



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671
www. CityofSacramento.org

STAFF REPORT
May 15, 2007

Honorable Members of the
Law and Legislation Committee

Title: An Ordinance Amending Sacramento City Code relating to Vacant Buildings

Location/Council District: City-wide

Recommendation:

Staff recommends that the Law & Legislation Committee approve and forward to City Council the adoption of ordinance to amend, streamline and consolidate the vacant building enforcement process, Housing Code Section 8.100.1170 through 8.100.1380.

Contact: Max Fernandez, Director Code Enforcement, 916-808-7940; Randy Stratton, Chief of Housing & Dangerous Buildings, 916-808-6497

Presenters: Randy Stratton, Chief of Housing & Dangerous Buildings, 916-808-6497

Department: Code Enforcement

Division: Housing & Dangerous Buildings

Organization No: 4643

Description/Analysis

Issue: At the request of Council member Sandy Sheedy, staff looked into amending the code to provide stiffer penalties and a faster turnaround on vacant and boarded up buildings. These buildings often attract transients and criminals, including drug users. The use of vacant buildings by transients or criminals can create a fire hazard to the building or adjacent buildings if used for primitive cooking or heating methods. Vacant properties are often used as dumping grounds for junk and debris and are often overgrown with weeds and grass. Vacant buildings that are public nuisances discourage economic development and affect property values

The current Sacramento City Code relating to vacant and boarded residential buildings allows 90 days before a vacant or boarded up building may be determined to be a public nuisance and property owner fined. This ordinance will decrease that time to 30 days thereby shortening the time before a penalty is imposed and repairs are required. The proposed ordinance also replaces the monitoring fees with a monthly cost recovery fee for vacant buildings that constitute public nuisances.

The current vacant building ordinance is cumbersome due to the fact the ordinance contains its own process for imposing, appealing and collecting the penalty. The revised ordinance places the hearing process under chapter 1.28 General Penalty of the Sacramento Municipal Code, which staff is familiar with and uses on a regular basis. In addition, the revised ordinance imposes the administrative penalty in 30 days versus 90 days as stated in the original ordinance.

Policy Considerations: This ordinance will have a significant impact on long-term vacant and boarded buildings in the City of Sacramento. The anticipation is that this ordinance will encourage compliance with building and safety codes which in turn will make the City safer and more economically viable.

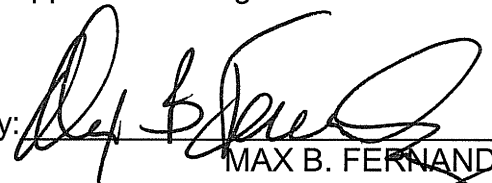
Environmental Considerations: This staff recommendation does not constitute a "project" and therefore is exempt from the California Environmental Quality Act (CEQA) according to Section 15061 (b)(1) and 15378(b)(3) of the CEQA guidelines.

Rationale for Recommendation: These code revisions are presented to the Law & Legislation Committee with the purpose of streamlining and consolidating the current City Code provisions regarding vacant buildings. A shorter time to impose fees and penalties (30 days) on buildings posing a public nuisance and by redefining those fees and penalties will help promote the City's safety, livability and economic vitality.

Financial Considerations: Additional staffing will come from existing FTE positions. Fees collected from penalties resulting from the ordinance will partially offset costs.

Emerging Small Business Development (ESBD): Not applicable. No goods or services are being purchased.

Respectfully Submitted by:


MAX B. FERNANDEZ
Director of Code Enforcement

Recommendation Approved:



GUSTAVO F. VINA
Assistant City Manager

Table of Contents:

Pg	1 - 2	Report
Pg	3 - 4	Background
Pg	5 - 7	Exhibit A – Revised Ordinance
Pg	8 – 16	Exhibit B – Ordinance (redline)
Pg	17	Exhibit C – Chart - Residential Notices of Default & Foreclosures

BACKGROUND

Overview:

Vacant buildings can be a major cause and source of blight in both residential and nonresidential neighborhoods, especially when the building fails to be maintained and managed by the owner. These buildings can be a liability to the neighborhood and often attract transients and criminals, including drug users. The use of vacant buildings by transients or criminals can create a fire hazard to the building or adjacent buildings if used for primitive cooking or heating methods. Vacant properties are often used as dumping grounds for junk and debris and are often overgrown with weeds and grass. Vacant buildings that are public nuisances discourage economic development and affect property values.

The Code Enforcement Housing and Dangerous Building team, with the help of neighborhood associations, has identified 280 vacant properties, compared to 193 in 2005. This ordinance will enable code enforcement officers to cite these properties much sooner, if the owner is not actively rehabilitating the property for occupation, or is allowing the vacant property to become a blight upon the community.

The vacant building code is enforceable through Articles XV and XVI of the Sacramento Municipal Code. The current code limits Code Enforcement's ability to quickly impose penalties allowing 90 days (Section 8.100.1180 monitoring fees) until a vacant building can be cited. In addition, the current section does not identify vacant buildings as a public nuisance. Rather than identify all vacant buildings as public nuisances, the revisions rely upon the existing "public nuisance" provisions contained in Chapters 8.04, 8.08, 8.96, and 8.100 of the code.

This ordinance provides the following changes to fees and penalties for public nuisance vacant buildings:

- Eliminates monitoring fees in Article XV of the Housing Code in its entirety (8.100.1170 – 8.100.1190) and creates monthly monitoring fees for vacant buildings that are public nuisances pursuant to 8.04, 8.08, 8.96, or 8.100.
- An owner of a vacant building in violation of the amended section may now be cited after an initial 30 days and every 30 days thereafter, rather than in the 90 day timeframe contained in the old code section.
- The procedures for imposing administrative penalties are now those contained in the general penalty section of the code, including allowing penalties to be from any of the four administrative penalty levels: A, B, C, or D. The existing code restricts the penalty amounts to \$1,000 for a first violation and \$5,000 for every subsequent violation

While the revisions to the code allow an owner to keep a building vacant and boarded, the owner may not keep the vacant and boarded building in a state of disrepair for more than 30 days, unless the owner is actively rehabilitating the property, has offered it for occupancy, or is actively maintaining the property so it does not become a blight upon the neighborhood. By imposing these requirements on the owner, and reducing the time for compliance with these requirements, the revised code will help promote the livability in neighborhoods and promote economic vitality of businesses.

Streamline Process:

This ordinance will streamline the existing Vacant and Boarded Building code sections by providing the following:

- Reducing the time for compliance with the Code (Section 8.100.1230 and 8.100.1250)
- Requiring that boarding be in compliance with city standards (Section 8.100.1220)
- Standardizing the Administrative Penalty sections to comply with the general remedies contained in Chapter 1.28 of the Code (Section 8.100.1250)
- Addresses building maintenance and prevention of blight conditions, including signage listing the owner's contact information (Section 8.100.1230(2)(b) and Section 8.100.1240(f)).
- Imposes a monitoring fee upon vacant properties that become public nuisances pursuant to chapters 8.04, 8.08, 8.96, or 8.100 of the code (Section 8.100.1260).

Increased Foreclosures:

Due to the recent sharp rise in foreclosures, the number of vacant buildings is likely to rise, thus increasing the importance of faster citing and streamlined process. Foreclosures within Sacramento address zip codes were virtually non-existent with only five reported in February 2005. Only two years later (February 2007), 178 foreclosures were reported in the same zip codes. (Exhibit C)

Notices of Default have increased approximately 3½ times within Sacramento address zip codes from 128 in January 2005 to 455 in February 2007, according to DataQuick Information Systems. The number of Notice of Defaults during the first two months of 2007 already represent more than half of the foreclosures for the entire year of 2006. Notices of Default are a leading indicator of probable foreclosures and more than doubled from 1,384 in 2005 to 3,274 in 2006. The sharpest increase came during the final quarter of 2006, increasing from 290 in September 2006 to 409 in October 2006. The most dramatic rise in Notices of Default occurred during the final quarter of 2006. (Exhibit C)

In Sacramento County, the number of foreclosures nearly doubled from 657 in the final quarter of 2006 to 1,104 in the first quarter of 2007. The number of foreclosures in the first quarter of 2007 was more than ten times the number of foreclosures in the first quarter of 2006.¹ Statewide, by the fourth quarter of 2006, about 32 percent of homeowners who were in default earlier in the year lost their homes due to foreclosures compared to eight percent the same quarter a year ago.²

Staffing:

The anticipated workload will require additional staffing to monitor the increased number of public nuisance building cases. Staff recommends a vacant building monitoring team consisting of two building inspectors and one code enforcement officer from vacant and existing FTE positions. In addition, the administrative support staff will be impacted due to the increased number of hearings.

¹ Sacramento Bee, April 17, 2007

² DQNews, January 24, 2007

ORDINANCE NO.

Adopted by the Sacramento City Council
On _____

**AN ORDINANCE REPEALING ARTICLES XV AND XVI OF
CHAPTER 8.100 OF THE SACRAMENTO CITY CODE AND
REENACTING ARTICLE XV RELATING TO VACANT
BUILDINGS**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Articles XV and XVI of Chapter 8.100 (Sections 8.100.1170 through 8.100.1380) of the Sacramento City Code are repealed.

SECTION 2. Article XV of Chapter 8.100 of the Sacramento City Code is reenacted to read as follows:

Article XV Maintenance of Vacant Buildings.

8.100.1200 Findings—Vacant buildings.

The city council finds as follows:

A. When the owner of a vacant building fails to actively maintain and manage the building, the building can become a major cause of blight in both residential and nonresidential neighborhoods. Vacant buildings that are boarded, substandard or unkempt properties, and long-term vacancies discourage economic development and retard appreciation of property values.

B. It is a responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare.

C. One vacant property that is not actively and well maintained and managed can be the core and cause of spreading blight.

D. Owners of multiple buildings, either concurrently or serially, that are vacant and a blight to the community are a significant problem in the city. Owners of multiple buildings who fail to correct deficiencies and blighted conditions contribute to the decline of neighborhoods to a greater extent than owners who own only one building. Some owners have acquired multiple vacant and blighted buildings at depressed prices and have not improved or cared for the properties. It is in the interest of the welfare of neighborhoods that owners of multiple properties who fail to maintain properties and correct vacant and blighted buildings be subject to imposition of higher administrative penalties in order to encourage these owners to correct violations of this article in a prompt manner.

8.100.1210 Vacant building defined.

For the purposes of this article, the term “vacant building” means a building that is unoccupied, or occupied by unauthorized persons for any amount of time.

8.100.1220 Required boarding of vacant buildings

A. For the purposes of this article, "boarded" shall mean the covering of all entry points, including all doors and windows, with plywood or other materials for the purpose of preventing entry into the building by persons or animals.

B. Vacant buildings shall be boarded when the building can no longer be secured against intrusion by the closing and locking of doors and windows.

C. Vacant buildings that are immediately dangerous as defined in section 8.96.120 of this code and are open and accessible to the general public may be summarily boarded by the city, pursuant to section 8.96.390 of this code.

D. Any building that is boarded, whether by voluntary action of the owner, or as a result of enforcement activity by the city, shall be boarded in compliance with city standards promulgated by the City Manager, and approved by resolution of City Council.

8.100.1230 Vacant building penalty.

No owner shall allow a building designed for human use or occupancy to be a vacant building for more than thirty (30) days, unless 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 codes, does not contribute to blight, is ready for occupancy, and is:

a. actively being offered for sale, lease, or rent, or

b. is actively being maintained and monitored by the owner, as defined in section

8.100.1240

8.100.1240 Maintenance and Monitoring of Vacant Buildings

Active maintenance and monitoring shall include all of the following:

a. Maintenance of landscaping and plant materials in good condition.

b. Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition.

c. Regular removal of all exterior trash, debris and graffiti.

d. Maintenance of the building in continuing compliance with all applicable codes and regulations.

e. Prevention of criminal activity on the premises, including but not limited to use and sale of controlled substances, prostitution and criminal street gang activity.

f. The posting of a notice in a conspicuous place on the front of the building stating the name, address, and telephone number of both the owner and, if applicable, the owner's agent in control of the building. This notice shall have lettering not less than two (2) inches high, and shall be generally readable from at least thirty (30) feet away.

8.100.1250 Administrative penalty.

Notwithstanding the provisions of section 1.28.010(C)(3) of this code, any owner of a building that is in violation of section 8.100.1230 shall be subject to an administrative penalty, in an amount not to exceed one thousand dollars (\$1,000.00) per building for the first violation.

A second administrative penalty shall be imposed upon an owner pursuant to this article if the owner's building remains in violation of section 8.100.1230 thirty (30) days following the imposition of the first administrative penalty. Additional penalties may be imposed in each thirty (30) day period following the imposition of an administrative penalty under this article. Additional penalties may be imposed so long as the violations continue. A second and any subsequent penalty shall be in an amount not to exceed five thousand dollars (\$5,000.00).

If a previous administrative penalty has been imposed pursuant to this article upon an owner within two years of the date of the imposition of the present administrative penalty,, and that previous administrative penalty related to a vacant building other than the building presently the subject of an administrative penalty, any penalty imposed shall be imposed pursuant to section 1.28.010(D) of this code, but in no case shall it be less than two thousand dollars (\$2,000.00), nor more than ten thousand dollars (\$10,000.00).

8.100.1260 Monitoring Fee for Vacant Nuisance Properties.

Any vacant building that also constitutes a public nuisance as defined in chapters 8.04, 8.08, 8.96, or 8.100 of this code shall be subject to a monthly monitoring fee to recover the city's regulatory costs to monitor the vacant building. This fee shall be set by resolution of the City Council. The monitoring fee shall be applicable even in the absence of any action, administrative or otherwise, by the city pursuant to any other provision of the city code. The fee shall be imposed upon the initial determination that the vacant building constitutes a public nuisance as defined in chapters 8.04, 8.08, 8.96, or 8.100 of this code, and then every month thereafter, as long as the vacant building remains a public nuisance as defined in those chapters.

Any monitoring fee imposed pursuant to this section may be appealed and shall be collected in the same manner as is specified in section 1.28.010(D) of this code.

ORDINANCE NO.

Adopted by the Sacramento City Council
On _____

**AN ORDINANCE REPEALING ARTICLES XV AND XVI OF
CHAPTER 8.100 OF THE SACRAMENTO CITY CODE AND
REENACTING ARTICLE XV RELATING TO VACANT
BUILDINGS**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Articles XV and XVI of Chapter 8.100 (Sections 8.100.1170 through 8.100.1380) of the Sacramento City Code are repealed.

~~**8.100.1170 Findings—Vacant buildings.**~~

~~_____ The city council finds as follows:~~

~~_____ Vacant buildings are a major cause and source of blight in residential and nonresidential neighborhoods, especially when the owner of the building fails to maintain and manage the building to ensure that it does not become a liability to the neighborhood. Vacant buildings often attract transients and criminals, including drug users. Use of vacant buildings by transients and criminals, who may employ primitive cooking or heating methods, creates a risk of fire for the vacant building and adjacent 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 by transients and other long term vacancies discourage economic development and retard appreciation of property values.~~

~~_____ Because of the potential economic and public health, welfare and safety problems caused by vacant buildings, the city needs to monitor vacant buildings, so that they do not become attractive nuisances, are not used by trespassers, are properly maintained both inside and out, and do not become a blighting influence in the neighborhood. City departments involved in such monitoring include the police department, the fire department, code enforcement, and housing and dangerous buildings. There is a substantial cost to the city for monitoring vacant buildings (whether or not these buildings are boarded up) which should be borne by the owners of the vacant buildings. (Prior code § 49.15.1501)~~

-

~~**8.100.1180 Vacant building monitoring fee.**~~

~~_____ A. Fee Imposed. There is imposed upon every owner of a vacant building an annual vacant building monitoring fee in an amount to be set by resolution of the city council. The fee shall not exceed the estimated reasonable cost of monitoring the vacant building. The fee shall be payable as to any building, residential or nonresidential, which:~~

- ~~_____ 1. Is boarded up by voluntary action of the owner or as the result of enforcement activities by the city; or~~
- ~~_____ 2. Is vacant for more than ninety (90) days for any reason.~~

~~_____ B. _____ Fee Waiver. The vacant building monitoring fee may be waived by the building official upon a showing by the owner that:~~

~~_____ 1. _____ The owner has obtained a building permit and is progressing diligently to repair the premises for occupancy; or~~

~~_____ 2. _____ The building meets all applicable codes and is actively being offered for sale, lease or rent; or~~

~~_____ 3. _____ Imposition of the fee would impose a substantial economic hardship on the owner or would hinder the rehabilitation of the building.~~

~~_____ C. _____ Procedure. The vacant building monitoring fee shall be billed to the owner of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the county assessor.~~

~~_____ Any owner billed may apply for a waiver on the grounds set forth in subsection B of this section by submitting a written statement of the grounds for the waiver, and the owner's daytime telephone number, to the building official within thirty (30) days after the billing is mailed to the owner. The building official shall review the written statement and may contact the owner to discuss the application for waiver. The building official shall prepare a written decision which shall be mailed to the owner.~~

~~_____ Any owner who disagrees with the decision of the building official relating to an application for waiver may appeal the building official's decision to the housing code advisory and appeals board by submitting a written notice of appeal to the building official within thirty (30) days of receipt of the building official's decision. The procedure on appeal shall be that set forth in Article VI of Chapter 8.96 of this title. Failure to timely appeal the decision of the building official relating to a denial of a waiver constitutes a waiver of all rights to an administrative hearing and determination of the matter subject only to review pursuant to California Code of Civil Procedure Section 1094.5.~~

~~_____ If the fee is not paid within sixty (60) days after billing, or within sixty (60) days after the decision of the building official or the housing code advisory and appeals board becomes final, the housing board may thereupon order that the fee be specially assessed against the property involved and made a personal obligation of the owner. If the housing board orders that the fee be specially assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.~~

~~_____ The housing board may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee. (Prior code § 49.15.1502)~~

~~-~~

~~**8.100.1190 Penalties.**~~

~~_____ Unless otherwise expressly provided the remedies, procedures and penalties provided by this article are cumulative to each other and to any others available under state law or other city ordinances. The imposition of a vacant building monitoring fee shall not preclude the building official from seeking an administrative penalty pursuant to Article XVI of this chapter. (Prior code § 49.15.1503)~~

SECTION 2. Article XV of Chapter 8.100 of the Sacramento City Code is reenacted to read as follows:

Article XV Maintenance of Vacant Buildings.

8.100.1200 Findings—Vacant and boarded buildings.

The city council finds as follows:

A. Vacant buildings are a major cause and source of blight in both residential and nonresidential neighborhoods, especially wWhen the owner of a vacantthe building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood, the building can become a major cause of blight in both residential and nonresidential neighborhoods. Vacant buildings which ~~that~~ are boarded, substandard or unkempt properties, and long-term vacancies discourage economic development and retard appreciation of property values.

B. It is a responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare.

C. One vacant property which ~~that~~ is not actively and well maintained and managed can be the core and cause of spreading blight.

D. Owners of multiple buildings, ~~either concurrently or serially, which that~~ are vacant, boarded and a blight to the community are a significant problem in the city. Owners of multiple buildings who fail to correct deficiencies and blighted conditions contribute to the decline of neighborhoods to a greater extent than owners who own only one building. Some owners have acquired multiple vacant, boarded and blighted buildings at depressed prices and have not improved or cared for the properties. It is in the interest of the welfare of neighborhoods that owners of multiple properties who fail to maintain properties and correct vacant and boarded blighted buildings be subject to imposition of higher administrative penalties in order to encourage ~~such these~~ owners to correct violations of this article in a prompt manner. (Prior code § 49.16.1604)

8.100.1210 Vacant building defined.

For the purposes of this article, the term “vacant building” means a building that is unoccupied, or occupied by unauthorized persons for any amount of time.

8.100.1220 Required boarding of vacant buildings

A. For the purposes of this article, “boarded” shall mean the covering of all entry points, including all doors and windows, with plywood or other materials for the purpose of preventing entry into the building by persons or animals.

B. Vacant buildings shall be boarded when the building can no longer be secured against intrusion by the closing and locking of doors and windows.

C. Vacant buildings that are immediately dangerous as defined in section 8.96.120 of this code and are open and accessible to the general public may be summarily boarded by the city, pursuant to section 8.96.390 of this code.

D. Any building that is boarded, whether by voluntary action of the owner, or as a result of enforcement activity by the city, shall be boarded in compliance with city standards promulgated by the City Manager, and approved by resolution of City Council.

8.100.1230. ~~Boarded and v~~Vacant building penalty.

~~A. The owner of any boarded building, whether boarded by voluntary action of the owner or as a result of enforcement activity by the city, shall cause the boarded building to be rehabilitated for occupancy within ninety (90) days after the building is boarded.~~

B. No ~~person~~owner shall allow a building designed for human use or occupancy to stand ~~vacant~~be a vacant building for more than ~~ninety~~thirty (930) days, unless 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 codes, does not contribute to blight, is ready for occupancy, and is:

a. _____ actively being offered for sale, lease, or rent, or

b. _____ is actively being maintained and monitored by the owner, as defined in section

8.100.1240.

~~3. The manager of building inspections determines that the building does not contribute to and is not likely to contribute to blight because the owner is actively maintaining and monitoring the building so that it does not contribute to blight. Active maintenance and monitoring shall include all of the following:~~

~~a. Maintenance of landscaping and plant materials in good condition.~~

~~b. Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition.~~

~~c. Regular removal of all exterior trash, debris and graffiti.~~

~~d. Maintenance of the building in continuing compliance with all applicable codes and regulations.~~

~~e. Prevention of criminal activity on the premises, including but not limited to use and sale of controlled substances, prostitution and criminal street gang activity. (Prior code § 49.16.1603)~~

8.100.1240 Maintenance and Monitoring of Vacant Buildings

Active maintenance and monitoring shall include all of the following:

a. Maintenance of landscaping and plant materials in good condition.

b. Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition.

c. Regular removal of all exterior trash, debris and graffiti.

d. Maintenance of the building in continuing compliance with all applicable codes and regulations.

e. Prevention of criminal activity on the premises, including but not limited to use and sale of controlled substances, prostitution and criminal street gang activity.

f. The posting of a notice in a conspicuous place on the front of the building stating the name, address, and telephone number of both the owner and, if applicable, the owner's agent in control of the building. This notice shall have lettering not less than two (2) inches high, and shall be generally readable from at least thirty (30) feet away.

8.100.1250 Administrative penalty.

~~Notwithstanding the provisions of section 1.28.010(C)(3) of this code, any owner of a boarded building which remains boarded in violation of Section 8.100.1220(A) of this chapter or any owner of a building which that is remains vacant in violation of sSection 8.100.12300(B) of this chapter shall be subject to an administrative penalty, in an amount not to exceed one thousand dollars (\$1,000.00) per building for the first violation.~~

~~A second or subsequent administrative penalty shall be imposed upon any owner pursuant to this chapter article if the owner's building remains in violation of this chapter section 8.100.1230 ninety thirty (930) days following the imposition of the first administrative penalty. Additional penalties may be imposed in each ninety thirty (930) day period following the imposition of an administrative penalty under this article. Additional penalties may be imposed so long as the violations continue. A second and any subsequent penalty shall be in an amount not to exceed five thousand dollars (\$5,000.00).~~

~~If an previous administrative penalty has been imposed pursuant to this article upon an owner who owns more than one property in the city pursuant to this article within two years of the date of the administrative imposition of the present administrative penalty, hearing, and which that previous administrative penalty relateds to a vacant building other than the building before the hearing examiner presently the subject of an administrative penalty, any penalty imposed shall be imposed pursuant to section 1.28.010(D) of this code, but in no case shall it bene less than two thousand dollars (\$2,000.00) and not, nor, more than ten thousand dollars (\$10,000.00). (Prior code § 49.16.1604)~~

~~8.100.1240 Administrative penalty—Procedure.~~

~~An administrative penalty shall be imposed by the designated hearing examiner upon the recommendation of the building official or the manager of code enforcement and after the owner shall have been afforded a hearing.~~

~~The hearing shall be conducted in accord with the provisions of Sections 8.100.1280 through 8.100.1380 of this chapter.~~

~~_____ In setting the penalty, the hearing examiner shall consider factors including, but not limited to: the severity, extent and length of time in which the blighting conditions have existed on the property; the owner's efforts, or lack thereof, to remedy the problem; staff time and costs incurred in investigating the conditions; and the extent, if any, to which an administrative penalty would impose a substantial economic hardship on the owner or would hinder the rehabilitation of the building. The decision of the hearing examiner shall be final and is subject to review only in the time and manner provided by California Code of Civil Procedure Section 1094.5.~~

~~_____ The administrative penalty shall be due and payable within thirty (30) days after the decision of the hearing examiner. If the penalty is not paid within forty-five (45) days after the decision of the hearing examiner, the city council may thereupon order that the penalty be a personal obligation of the property owner or that it be specially assessed against the property involved. If the city council orders that the penalty be specially assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.~~

~~_____ The city council may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property and set forth the last known address of the record owner or possessor, the date on which the penalty was imposed by the hearing~~

examiner, a description of the real property subject to the lien, and the amount of the penalty. (Prior code § 49.16.1605)

-

8.100.1250 Commencement of proceedings.

~~Whenever the building official or manager of code enforcement or his or her designee has inspected or caused to be inspected any building and has found and determined that such premises are in violation of this code, he or she shall commence proceedings for assessment of an administrative penalty as provided in Sections 8.100.1230 and 8.100.1240 of this chapter. (Prior code § 49.16.1606)~~

-

8.100.1260 Hearing notice.

~~A. The building official or manager of code enforcement or his or her designee shall issue a notice directed to the record owner of the premises; the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in the premises. The notice shall contain:~~

~~1. The street address and such other description as is required to identify the premises;~~

~~2. A statement specifying the conditions which constitute a violation of this code;~~

~~3. An order to the owner to appear before a hearing examiner at a stated time, but in no event less than twenty (20) calendar days after having mailed such notice, to show cause why an administrative penalty should not be assessed in accordance with this code;~~

~~4. A statement advising the owner that he or she has the option of voluntarily correcting the condition(s) which violate the provisions of this code prior to the date set for hearing. If the owner chooses to correct the conditions, the corrections must be completed prior to the hearing date. The owner must advise the building official or the manager of code enforcement in writing that he or she will correct the conditions and the date of completion. The building official or the manager of code enforcement or his or her designee will inspect the premises on the completion date, and if the conditions have been corrected, the hearing will be taken off calendar. The owner may request a continuance of the hearing pursuant to Section 8.100.1300 of this chapter in order to comply, but in no event shall the continuance exceed thirty (30) days.~~

~~B. The hearing notice, and any amended or supplemental notice, shall be served either by personal delivery or by certified return receipt mailing upon the record owner at his or her address as it appears on the latest equalized assessment roll of Sacramento County, or as known to the building official or the manager of code enforcement. A copy of the notice and any amended or supplemental notice shall also be posted on the building.~~

~~1. In lieu of personally serving the owner or service by certified mailing, the notice and any amended or supplemental notice may be served as follows:~~

~~a. In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows: (1) by leaving a copy during usual business hours at the recipient's business, and thereafter mailing by first-class mail a copy of the notice to the recipient at the address where the copy of the notice was left and the address as it appears on the latest equalized assessment roll of Sacramento County, or (2) by leaving a copy at the owner's dwelling or usual place of abode, with a competent member of the household or a person apparently in charge of his or her office or place of business, at least eighteen (18) years of age, and thereafter mailing, by first-class~~

~~mail a copy of the notice to the owner at the address where the copy was left and the address as it appears on the latest equalized assessment roll of Sacramento County.~~

~~_____ b. _____ In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the building, substituted service any be made as set forth in subsection A of this section upon the property manager or rental agency.~~

~~_____ c. _____ If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first-class mail.~~

~~_____ d. _____ If the owner of the property cannot be located after a diligent search, or service cannot be effected as set forth in this section, service may be made by publication in a Sacramento newspaper of general circulation which is most likely to give actual notice to the owner. Service of the notice shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.~~

~~_____ e. _____ Proof of service of the hearing notice shall be certified by written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. (Prior code § 49.16.1607)~~

~~-~~
~~**8.100.1270 Hearing examiner.**~~

~~_____ In order to hear cases brought by the building official or the manager of code enforcement under the provisions of this code, the city council shall appoint a panel of hearing examiners, from which a hearing examiner on a rotating basis shall hear cases brought by the manager of code enforcement. Hearing examiners shall serve at the pleasure of the city council. A hearing examiner may not be a city employee. (Prior code § 49.16.1608)~~

~~-~~
~~**8.100.1280 Hearings—Generally.**~~

~~_____ At the time set for hearing, the hearing examiner shall proceed to hear the testimony of the manager of code enforcement or his or her designee, the owner, and other competent persons respecting the condition of the building and other relevant facts concerning the matter. (Prior code § 49.16.1609)~~

~~-~~
~~**8.100.1290 Record of oral evidence at hearing.**~~

~~_____ The proceedings at the hearing shall be reported by a tape recording. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense. (Prior code § 49.16.1610)~~

~~-~~
~~**8.100.1300 Continuances.**~~

~~_____ The hearing examiner may, upon request of the owner of the premises or upon request of the manager of code enforcement or his or her designee, grant continuances from time to time for good cause shown, or upon his or her own motion. (Prior code § 49.16.1611)~~

~~-~~
~~**8.100.1310 Oaths—Certification.**~~

~~_____ The hearing examiner or certified shorthand reporter shall administer the oath or affirmation. (Prior code § 49.16.1612)~~

~~-~~

8.100.1320 Evidence rules.

~~Government Code Section 11513, subsections (a), (b) and (c), as presently written or hereinafter amended, shall apply to hearings under this chapter. (Prior code § 49.16.1613)~~

-

8.100.1330 Rights of parties.

~~A. Parties may represent themselves, or be represented by any person of their choice.~~

~~B. If a party does not proficiently speak or understand the English language, he or she may provide an interpreter, at that party's own cost, to translate for the party. An interpreter shall not have had any involvement in the issues of the case prior to the hearing. (Prior code § 49.16.1614)~~

-

8.100.1340 Official notice.

~~In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the city or county, or any of their departments. (Prior code § 49.16.1615)~~

-

8.100.1350 Inspection of premises.

~~A. The hearing examiner may, with the owner(s)' consent, inspect the building and premises involved in the hearing prior to, during, or after the hearing, provided that:~~

~~1. Notice of such inspection shall be given to the parties before the inspection is made;~~

~~2. The parties are given an opportunity to be present during the inspection; and~~

~~3. The hearing examiner shall state for the record during the hearing, or file a written statement after the hearing for inclusion in the hearing record, upon completion of the inspection, the material facts observed and the conclusion drawn therefrom.~~

~~B. Each party then shall have a right to rebut or explain the matters so stated by the hearing examiner either for the record during the hearing or by filing a written statement after the hearing for inclusion in the hearing record.~~

~~C. An inspection warrant or the owner(s)' consent to inspect the building and surrounding properties is required unless such inspection can be made from areas in which the general public has access or with permission of other persons authorized to provide access to the property on which the building is located. (Prior code § 49.16.1616)~~

-

8.100.1360 Form and contents of decision—Finality of decision.

~~If it is shown by a preponderance of the evidence that the owner has violated provisions of Section 8.100.1220 of this chapter, then the hearing officer shall impose an administrative penalty pursuant to Sections 8.100.1230 and 8.100.1240 of this chapter.~~

~~A. The decision of the hearing examiner shall be in writing and shall contain findings of fact and a determination of the issues presented. The decision shall require the owner to pay the administrative penalty prescribed in Section 8.100.1240 of this chapter. The decision shall inform the owner that if the administrative penalty is not paid within the time specified in Section 8.100.1240 of this chapter, then it may be made a personal obligation of the owner, made a special assessment against the property, and/or a lien may be imposed on the property involved for the amount of the penalty assessed.~~

~~_____ B. _____ The decision shall also inform the appellant that the time for judicial review is governed by California Code of Civil Procedure Section 1094.5. The decision shall be final when signed by the hearing examiner and served as herein provided. (Prior code § 49.16.1617)~~

-

~~**8.100.1370 Service of the hearing examiner's decision.**~~

~~_____ Upon issuance of the decision, the manager of code enforcement or his/her designee shall serve a copy on the record owner in the same manner as set forth in Section 8.100.1260 of this chapter, and one copy shall be served on each of the following, if known to the manager of code enforcement or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in the premises. (Prior code § 49.16.1618)~~

-

~~**8.100.1380 Collection of the administrative penalty.**~~

~~_____ A. _____ Any administrative penalty imposed on the owner(s) may, in addition to making it a special assessment and a lien on the property, be collected in the same manner as any contractual obligation. In the event a civil action is commenced in order to collect the administrative penalty, then the city shall be entitled to recover reasonable attorney's fees and all costs associated with collection of the penalty. Costs include, but are not limited to, staff time incurred in the collection of the penalty and those costs set forth in Code of Civil Procedure Section 1033.5.~~

~~_____ B. _____ An administrative penalty shall accrue interest at the same annual rate as any civil judgment. Interest shall accrue commencing on the forty-sixth day following service of the hearing officer's decision. (Prior code § 49.16.1619)~~

8.100.1260 Monitoring Fee for Vacant Nuisance Properties.

Any vacant building that also constitutes a public nuisance as defined in chapters 8.04, 8.08, 8.96, or 8.100 of this code shall be subject to a monthly monitoring fee to recover the city's regulatory costs to monitor the vacant building. This fee shall be set by resolution of the City Council. The monitoring fee shall be applicable even in the absence of any action, administrative or otherwise, by the city pursuant to any other provision of the city code. The fee shall be imposed upon the initial determination that the vacant building constitutes a public nuisance as defined in chapters 8.04, 8.08, 8.96, or 8.100 of this code, and then every month thereafter, as long as the vacant building remains a public nuisance as defined in those chapters.

Any monitoring fee imposed pursuant to this section may be appealed and shall be collected in the same manner as is specified in section 1.28.010(D) of this code.

RESIDENTIAL NOTICES OF DEFAULT & FORECLOSURE SALES IN THE CITY OF SACRAMENTO

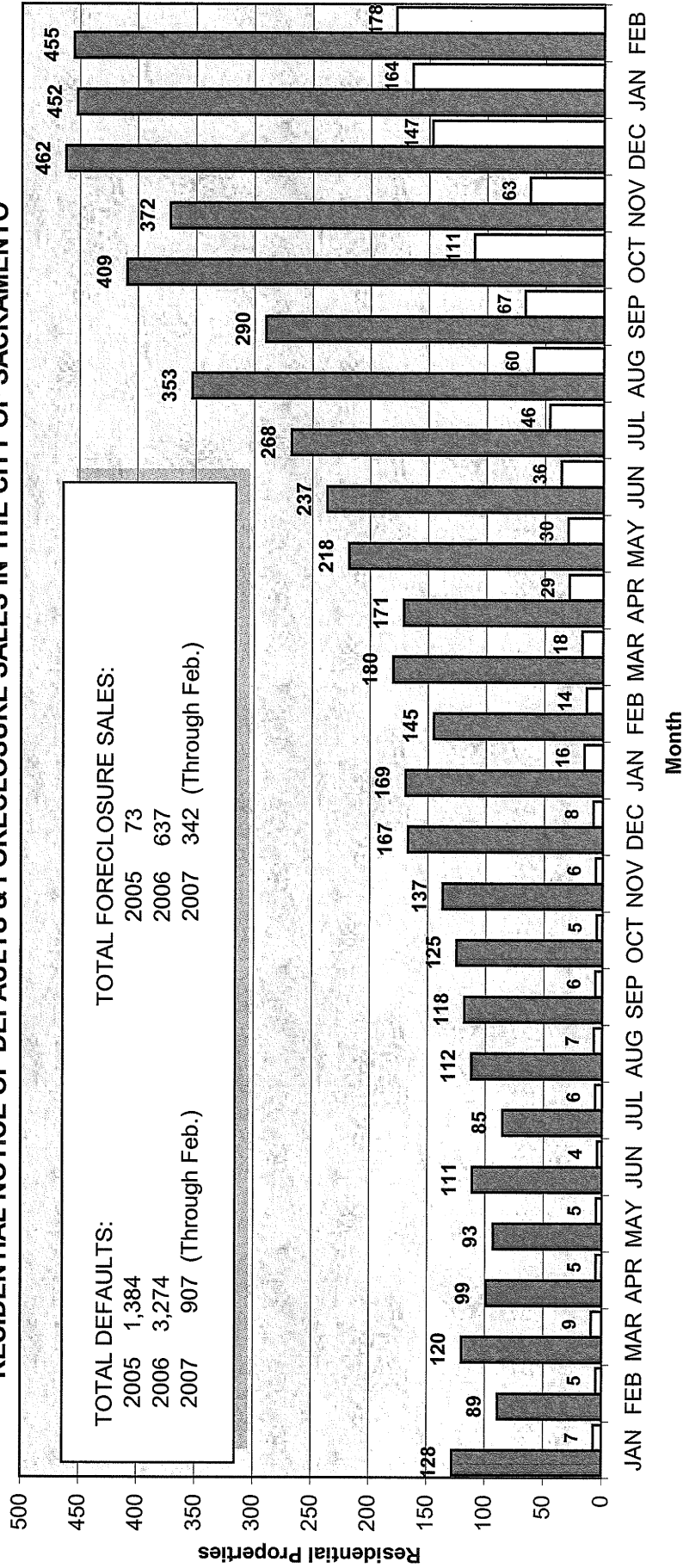
EXHIBIT C

Source: DataQuick Information Systems

	2005												2006												2007		
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	FEB
Notices of Default	128	89	120	99	93	111	85	112	118	125	137	167	169	145	180	171	218	237	268	353	290	409	372	462	452	455	455
Sales	7	5	9	5	5	4	6	7	6	5	6	8	16	14	18	29	30	46	60	67	111	63	147	164	178	178	
% NOD/Sales	5%	6%	8%	5%	5%	4%	7%	5%	5%	4%	4%	5%	9%	10%	10%	17%	14%	15%	17%	17%	23%	27%	17%	32%	36%	39%	

Average % in 2005: 5.3% Average % in 2006: 19.5% Average % in 2007: 37.7% Average % 2005-06-07: 18.9%

RESIDENTIAL NOTICE OF DEFAULTS & FORECLOSURE SALES IN THE CITY OF SACRAMENTO



■ Notice of Defaults □ Residential Foreclosure Sales