Effective Date: September 21, 2023