

ORDINANCE NO. 2479

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, AMENDING CHAPTER 8.40 OF THE MONTEBELLO MUNICIPAL CODE REGARDING REGISTRATION AND MAINTENANCE OF VACANT AND ABANDONED COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL PROPERTIES

WHEREAS, the City of Montebello ("City") is a general law city, incorporated under the laws of the State of California, with the power to make and enforce within its jurisdictional limits all local, police, sanitary, land use, and other ordinances and regulations not in conflict with general laws of the state; and

WHEREAS, on April 8, 2009 the City Council adopted Ordinance No. 2329 adding Chapter 8.40 to the Montebello Municipal Code ("MMC") to address the issue of abandoned or vacant properties to protect the City and its citizens from urban blight and ensure the security and maintenance of such abandoned or vacant properties; and

WHEREAS, the City Council desires to amend Chapter 8.40 of the MMC to further address issues related to abandoned or vacated commercial properties, add additional requirements for security and registration, and create a monitoring program to ensure compliance with these regulations; and

WHEREAS, the City Council desires to amend the MMC pursuant to this Ordinance to preserve and protect the public peace, health safety and welfare; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO HEREBY ORDAINS AS FOLLOWS:

SECTION 1. RECITALS. The above recitals are true and correct and hereby incorporated into this Ordinance.

SECTION 2. AMENDMENT. Chapter 8.40 of the Montebello Municipal Code is hereby amended to read as follows (deletions in ~~strike through~~ and additions in double underline):

Chapter 8.40 REGISTRATION AND MAINTENANCE OF VACANT AND ABANDONED COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL PROPERTIES AND VACANT LOTS

Sections:

8.40.010 Purpose/~~S~~scope.

It is the purpose and intent of the Montebello City Council, through the adoption of this chapter, and subsequent amendments, to establish a vacant property registration and mandatory maintenance program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned and/or vacant properties. This chapter is intended to apply to abandoned and/or vacant property located within the City of Montebello.

(Ord. No. 2329, § 1, 4-8-2009)

8.40.020 Definitions.

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

"Abandoned" means real property that is vacant for more than 90-days including properties ~~and is~~ under a current notice of default and/or notice of trustee's sale, pending tax assessors lien sale and/or a property that has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale and/or is unoccupied and has existing code violations.

"Accessible property" means a property that is accessible through a compromised or breached gate, fence, wall etc.

"Accessible structure" means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

"Accessory dwelling unit" means an independent dwelling unit located in any of the residential zones. and in the case of single-family zoning districts (R-1 and R-A zones), on a lot that has only one previously-existing single-family dwelling unit prior to the addition of the accessory dwelling unit which is smaller than and visually subordinate to the previously existing single-family dwelling unit. and which may be an internal remodeling of. or attached to or detached from the previously existing single-family dwelling unit. Accessory dwelling units may also be referred to as "second dwelling units" within this title. and both terms may be used interchangeably herein.

"Agreement" means any agreement or written instrument, which provides that title to residential property, shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.

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"Assignment of rents" means an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another.

"Beneficiary" means a lender under a note secured by a deed of trust.

"Blight" means a physical space or structure that is no longer in acceptable or beneficial condition to its community, and which may cause undue hardships, a nuisance, or an erosion of the quality of life to the surrounding area.

"Buyer" means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

"Days" means consecutive calendar days.

"Deed of trust ~~Trust~~" means an instrument by which title to real estate is transferred to a ~~third party~~ third-party trustee as security for a real estate loan. In California, a deed of trust is used instead of a mortgage. This definition applies to any and all subsequent deeds of trust (i.e.: 2nd trust deed, 3rd trust deed, etc.).

"Deed in lieu of foreclosure/sale" means a recorded document that transfers ownership of a property from the truster to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

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

"Department" means the Planning and Community Development Department.

"Director" means the Director of Planning and Community Development.

"Distressed" means a property that is under a current notice of default and/or notice of trustee's sale and/or pending tax assessor's lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

"Evidence of vacancy" means any condition that on its own, or combined with other conditions present would lead a 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, government employees that the property is vacant.

"Foreclosure" means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the truster (borrower) defaults.

"Local" means within forty road/driving miles distance of the subject property. "Multiple-

family dwelling" means two or more dwelling units, each of which is attached side to side, each one sharing common wall(s) with the other(s) and each containing only one kitchen.

"Neighborhood standard" means those conditions that are present on a simple majority of properties within a three-hundred-foot radius of an individual property. A

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property that is the subject of a neighborhood standard comparison, or any other abandoned property within the three-hundred-foot radius, shall not be counted toward the simple majority.

"Notice of default" means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.

"Out of area" means in excess of forty road/driving miles distance of 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.

"Owner of record" means the person having recorded title to the property at any given point in time the record is provided by the Los Angeles County Recorders Office.

"Property" means any unimproved or improved real property, or portion thereof, situated in the ~~city~~ City and includes the buildings or structures located on the property regardless of condition.

"Residential property" means any improved real property, or portion thereof, situated in the ~~city~~ 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" means such measures as may be directed by the ~~city~~ City ~~manager~~ Manager, 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/pad locking of gates, the repair or boarding of doors, windows 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.

"Trustee" means the person, firm or corporation holding a deed of trust on a property.

"Trustor" means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

"Vacant" means a building, structure, or real property that is not legally occupied.

(Ord. No. 2329, § 1, 4-8-2009)

8.40.030 Maintenance of unimproved vacant lots.

Lots that are unimproved due to never having been developed or having become vacant subsequent to the removal of any pre-existing buildings, structures or impervious surfaces shall be subject to the approval of a landscape and irrigation plan by the planning division and shall be improved and maintained at all times in accordance with the following provisions:

- A. Lots less than one acre. For unimproved vacant lots that are less than one acre in size, the entire lot shall be improved and maintained in the following manner:

1. For residentially zoned lots, the entire lot shall be maintained using sod, hydro-seed, drought tolerant ground cover or other acceptable ground cover approved by the planning division. The ground cover shall be maintained in good condition at all times.
 2. For commercial or industrial zoned lots, a minimum ten-foot wide perimeter landscape planter along all street frontages shall be provided and regularly maintained. All other internal areas may be landscaped or include a decorative hardscape subject to the approval of the planning division.
 3. The lot shall be improved with an irrigation system and maintained in good condition at all times.
 4. The lot shall be maintained free of litter and debris, including the stockpiling of any material at all times. Any on-site litter, debris or stockpiling of material shall be immediately removed. The property owner shall be responsible for inspecting the property weekly, or taking all necessary steps to reasonably ensure that no litter, debris or material stockpiling collects or is maintained on the lot.
 5. Any dead or dying vegetation as well as any broken, malfunctioning or non-functioning irrigation components on the lot shall be replaced within seventy-two hours of their discovery. The property owner shall be responsible for inspecting the property weekly, or taking all necessary steps to reasonably ensure that there is no dead or dying vegetation or any broken, malfunctioning or non-functioning irrigation components on the lot.
 6. Signage with contact information for the property owner and/or property management company shall be posted at the subject site pursuant to review and approval of the planning division.
- B. Lots one acre or greater. For unimproved vacant lots that are one acre or greater in size, the entire lot shall be improved and maintained in the following manner:
1. A minimum ten-foot wide perimeter landscape planter along all street frontages shall be provided.
 2. All landscape planters shall be improved with an irrigation system and consist of decorative landscaping containing a combination of trees, shrubs, and groundcover, or other acceptable landscaping approved by the planning division. A landscape and irrigation plan shall be submitted to and approved by the planning division prior to implementation.
 3. All on-site landscaping and irrigation shall be maintained in good condition at all times. Any dead or dying landscaping shall be replaced within seventy- two hours of their discovery, including any broken, malfunctioning or non-functioning irrigation components. The property owner shall be responsible for inspecting the property weekly, or taking all necessary steps to reasonably ensure that all of the landscaping and irrigation on the lot is maintained in good condition and there are no broken, malfunctioning or non-functioning irrigation components on the lot.

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4. A six-foot high decorative, view-obscuring fence shall be installed behind all required perimeter landscaping to secure the lot. If the property owner decides not to install the six-foot high view-obscuring fence, the entire lot shall be landscaped. In circumstances where the ~~director~~ Director of planning Planning and ~~community~~ Community development Development finds that a higher fence is warranted for adequate security of the site and/or because of usual topographical circumstances associated with the vacant lot, a fence may be constructed up to a maximum of eight feet high. All fences shall include a security gate to provide accessibility to the lot for the police department or other emergency personnel. A security code for the gate shall be provided to the police department upon installation and shall be kept up-to-date at all times.
5. Decorative view obscuring fencing may include redwood or cedar fencing, woodcrete, green vinyl chain-link fencing with a green windscreen securely attached, or any other durable, aesthetically attractive, material deemed acceptable by the planning division. Green vinyl chain-link fencing with a green windscreen will not be permitted in residential or commercial zones or zones which abut residential or commercial zones, except as a temporary construction fence with the approval of planning division.
6. All fencing shall be maintained in good condition at all times. Any on-site graffiti shall be removed within twenty-four hours of its appearance. The property owner shall be responsible for inspecting the property weekly, or taking all necessary steps to reasonably ensure that the entire lot is free from graffiti.
7. Signage with contact information for the property owner and/or property management company shall be posted at the subject site pursuant to review and approval of the planning division.

(Ord. No. 2329, § 1, 4-8-2009)

8.40.040 Maintenance of vacant property acquired by foreclosure.

Subject to certain amendments and additions as hereinafter set forth in this chapter, the ~~city~~ City council Council references California Civil Code Section 2929.3 which requires a legal owner to maintain vacant residential property purchased by that owner at a foreclosure sale or acquired by that owner through foreclosure under a mortgage or deed of trust.

The definition of "failure to maintain" as found in Civil Code Section 2929.3(a)(3)(b) is supplemented and clarified by referencing the conditions designated as public nuisances in Chapter [Section] 8.16.010 and the maintenance and security requirements of [Sections] 8.40.070 and 8.40.080 of the Montebello Municipal Code (Civil Code Section 2929.3(a)(3)(f)).

(Ord. No. 2329, § 1, 4-8-2009)

8.40.050 Recordation of transfer of loan/deed of trust/assignment of rents.

Within ten days of the purchase and/or transfer of a loan/deed of trust secured by property, the new beneficiary/trustee shall record with the Los Angeles County Recorders Office, an assignment of beneficial interest, or similar document, that lists the name of the corporation, and/or individual, the mailing address and contact phone number of the new beneficiary/trustee responsible for receiving payments associated with the loan/deed of trust.

(Ord. No. 2329, § 1, 4-8-2009)

8.40.060 Registration of vacant properties under notice of default.

A. Property owner's obligation to register vacant or abandoned commercial properties or storefronts. The owner of a vacant or abandoned commercial storefront shall, within ninety (90) days after it has become vacant or abandoned, register the property with the City on a prescribed form maintained by the Department. The completed form shall be filed with the Department's Code Enforcement Division with the following information:

1. Describe the methods by which the owner has secured the vacant commercial property or storefront against unauthorized entry:
2. Provide contact information for the subject commercial property including, but not limited to, telephone number for the property owner and those responsible for maintaining the commercial property and/or storefront:
3. A description of the most recent authorized use of the commercial property and/or storefront:
4. Declare any future plans for the subject property, commercial use, or storefront: and
5. Provide such other information as the city may require.

B. Properties under notice of default.

Any beneficiary/trustee, who holds a deed of trust on a property located within the City of Montebello, shall perform an inspection of the property that is the security for the deed of trust, upon default by the truster, prior to recording a notice of default with the Los Angeles County Recorders Office. If the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the beneficiary/trustee shall, within ten days of the inspection, register the property with the code enforcement division or his or her designee on forms provided by the ~~city~~ City.

If the property is occupied but remains in default it shall be inspected by the beneficiary/trustee, or his designee, monthly until (1) the trustee or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within ten days of that inspection, register the property with the code enforcement division on forms provided by the ~~city~~ City.

The registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee

and, in the case of a corporation or out of area beneficiary/trustee, the local property management

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company responsible for the security, maintenance and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due.

This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.

Any person, firm, corporation or any other legal entity that has registered a property under this chapter must report any change of information contained in the registration within ten days of the change.

(Ord. No. 2329, § 1, 4-8-2009)

8.40.070 Maintenance requirements.

Properties subject to this section shall be:

- A. Free from all conditions expressly designated as public nuisances in Chapter [Section] 8.16.010.
- B. In a condition comparable to the neighborhood standards.
- C. Shall comply with all of the landscape and irrigation requirements in Title 17 (Zoning Code) of the Montebello Municipal Code.
- D. Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. Properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.

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

(Ord. No. 2329, § 1, 4-8-2009)

8.40.080 Security requirements.

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

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Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage) gates and any other opening of such size that it may allow any person including but not limited to a child to access the interior of the property and or structure(s). In the case of broken windows, securing means the re-glazing or boarding of the window immediately and within ten days the window shall be replaced.

If the property is owned by a corporation and/or out of area beneficiary/trustee/owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

The property shall be posted with the name and twenty-four-hour contact phone number of the local property management company. The posting shall be no less than eighteen inches x twenty-four inches and shall be of a font that is legible from forty-five feet and shall contain along with the name and twenty-four-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, 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, or on a stake of sufficient size to support the posting in a location that is visual 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.

Security Patrol Services Required. In addition to all other requirements of this chapter, responsible parties of any real property, building, or structure (or portion thereof), that has been vacant for at least 180 consecutive calendar days shall provide security personnel (fully licensed, registered, and bonded as required by the State and local law) as follows:

1. Security patrol services that drive by and inspect the real property for unlawful activity (including unauthorized entry) at least once every 12 hours if there have been less than three instances of graffiti, unauthorized entry, or other violations of this chapter in the preceding 90-day period;
2. On-site security services during the hours of 7:00 p.m. and 7:00 a.m. if there have been more than four instances of graffiti, unauthorized entry, or other violations of this chapter in the preceding 90-day period; or
3. On-site security services 24 hours per day, seven days per week if there have been more than five instances of graffiti, unauthorized entry, or other violations of this chapter in the preceding 90-day period.

The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter.

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(Ord. No. 2329, § 1, 4-8-2009)

8.40.090 Additional authority.

In addition to the enforcement remedies established in Chapters 1.12 and 1.14, the ~~city~~ City manager ~~Manager~~ his or her designee shall have the authority to require the beneficiary/trustee/owner and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any/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.

(Ord. No. 2329, § 1, 4-8-2009)

8.40.100 Fees and Registration.

The fee for registering vacant and/or an abandoned property shall be set by resolution of the City of Montebello City Council.

A. Registration

1. The registration and related fee shall be valid for the calendar year. or the remaining portion of the calendar year. in which registration was required. The registration fee shall not be prorated. Any subsequent registration fees shall be due on or before January 1 of each year and must be received by the City no later than January 31 of the year it is due.
2. The registration form shall be prepared and updated as needed by the Department and shall include-
 - a. The name, street address (P.O. Box is unacceptable), and mailing address for all beneficiaries and/or trustees.
 - b. Direct contact name, telephone number, and email address for the owner and responsible party managing the property or handling any legal proceedings.
 - c. The name, street address, telephone number and email address of the property management service responsible for security and maintenance of the real property including contact information for agents or representatives responsible for marketing the property.
 - d. A statement of intent to address the following requests:
 - i. The expected period of vacancy:
 - ii. A detailed plan for the regular maintenance of the real property during the period of vacancy:
 - iii. A timetable for the lawful re-occupancy of the real property during the period of vacancy:

B. Monitoring Fees

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1. The fees established for the monitoring program pursuant to the provisions of this chapter shall be separate and apart from, and in addition to, any registration fees or administrative penalties required or otherwise assessed pursuant to the provisions of this chapter.
2. Because of the potential economic and public health, welfare, and safety problems caused by vacant buildings/property, the City needs to monitor vacant buildings/properties, so that they do not become attractive nuisances, are not used by trespassers, are properly maintained both inside and outside, and do not become a blighting influence in the neighborhood or surrounding area. The primary responsibility for monitoring will be delegated to the Planning and Community Development Department, and will include participation from the fire department, police department, and public works department. There is a substantial cost to the City for monitoring vacant buildings/properties (whether or not those buildings are boarded up), which should be borne by the owners of said property. The fees for a monitoring program pursuant to the provisions of this chapter shall be separate from and in addition to any registration fees or administrative penalties required or otherwise assessed pursuant to this chapter.
3. Monitoring program fees established. The following fee schedule has been established to effectively manage and maintain an adequate and efficient monitoring program and task force to preserve public health and the economic vitality of the City:

<u>Description</u>	<u>Amount</u>
<u>Commercial Vacant Property Monitoring Fee</u>	<u>\$500 per month for the first six months with the addition of \$20.00 per month for each additional month capping out at \$1,000.00 per month.</u>
<u>Residential Vacant Property Monitoring Fee</u>	<u>\$100.00 per month</u>

4. Fee waiver. The Department may issue a fee waiver for any fees associated with the monitoring program, if any of the following activities are being conducted by existing ownership:
 - a. The vacant commercial space is activated with pop-up events, or qualified temporary tenants, subject to review and approval of the Planning Division, who operate from the vacant space for more than 25 percent of any calendar month.

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- b. There are permitted on-going construction activities or improvements to the vacant property.

(Ord. No. 2329, § 1, 4-8-2009)

8.40.110 Monitoring program and purpose.

A. Vacant buildings and/or properties are a major cause and source of blight, especially when the owner of the subject property fails to maintain and manage existing structures and the property as a whole to ensure that it does not become a liability to the surrounding area. Vacant buildings/properties often attract undesirable activity including unlawful activity which creates unsafe conditions and hazards for the surrounding 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 and other long-term vacancies discourage economic development and create challenges for appreciation of property values.

B. Monitoring program established. A program to monitor commercial properties is hereby established. The Director, or his or her designee, shall be responsible for establishing and implementing a coordinated monitoring program to ensure the provisions of the Montebello Municipal Code are enforced.

c. The monitoring program shall include a task force intended to establish an open line of communication between City departments and ownership to address all vacant building/commercial properties and/or storefronts that are in violation of this chapter, or which are deemed to be a blight to the community.

D. Monitoring program and task force duties. The Director, or his or her designee, has the duty and responsibility to do the following:

1. Inspect properties in the City to identify vacant commercial properties and/or storefronts.
2. Order vacant commercial buildings/properties to comply with this chapter and any other applicable code provisions.
3. Oversee the task force to ensure all respective City departments are engaged in efforts associated with the monitoring program and provide updates to the City Manager as needed.
4. Order vacant commercial properties and/or storefronts that are open and accessible to be secured against unlawful entry in accordance with this chapter.
5. Order the property on which the vacant commercial property and/or storefront is located to be properly maintained or clear of trash and debris.
6. Initiate enforcement proceedings against the owner of any vacant commercial building/property found to be in violation of this chapter or any other applicable code.

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7. Maintain surveillance over vacant commercial buildings/properties and/or storefronts so that timely code enforcement proceedings are commenced in the event the property becomes substandard or a nuisance.
8. Establish and enforce rules and regulations for the implementation and compliance with this chapter.
9. Identify blighted properties and initiate proceedings in coordination with the City Attorney's office against the property owner.

8.40.120 Exemptions

A. The Director of Planning and Community Development or his or her designee, at his or her discretion may grant an exemption of the requirements of the Monitoring Program to multi-tenant commercial and industrial properties with four (4) or more licensed units.

B. The requirements of this chapter shall not apply to multi-family residential dwellings and accessory dwelling units (ADU).

C. Notwithstanding the foregoing, a commercial property/building and/or storefront shall not be considered vacant or abandoned if:

1. There is a valid building permit for improvements, including but not limited to, repair, rehabilitation, or construction of the commercial building/property and/or storefront and the owner of the subject property completes the work associated with said building permit within one year from the date the permit was issued, unless the Director, determines that the owner requires additional time to complete the work authorized pursuant to the building permit; or
2. The owner or leaseholder has filed an application for, and is actively seeking to obtain authorization, permits, or licenses required by State, County, or local law permitting the lawful use and occupancy of the commercial building and/or storefront; or
3. The commercial building/property and/or storefront complies with all provisions of this chapter as well as State, County, and local laws, and does not contribute to blight as defined in Section 8.40.020 of this chapter, and is ready for immediate occupancy, and the owner provides satisfactory evidence to the Department that the commercial building/property and/or storefront is actively being offered for sale, lease, or rent, and it has not been vacant and/or abandoned for more than six months. Satisfactory evidence shall include, but is not limited to, evidence that the owner has hired a real estate agent or other rental agent who advertises the commercial property and/or storefront for sale, lease, or rent to achieve occupancy.

8.40.1310 Enforcement.

Violations of this chapter may be enforced in any combination as allowed in Chapters 1.12 and 1.14. The rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law.

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(Ord. No. 2329, § 1, 4-8-2009}

8.40.1420 Appeals.

Any person aggrieved by any of the requirements of this section ~~may~~may appeal insofar as such appeal is allowed under Chapter 1.14.

(Ord. No. 2329, § 1, 4-8-2009)

8.40.1530 Violation/penalty.

Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this section shall be subject to prosecution and/or administrative enforcement under Chapters 1.12 and 1.14. Fines and penalties collected pursuant to this section shall be directed to City nuisance abatement programs.

(Ord. No. 2329, § 1, 4-8-2009)

8.40.1640 Severability.

Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

(Ord. No. 2329, § 1, 4-8-2009)

SECTION 3. CEQA. Pursuant to the provisions of the California Environmental Quality Act ("CEQA"), the proposed ordinance amending MMC Chapter 8.40 does not have the potential to degrade the quality of the environment or have a significant effect on the environment. Actions proposed in the Text Amendment are not considered a "project" under CEQA Guidelines Section 15378 in that there is no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The Text Amendment would also be exempt under the commonsense exemption pursuant to CEQA Guidelines Section 15061(b)(3). The CEQA commonsense exemption section states that "CEQA applies only to projects which have the potential for causing a significant effect on the environment" and also states that "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

SECTION 4. SEVERABILITY. If any action, subsection, line, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid or unconstitutional,

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either facially or as applied, by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, and each and every individual section, subsection, line, sentence, clause, phrase, or word without regard to any such decision.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after approval by the City Council.

SECTION 6. PUBLICATION. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED, AND ADOPTED 9TH DAY OF OCTOBER 2024.


Scarlet Peralta, Mayor

ATTEST:


Christopher Jimenez, City Clerk

APPROVED AS TO FORM:


Arnold M. Alvarez-Glasman, City Attorney

I HEREBY CERTIFY that the foregoing Ordinance was introduced at the regular meeting of the City Council on the 25th day of September, 2024, and was adopted by the City Council of the City of Montebello at its meeting held on the 9th day of October, 2024 by the following vote:

AYES: Torres, Melendez, Jimenez, Tamayo, Peralta

NOES: None

ABSENT: None

ABSTAIN: None

ABSTAIN: None


Christopher Jimenez, City Clerk