



COUNCIL AGENDA: 11/7/2017
ITEM: 4.1 (17-290)

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: October 26, 2017

SUBJECT: VACANT STOREFRONTS REGISTRY PROGRAM.

RECOMMENDATION: As recommended by the Community and Economic Development Committee on October 23, 2017, accept the staff report and establish a mandatory registration program for storefronts in Downtown San José that have been vacant for 30 days and do not possess active City of San José Building Department permits under the parameters outlined in the staff memorandum.



Memorandum

**TO: COMMUNITY & ECONOMIC
DEVELOPMENT COMMITTEE**

FROM: Blage Zelalich

**SUBJECT: VACANT STOREFRONTS
INITIATIVE**

DATE: October 13, 2017

Approved

Kim Wales

Date

10/12/17

RECOMMENDATION

Accept report and forward to the full City Council a recommendation to establish a mandatory registration program for storefronts in Downtown San Jose that have been vacant for 30 days and do not possess active City of San Jose Building Department permits under the parameters outlined in this memorandum.

OUTCOME

Approval of staff recommendations outlined in this memorandum will result in the amendment of pertinent city ordinances and implementation of a mandatory Downtown vacant storefront registration program under Chapter 17.38 of Title 17 of the San Jose Municipal Code.

BACKGROUND

District 3 Councilmember Raul Peralez first introduced the Vacant Storefronts Initiative as a part of the Council priority-setting conversation in November 2015, asking staff to focus on the development of a downtown-focused vacant storefronts initiative that includes penalty fees for storefronts that have been inactive over one year; allocation of all collected penalty fees toward an incentive program that assists property owners in activating their storefronts; and exploration of new tools and recommendations that will require new development to activate ground floor space or storefronts.

Conversations with colleagues and the broader business community led Councilmember Peralez to expand the proposed scope of the Vacant Storefronts Initiative to be Citywide in a memo dated December 11, 2015. At the December 2015 City Council priority session, Council voted to make the Vacant Storefronts Initiative a priority.

In May of 2017, staff presented initial recommendations on the implementation of a vacant storefronts initiative to the City Council's Community and Economic Development Committee (CEDC). These recommendations were centered around altering the city's existing vacant building monitoring program which focuses on neglected and abandoned buildings (not storefronts) and does not require that building owners proactively register their buildings. Initial staff research showed that cities throughout the country have mandatory vacant building/vacant storefronts registration programs where property owners must register their buildings 30-60 days post vacancy.

Per the direction of CEDC members, staff conducted outreach to nearby jurisdictions to see what similar programs may exist. With assistance from Business Development staff from the San Jose Downtown Association (SJDA), staff reached out to the cities of Campbell, Cupertino, Fremont, Los Gatos, Milpitas, Mountain View, Oakland, Santa Clara, San Francisco and Sunnyvale as well as colleagues in Sacramento, San Diego, San Luis Obispo, Santa Cruz, Hollywood and Westwood Village in Los Angeles. Except San Francisco, none of these cities had a formal program to address vacant storefronts. The City of Oakland had explored the possibility of requiring mandatory vacant building/storefront registration but backed away from implementing such a program due to the large number of properties that would have been eligible.

ANALYSIS

Per San Jose's Municipal Code Chapter 17.38, neglected vacant buildings are a major source of blight in the City of San Jose and pose a threat to the public's health, safety and welfare. Vacant or neglected buildings can lead to neighborhood decline and discourage economic development. The presence of vacant storefronts severely degrades the public's perception of an area, stifles neighborhood growth and vitality and creates an uninviting atmosphere. While ground floor vacancies are inevitable in the normal lifecycle of a commercial district, we can minimize the negative impact of these vacancies on the surrounding environment. To this end, staff proposes the following changes to the city's vacant buildings registration program:

Expand the scope of the ordinance to include vacant storefronts – Currently, San Jose's ordinance only speaks to neglected vacant buildings. In many instances the building itself is occupied on the upper floors, but vacant on the ground floor. Staff recommends adding the definition of a vacant storefront to the San Jose Municipal Code and utilizing this new definition in the mandatory registration program.

Define the geographical boundaries for this program – At this time, mandatory registration of vacant buildings/storefronts should be limited to Downtown San Jose. While there are certainly other vacant buildings/storefronts around the city, they do not seem to be an issue based on the complaints (or lack thereof) received by Code Enforcement. Additionally, current Code Enforcement staffing levels could not support the implementation of a mandatory city-wide registration program. Staff's recommendation is to concentrate scarce Code Enforcement

resources to the area of the city in which vacant buildings and storefronts most adversely affect vitality and economic development.

Staff proposes that the geographical boundaries for this program be Julian Street to the North, HWY 87 to the West, Interstate 280 to the South and Fourth Street, from Julian to St. John streets, Tenth Street, from St. John to San Fernando streets and San Fernando Street to Interstate 280 to the East. These boundaries mirror the Downtown Growth Area, as defined in the City's General Plan, with the exception of the western boundary which is instead HWY 87.

Make registration mandatory for buildings and storefronts within the program boundaries

– San Jose does not currently require mandatory registration for vacant buildings, as does San Francisco and some other cities around the country. Mandatory registration would allow the City to better monitor and manage challenges that arise with vacant buildings and storefronts. Staff recommends mandatory registration of a vacant building or storefront in Downtown 30 days post vacancy. Downtown property owners will initially be notified of the inception of this program with a letter from the City's Code Enforcement Division. Property owners will have 90 days from the date of the letter to register their vacant building or storefront with Code Enforcement and pay the quarterly registration fee of \$202.00. After this 90-day period, property owners with vacant Downtown buildings or storefronts will be automatically registered into the program and will be sent an invoice for the quarterly registration fee.

Program management, fees and violations – The mandatory vacant building/storefronts registration program will be managed by the City's Code Enforcement Division. Code Enforcement will maintain the registry, manage all necessary communication with property owners, inspect properties on the registry, administer fees and fines, and manage the program's appeals hearing process.

Code Enforcement officers will inspect buildings/storefronts on the mandatory registry once per quarter, as long as the property is not in violation of the City's Municipal Code. Once a property is found to be in violation of the City's Municipal Code it will be inspected monthly and the property owner will be charged a rate of \$606.00 for monthly inspections (in addition to the fines assessed for their violation(s) billed quarterly. A property must be completely free of any Municipal Code violation for two consecutive quarters in order to revert back to the quarterly inspection charge at a rate of \$202.00. Property owners on this registry will be eligible to participate in the same appeals hearing process currently in place for city-wide code violations.

Include lighting on the list of criteria that a property owner must adhere to – The current list of criteria for a blighted/neglected building includes items such as graffiti removal, weed abatement and security, and fire safety standards but does not address lighting. Lighting is a key element in the perception of safety and elimination of illicit activity from any area. Staff recommends that property owners be required to have existing interior or exterior lighting operational from dusk to dawn for the purposes of maintaining security and safety around the property. This requirement should be included on the list of criteria from which Code Enforcement assesses a property for violations.

Removing a property from the mandatory registry – There are three ways a property owner can remove their vacant building or storefront from the mandatory registry. The first is if they provide satisfactory proof to the City that they are actively offering the building/space for sale, lease or rent. The second is a proof of physical occupancy of a tenant and the third is if there are open and active building permits on the property address. In order to have “an open and active” building permit, a property owner or tenant must call for some type of inspection at least once every six months, meaning there is active progress toward the completion of repairs and improvements to the space in question, in theory toward having a tenant occupy the space. Should the space remain vacant 30-days after the building permits are finalized and/or repairs or buildout is complete, the property owner would be required to register the space with the City’s monitoring program.

Evaluate the initial program and consider city-wide expansion – Staff proposes to return to CEDC approximately 18 months after program implementation with a progress report. This report will include the number of buildings and storefronts registered in the program, average length of building/storefront on the registry, number and nature of code violations identified during the 18-month period, evaluation of staff time and resources to manage and implement the program, property owner responsiveness and feedback, vacant storefront absorption rate and recommendations for potential city-wide program expansion.

In addition to implementing the mandatory registration program described above, OED staff will continue to work with engaged and responsive property owners to fill their vacant storefronts by:

- Proposing that vacant storefronts be used as temporary galleries for art installations or time-limited pop-up shops.
- Promoting the availability of specific storefronts on sjeconomy.com, with a link to a description of the space and property owner contact information.
- Offering the Storefront Grant Assistance Program (up to \$15K for permit reimbursements and \$10K for exterior improvements) as a cost reduction incentive to property owners with tenants with an active lease agreement. This program is offered city-wide in approximately 15 Neighborhood Business Districts, not just Downtown.
- Collaborating with SJDA’s Business Development team to identify potential tenants.
- Assisting the City’s Small Business Ally team, available city-wide at no additional charge to business and property owners, to facilitate a smooth and expedient permitting process for incoming tenants.

A status update for the tasks referenced above are included in the Downtown Manager’s annual progress report to CEDC in June.

October 13, 2017

Subject: Vacant Storefronts Initiative

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PUBLIC OUTREACH

Initial recommendations for a vacant storefront registration program were presented at the May 12, 2017 CED committee meeting. Subsequently, staff has coordinated the recommendations presented in this memorandum with the Business Development staff at the San Jose Downtown Association. SJDA represents approximately 2,100 Downtown business and property owners through the management and implementation of the Downtown Business Improvement District and Downtown Property-based Business Improvement District.

COORDINATION

This memo has been coordinated with the Department of Planning, Building and Code Enforcement, as well as the City Attorney's Office.

CEQA

Not a Project File No. PP10-069(a).

/s/

BLAGE ZELALICH
Downtown Manager

For questions, please contact Blage Zelalich, Downtown Manager, at (408) 535-8172.