



# Memorandum

**TO: HONORABLE MAYOR  
AND CITY COUNCIL**

**FROM:** Kim Walesh  
Rosalynn Hughey

**SUBJECT: SEE BELOW**

**DATE:** April 16, 2018

Approved

*D. D. S. L.*

Date

*4/20/18*

**COUNCIL DISTRICT: 3**

**SUBJECT: AMENDMENT TO CHAPTER 17.38 OF TITLE 17 OF THE  
SAN JOSE MUNICIPAL CODE TO ESTABLISH MANDATORY  
REGISTRATION FOR VACANT BUILDINGS AND STOREFRONTS IN  
DOWNTOWN SAN JOSE THAT HAVE BEEN VACANT FOR 30 DAYS**

## **RECOMMENDATION**

Approve an ordinance amending Chapter 17.38 of Title 17 of the San Jose Municipal Code to establish mandatory registration within the vacant building monitoring program for Downtown buildings and vacant storefronts that have been vacant for 30 days.

## **OUTCOME**

Establish mandatory registration for vacant buildings and storefronts in Downtown San Jose that have been vacant for 30 days under the parameters accepted by the San Jose City Council on November 7, 2017.

## **BACKGROUND**

District 3 Councilmember Peralez first introduced the Vacant Storefronts Initiative as a part of the Council priority-setting conversation in November 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) 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. Per the request 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.

Staff returned to CEDC on October 23, 2017 with final recommendations for the program. City Council accepted staff's CEDC report and directed staff to proceed with its' recommendations at the November 7, 2017 meeting.

## **ANALYSIS**

The following changes will be made to San Jose's Municipal Code Chapter 17.38 regarding the city's vacant building monitoring program:

**Expand the scope of the ordinance to include vacant storefronts** – The definition of a "vacant storefront" will be added to SJMC Chapter 17.38 and utilized for mandatory registration in the vacant buildings monitoring program.

**Define the geographical boundaries for mandatory registration** – Mandatory registration of vacant buildings and storefronts will be limited to a defined area of Downtown San Jose, the area of the city in which vacant buildings and storefronts most adversely affect vitality and economic development. The geographical boundaries for this program will mirror the Downtown Growth Area, as defined in the City's General Plan, except for the western boundary which instead will be HWY 87.

**Make registration mandatory for buildings and storefronts within the defined boundaries** – Property owners will be mandated to register any Downtown vacant building or storefront 30 days post vacancy. Downtown property owners will initially be notified of the mandatory registration with a letter from the City's Code Enforcement Division. Property owners will have until July 1, 2018 to register their vacant building or storefront with Code Enforcement and pay the quarterly mandatory registration fee (Neglected Vacant Building/Storefront Mandatory Registration Fee); billings will not take place until after the new fees become effective. After July 1, 2018, property owners with Downtown vacant buildings (as defined in the geographical boundaries for mandatory registration) and storefronts will be automatically registered into the program and will be sent an invoice for the quarterly mandatory registration fee. Properties that can show satisfactory proof to the City that they are actively offering the building/space for sale, lease or rent; there is physical occupancy of a tenant; or there are open and active

building permits on the property address will be exempt from the mandatory registration and fee.

**Mandatory registration management, fees, and violations** – The mandatory registration for Downtown vacant buildings and storefronts 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 inspectors will inspect buildings and storefronts on the mandatory registry once per quarter, provided 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 for monthly inspections (Neglected Vacant Building/Storefront Monitoring Fee), in addition to the fines assessed for their violation(s). The monthly monitoring fee is modeled on the existing fee for monitoring neglected and vacant buildings. A property must be completely free of any Municipal Code violation for two consecutive quarters to resume the quarterly inspection charge. Property owners on the registry will be eligible to participate in the same appeals hearing process currently in place for city-wide code violations.

The new registration and monitoring fees are being recommended as part of the 2018-2019 Fees and Charges. The proposed Neglected Vacant Building/Storefronts Mandatory Monitoring Fee is \$220 per quarter and will be billed quarterly. The monthly monitoring fee for those properties in violation (Neglected Vacant Building/Storefront Monitoring Fee) is proposed at \$660 per quarter and will be billed quarterly.

**Include lighting on the list of criteria that a property owner must adhere to** – Property owners on the mandatory registry in Downtown San Jose will be required to have existing exterior lighting operational from dusk to dawn for the purposes of maintaining security and safety around their vacant property. This will now be a requirement 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 Downtown vacant building or storefront from the mandatory registry. The first is if the property owner provides satisfactory proof to the City that they are actively offering the building/space for sale, lease or rent. The second is satisfactory proof of physical occupancy of a tenant and the third is if there are open and active building permits on the property address. 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

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and/or repairs or buildout is complete, the property owner would be required to register the space with the City's monitoring program.

### **EVALUATION AND FOLLOW-UP**

The mandatory registration for Downtown vacant buildings and storefronts will be integrated into the existing Vacant Building Monitoring Program currently funded for one Code Enforcement Inspector. Staff will 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 or 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.

The amendment to Chapter 17.38 of the San Jose Municipal Code to establish mandatory registration for vacant buildings and storefronts in downtown San Jose that have been vacant for 30 days will have a second reading by the City Council two weeks following the first reading of the ordinance on May 1, 2018. The updated ordinance will be effective 30 days following the second reading of the City Council. Adoption of this recommendation will complete the Administration's work on the City Council's priority as it pertains to the Vacant Storefront Initiative.

### **PUBLIC OUTREACH**

Recommendations for Downtown vacant building and storefront mandatory registration were presented at the May 12 and October 23, 2017 CED committee meetings and accepted by the City Council on November 7, 2017. Staff coordinated the recommendations presented at these meetings 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.

This memorandum will be posted on the City's website for the May 1, 2018 City Council agenda.

### **COORDINATION**

This memo has been coordinated with the City Attorney's Office and City Manager's Budget Office.

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### **COMMISSION RECOMMENDATION**

No commission recommendation is associated with this action.

### **FISCAL/POLICY ALIGNMENT**

The City Council voted to make this Vacant Storefronts Initiative a priority at their December 2015 City Council priority session and approved the implementation of mandatory registration at its November 7, 2017 City Council meeting.

### **COST IMPLICATIONS**

Implementing this program does not require additional costs. The fees will go into effect in 2018-2019 during which it is estimated that 20 buildings will be charged the mandatory monitoring fee, generating approximately \$13,200 in revenue. Because it is unknown if any vacant buildings/storefronts will require monthly monitoring, no revenue has been estimated for the monitoring fee (in violation) in 2018-2019.

### **CEQA**

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/  
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Director of Economic Development

/s/  
ROSALYNN HUGHEY  
Director  
Planning, Building and Code Enforcement

For questions, please contact Blage Zelalich, Downtown Manager, at (408) 535-8172 or Rachel Roberts, Acting Deputy Director, Code Enforcement, at (408) 535-7719.