

DRAFT

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING
TITLE 17 OF THE SAN JOSE MUNICIPAL CODE TO ADD
CHAPTER 17.39 RELATING TO THE MAINTENANCE OF
VACANT LOTS**

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP 17-008 (General Procedure and Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

A new Chapter 17.39 is added to Title 17 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**Chapter 17.39
Maintenance of Vacant Lots**

Part 1

GENERAL PROVISIONS

17.39.010 Purpose.

Vacant lots are a major cause and source of visual and other blight in the City of San José, especially when the property owner or person in control of a vacant lot fails to maintain and manage the lot to ensure it does not become a public nuisance and liability to the neighborhood. Neglected vacant or abandoned lots pose serious threats to the public's health, safety and welfare. They can result in reduced property values and lead to neighborhood decline, create an attractive public nuisance, and negatively affect the vitality and development in the area. It is the purpose and intent of the City, through the adoption of this Chapter, to regulate vacant lots in the City as a mechanism to protect neighborhoods and commercial areas from becoming blighted due to the lack of adequate maintenance and security of vacant lots and to establish minimum standards of accountability on the property owners or other responsible parties of vacant lots in order to protect the health, welfare and safety of the community.

17.39.020 Definitions.

- A. "Director" means the Director of Planning, Building and Code Enforcement, or designee, or such other director designated by the City Manager to administer this Chapter.
- B. "Owner" means any person, partnership, association, company, corporation, or entity, owning the vacant lot as shown on the last equalized tax assessment roll maintained in the Santa Clara County Assessor's office; or any person, co-partnership, agent, operator, firm, association, corporation, or fiduciary having a legal or equitable interest in the property or who otherwise exercises control of the property, including the trustee or guardian of the estate of any such person,

and the executor or administrator of the estate of such person if ordered to take possession or control of the vacant lot by a court of competent jurisdiction.

- C. "Vacant lot" means any property, lot, or parcel that is either undeveloped lacks a completed, permitted structure for a period of more than thirty (30) days, or that has been occupied by an unauthorized person for any length of time. A vacant lot shall not include lots for which construction on the lot is proceeding diligently to completion in compliance with Titles 17 or 24 of this Code, or for which a building permit has been issued and has not yet expired in accordance with Titles 17 or 24 of this Code.

17.39.030 Compliance required.

- A. Every owner of a vacant lot shall maintain the vacant lot in accordance with this Chapter.
- B. Every owner of a vacant lot is liable for violation of this Chapter regardless of any contract or agreement the owner has with any third party.
- C. Except as otherwise provided herein, the Director shall have the authority to enforce the provisions of this Chapter.

17.39.040 Public nuisance.

Any vacant lot in violation of this Chapter shall constitute a public nuisance.

Part 2

MAINTENANCE STANDARDS

17.39.200 General requirements for maintenance of vacant properties, lots or parcels.

Owners, including but not limited to beneficiaries/trustees and other responsible parties, shall:

- A. Maintain vacant lots and any perimeter fencing free of weeds, dry brush, dead vegetation, trash, garbage, junk, debris, building materials, vehicles, cars, boats, campers, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state or local law), discarded personal items, including, but not limited to, furniture, clothing, large and small appliances, graffiti, tagging or similar markings. The property owner or other responsible person must inspect the vacant lot at reasonable intervals or take other reasonable steps to ensure that there is no dead or dying vegetation, litter, weeds, graffiti, debris or materials accumulating on the property.
- B. Enclose and secure the vacant lot with a perimeter fence or other suitable fencing material in accordance with Chapters 17.24 and 20.30 of this Code, subject to the satisfaction of the Director. All fencing must be provided with a gate to allow access to the vacant lot for emergency services, maintain open visibility unless otherwise required by law, and be kept in good condition at all times by the property owner. Broken or open fences shall be repaired or replaced within seventy-two (72) hours of notification by the City, unless emergency circumstances requiring immediate action.
- C. Within thirty (30) days after the lot becomes vacant, complete a vacant lot registration application on a form made available by the City and shall register the vacant lot with the Planning, Building, & Code Enforcement Department or

other such department tasked with the registration of vacant lots. A reasonable extension of time may be granted by the Director for good cause.

Part 3

ENFORCEMENT

17.39.300 Neglected vacant or abandoned lot monitoring program.

- A. If the vacant lot fails to register as required by this Chapter and the Director determines that a vacant lot is subject to this Chapter, the Director shall send a notice and require the owner of any vacant lot to register the property into the neglected vacant or abandoned lot monitoring program within ten (10) calendar days of the date of the notice to register.
- B. The owner of a vacant lot may appeal the Director's decision to place the vacant lot into the neglected vacant or abandoned lot monitoring program by filing a notice of appeal with the Director within ten (10) days of the date of the notice.
- C. If the Director finds that a vacant lot which has been placed in the monitoring program has not been in further violation of the provisions of this Chapter for more than six consecutive months, the Director shall have the discretion to remove the vacant lot from the monitoring program.

17.39.310 Registration.

- A. The vacant lot which is required to register in the neglected vacant or abandoned lot monitoring program pursuant to this Chapter shall be registered in accordance with the requirements of this section.
- B. The registration information shall include:

1. The address of the vacant lot.
 2. The assessor parcel number of the real property where the vacant lot is located.
 3. The name, address, and telephone number of the owner. If a notice of default has been issued, the name, address, and phone number of the beneficiary or trustee on the deed of trust shall be included. In the case of a corporation or out-of-area beneficiary or trustee, the local property management company or agent responsible for the security, maintenance, and monitoring of the property shall be included.
 4. The date the vacant lot became vacant or abandoned.
- C. Any change in the information provided pursuant to this section, including but not limited to a change in ownership, shall be filed with the Director within fifteen days of the change.

17.39.320 Responsible agent.

- A. The owner of any vacant lot that is subject to the registration requirements of this Chapter shall designate a responsible agent for the vacant lot. Any owner who lives within sixty miles of the vacant lot may designate himself or herself as the responsible agent.
- B. The owner of any vacant lot who lives more than sixty miles from the property shall name a responsible agent who lives within or whose place of business is within the City of San José. In the event an owner is a corporation, association, or other type of entity, the owner shall either have its principal place of business within the City of San José or may designate a responsible agent who has its principal place of business within the City of San José or lives within sixty miles from the vacant lot.

- C. The designation of responsible agent shall constitute an authorization by the owner for the responsible agent to act on behalf of the owner with regard to all requirements under this Chapter and may accept all notices, including all notices pursuant to this chapter, all notices of proposed abatements or summary abatements pursuant to Title 17 of this Municipal Code, and all compliance orders and administrative orders pursuant to Chapter 1.14 of Title 1 of this Code, on behalf of the owner.
- D. The owner's designation of a responsible agent shall not relieve the owner of any obligation to comply with the provisions of this chapter.

17.39.330 Inspections.

- A. The owner or responsible agent of a vacant lot that is required to be registered in the neglected vacant or abandoned lot monitoring program shall inspect or cause the inspection of such vacant lot not less than once every two-week period.
- B. Such owner or responsible agent shall keep or cause to be kept a written log of all inspections. The log shall contain the following information:
 - 1. The date and time of the inspection.
 - 2. The name and signature of the person performing the inspection.
 - 3. A notation of any problems or violations of this Chapter or Municipal Code identified.
 - 4. A detailed description of any corrective action performed to address any violation of this Chapter or Municipal Code.
- C. A copy of the log shall be provided to the City upon request of the Director

17.39.340 Fees.

- A. The owner of a vacant lot subject to registration shall pay the neglected vacant or abandoned lot monitoring program fee as set forth in the schedule of fees adopted by resolution of the City Council. Payment of the monitoring program fee shall be made to the City at the same time the owner submits the registration form to the City.
- B. The fee shall be calculated on a quarterly basis and the entire fee shall be due and owing at the time of registration or upon receipt of invoice. Registration fees will not be prorated.

17.39.350 Appeals.

- A. The Appeals Hearing Board shall have jurisdiction to hear appeals of the following:
 - 1. The placement of the vacant lot into the neglected vacant or abandoned lot monitoring program; or
 - 2. The requirement to pay fees under this Chapter.
- B. A determination which is appealable under 17.39.350(A) may be appealed by the owner of the vacant lot to the San José Appeals Hearing Board by filing written notice of appeal with the Director within ten (10) days of the action for which the appeal is taken. When a notice of appeal has been received by the Director for filing:
 - 1. The Director shall, within ten (10) days after receipt of the notice of appeal, file it with the Secretary of the Board.

2. The Secretary of the Board shall set the date for hearing and determination by the Board which date shall not be less than ten (10) days nor more than sixty (60) days after the date on which the copy of the notice of appeal was filed with the Secretary of the Board.
- C. Within a reasonable time after the Board has concluded its hearing, it shall by resolution set forth its findings and decision. The decision of the Board shall be final. The Secretary of the Board shall notify the Director of the decision and shall mail a copy of the decision to the appellant at the address shown for such purpose on the notice of appeal.

17.39.360 Administrative penalties.

Any owner of a vacant lot in violation of this chapter is subject to the administrative remedies ordinance set forth in Chapter 1.14 of this Code.

17.39.370 Remedies.

Violations of this Chapter may be prosecuted criminally, civilly, or administratively either undertaken separately or in conjunction with other remedies, at the sole discretion of the City. Nothing in this chapter shall be deemed to prevent the City from commencing any administrative or legal proceeding to enforce this Chapter, Code, or any law.

PASSED FOR PUBLICATION of title this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk