

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA, ADDING
CHAPTER 8.60, "VACANT BUILDING
LIMITATIONS AND STANDARDS" TO THE
MERCED MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN
AS FOLLOWS:**

SECTION 1. AMENDMENT TO CODE. Chapter 8.60, "Vacant Building Limitations and Standards," is hereby added to the Merced Municipal Code to read as follows:

**"CHAPTER 8.60
VACANT BUILDING LIMITATIONS AND
STANDARDS**

8.60.010 Purpose.

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 attract vagrants and transients and invite criminal activity. Use of vacant buildings by transients, who may employ primitive cooking or heating methods, creates a risk of fire for vacant buildings and adjacent properties. Vacant buildings, whether those buildings are boarded, discourage economic development and prevent appreciation of property values. It is the responsibility of the owner to stop owned property from becoming a burden to the neighborhood and community, and a threat to the public health, safety and welfare.

Because of the potential economic and public health, safety and welfare problems caused by vacant buildings, the city needs to monitor vacant buildings so that they do

the city needs to monitor vacant buildings so that they do not become attractive nuisances, are not used by vagrants or trespassers, are properly secured and maintained, and do not become a blighting influence in the neighborhood. The city has established the vacant building monitoring program to accomplish this purpose.

8.60.020 Definitions.

‘Building’ means any structure, including, but not limited to, any residential, commercial, industrial, or assembly structure approved for occupancy.

‘Owner’ for the purposes of this chapter, means a person listed on the last equalized tax roll, as maintained by the county, and/or person designated by the owner who is in charge or control of the vacant building.

‘Vacant building’ means any structure or building that:

1. Is unoccupied or occupied by unauthorized persons; and
2. Is unsecured or boarded.

8.60.030 Enforcement and Remedies for Violation.

A building that is vacant, or vacant and boarded in violation of this chapter is a public nuisance. In addition to the provisions in this chapter, the city is authorized to use the remedies set forth in state law, the California Building Code, the Uniform Code for the Abatement of Dangerous Buildings, and the Merced Municipal Code.

The remedies, procedures and penalties provided by this chapter are cumulative to each other and to any others available under state law or other city ordinances. The imposition of a vacant building monitoring program fee shall not preclude the city manager or his/her designee from seeking all other remedial penalties available under the Merced Municipal Code.

The city's failure to provide notices within the time specified does not constitute waiver by the city of the provisions of this chapter.

8.60.040 Owner Responsibilities.

A. The owner of any vacant boarded building, whether boarded by voluntary action of the owner or because of enforcement activity by the city, shall cause the vacant boarded building to be rehabilitated for occupancy within 120 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 120 days, unless the owner establishes by substantial evidence to the reasonable satisfaction of the city manager or his/her designee that 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 applicable codes, does not contribute to blight, is ready for occupancy, and is actively being offered for sale, lease or rent.

3. The building does not contribute to and is not likely to contribute to blight because the owner is actively maintaining and monitoring the building. Active maintenance and monitoring shall include, without limitation, all the following:

a. Maintenance of landscaping and plant material in good condition; and

- b. Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition; and
- c. Prompt and regular removal of all exterior trash, debris and graffiti; and
- d. Maintenance of the building in continuing compliance with all applicable codes and regulations; and
- e. Prevention of criminal activity on the premises, including but not limited to use and sale of controlled substances, prostitution, criminal street gang activity, loitering or trespassing.

4. The building is vacant due to fire, flood, earthquake, or other form of natural disaster and the owner is actively pursuing assistance for demolition, rehabilitation or restoration of the building and/or premises from local, state or federal assistance programs or from insurance agencies.

C. The owner of any vacant boarded building, whether boarded by voluntary action of the owner or because of enforcement activity by the city, shall ensure that the building is boarded pursuant to the board-up standards provided in Merced Municipal Code 8.06.060.

8.60.050 Quarterly Monitoring Fee.

A. Purpose. The quarterly monitoring and inspection fee will be used to finance the cost of inspection and enforcement related to this chapter. The revolving fund for board-up of buildings and property maintenance shall be used to secure buildings and abate conditions on the property.

B. Fee Imposed. A quarterly monitoring fee in an amount to be established from time to time by the city manager shall be imposed upon every owner of a vacant building in violation of this chapter; provided, that the fee shall not exceed the estimated reasonable cost of monitoring vacant buildings in the city. The city manager may adjust the fee as necessary. The quarterly monitoring fee is due within 30 days of notice that the building is vacant and in violation of this chapter. The fee is due for every quarter upon which the building is vacant, even if the building is only vacant part of the quarter. The owner will be billed at the beginning of each quarter while the building is in violation of this chapter. The fee shall be payable as to any building, residential or nonresidential, which the city manager or his/her designee determines to be in violation of MMC 8.06.040.

C. Fee Waiver. The vacant building monitoring fee may be waived by the city manager or his/her designee upon a showing by the owner that:

1. The owner has a building permit and is progressing diligently to repair the premises for occupancy or has an application pending for a building permit or other entitlement; or
2. The building meets all applicable codes and is actively being offered for sale, lease, or rent; or
3. The building does not contribute to and is not likely to contribute to blight because the owner is actively maintaining and monitoring the building. Active maintenance and monitoring shall include, without limitation, all of the following:
 - a. Maintenance of landscaping and plant material in good condition; and

- b. Maintenance of the exterior of the building in good condition, including but not limited to paint and finishes; and
- c. Prompt and regular removal of all exterior trash, debris and graffiti; and
- d. Maintenance of the building in continuing compliance with all applicable codes and regulations; and
- e. Prevention of criminal activity on the premises, including but not limited to use and sale of controlled substances, prostitution, criminal street gang activity, loitering or trespassing.

4. The building is vacant due to fire, flood, earthquake, or other form of natural disaster and the owner is actively pursuing assistance for demolition, rehabilitation or restoration of the building and/or premises from local, state or federal assistance programs or from insurance agencies.

D. Notice and Procedures. The vacant building monitoring fee shall be billed to the owner of the property. Notice shall be served either personally, by first class mail, or by certified mail, addressed to the owner as the address appears on the last equalized assessment roll or as known to the enforcement officer. An owner is sent a bill with the notice stating a violation of this chapter exists, and that notice shall constitute enrollment in the vacant building monitoring program. Any owner may apply for a waiver on the grounds set forth in subsection (C) of this section by submitting a written statement setting forth the grounds for the waiver, and the owner's daytime telephone number, to the city manager or his/her designee within 10 days after the billing is mailed to the owner. The owner shall provide substantial evidence in support of the owner's statement on the grounds for the

waiver. The city manager or his/her designee shall review the written statement and all related evidence and may contact the owner to discuss the application for waiver. The city manager or his/her designee shall prepare a written decision which shall be mailed to the owner and shall set forth the reasons for the decision.

E. The owner of a vacant building shall not allow or cause any use of the property or any buildings thereon unless the property owner has first corrected the violations which caused placement into the program and has paid the required quarterly monitoring fee, as well as any other penalties or fines owed to the city.

F. Within 10 days of enrollment in the vacant building monitoring program, the owner must place a sign in a visible area in the front of the vacant building that indicates that the building has been enrolled in the city of Merced's vacant building monitoring program. The sign will be provided to the owner by the city upon enrollment.

G. Upon transfer or sale of a vacant building, the seller shall provide written notification to the city manager or his/her designee that the property has been transferred or sold.

H. Within 15 days of the bill for the vacant building monitoring program fee, or within 15 days after the decision of the city manager or his/her designee, the city manager or his/her designee shall file in the office of the county recorder a notice that the building is subject to the vacant building monitoring program fee.

I. Any fees established pursuant to this chapter which are more than 30 days delinquent, or not paid within 30 days after the decision of the city manager or his/her designee has been mailed to the owner, shall constitute an assessment against the property. The city may use all legally available procedures to collect any unpaid fee including, but not limited to, collecting the

unpaid fee on the tax roll or recording a lien on the property, consistent with applicable law.

8.60.060 Standards for Boarding a Vacant Building.

A. The boarding of the doors, windows or other openings of any building or any means of securing such openings, other than by the conventional method used in the original construction and design of the building, shall comply with the following minimum standards:

1. Windows and similar openings shall be boarded with exterior grade plywood of a minimum thickness of 3/4 inch or its equivalent. One inch holes may be required for venting, as deemed necessary by the Building Official. The boarding material shall be placed on the interior of the building and secured in place by 3/8 inch lag bolts with one inch washers placed at least 16 inches on center around the perimeter of the window opening. The lag bolts shall penetrate the wall framing members at least one and one-half inches and the bolt holes shall be predrilled to minimize splitting on the wall framing member.
2. Exterior doors shall be boarded with exterior grade plywood of a minimum thickness of 3/4 inch or its equivalent. The boarding material shall be placed on the interior of the building and secured in place by 3/8 inch lag bolts with one inch washers placed at least 16 inches on center around the perimeter of the door opening. The lag bolts shall penetrate the wall framing at least one and one-half inches and the bolt holes shall be predrilled to minimize splitting on the wall framing member. One exterior door shall remain operable and secure to allow access into the building for maintenance and inspection. This door shall be secured by the installation of a metal security door.

3. All boarding materials that are visible from the exterior shall be painted with a minimum of one coat of exterior paint which is of a color compatible with the exterior color of the building or structure.

B. **Alternative Methods of Securing a Building.** Upon application for a boarding permit, the Building Official may approve alternative methods of securing a vacant building. In making the determination to approve any alternative method, the Building Official shall consider the aesthetic and other impacts of such method on the immediate neighborhood and the extent to which such method provides adequate security against the unauthorized entry to the property.

C. During all times that persons are inside a boarded structure, all exits and entries shall be made accessible; provided, that the structure must be again secured when such persons are no longer inside.”

SECTION 2. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2024, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2024, by the following called vote:

AYES: **Council Members:**

NOES: **Council Members:**

ABSTAIN: **Council Members:**

ABSENT: **Council Members:**

APPROVED:
MATTHEW SERRATTO, MAYOR


Mayor

ATTEST:
D. SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:
CRAIG J. CORNWELL, CITY ATTORNEY



City Attorney Date