

# PROPOSED VACANT PROPERTY REGISTRATION ORDINANCE TEXT

## 6.13.010 PURPOSE

The purpose of this Chapter is to ensure all vacant properties comply with minimum property maintenance requirements, to encourage proactive and preventive maintenance of properties, to ensure maintenance issues are quickly and efficiently remedied, and to promote the health, safety, and welfare of the people of the City of Fort Bragg.

## 6.13.020 SEVERABILITY

If any provision of this Ordinance and Chapter is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity will not affect the remaining provisions of this Ordinance and Chapter, which can be implemented without the invalid provisions, and to this end, the provisions of this Ordinance are declared to be severable.

## 6.13.030 DEFINITIONS

As used in this Chapter, the following terms and phrases are defined as follows:

A "Active Construction" means that construction activity is taking place at a property without any pause, interruption, or suspension greater in duration than 45 days, and the owner, owner of record, or a duly authorized agent, servant, assign, employee, or contractor acting or providing services on behalf thereof, is on-site at a property that is under construction, actively engaged in construction, maintenance, demolition, or related administrative activity, without any pause, interruption, or suspension greater in duration than 15 days.

B "Allowable use" means the property use as permitted by zoning ordinance; allowable by right, or use permit.

C "Blight" or "Blighted property" means any one or more of the following conditions or activities:

(1) Abandoned Building or Structure.

(a) A building or structure which is not being inhabited, occupied, or used and which is unsecured. For purposes of this Chapter, a building or structure is unsecured when the public can gain entry without the consent of the owner.

(b) A partially constructed, reconstructed, or demolished building or structure upon which work is abandoned. Work is deemed abandoned when there is no valid and current building or demolition permit, or when there has not been any substantial work on the project for a period of six (6) months or more.

(2) Attractive Nuisance. Property which is in an unsecured state so as to potentially constitute an attraction to children, a harbor for transients, criminals, or other unauthorized persons, or so as to enable persons to use the property for the purpose of committing a nuisance or unlawful act.

(3) A building or structure which is in a state of disrepair:

(a) Exterior wall and/or roof coverings which have become deteriorated and do not provide adequate weather protections, resulting in termite infestation and/or dry rot.

(b) Broken or missing windows or doors which constitute a hazardous condition or a potential attraction to trespassers.

(c) Building exteriors, walls, fences, signs, retaining walls, driveways, walkways, sidewalks, or other structures on the property which are broken, deteriorated, or substantially defaced, to the extent that the disrepair is visible from any public right-of-way or visually impacts neighboring public or private property or presents an endangerment to public safety.

(d) Building exteriors, walls, fences, signs, retaining walls, driveways, walkways, sidewalks, or other structures on the property which have been repainted in such a manner that the appearance may be further deteriorated or substantially defaced.

(4) Property Inadequately Maintained.

(a) Overgrown, diseased, dead, or decayed trees, weeds, or vegetation that: (1) are likely to harbor rats, pigeons, vermin, and other nuisances; or (2) substantially detract from the aesthetic and property values of neighboring properties; or (3) constitute a fire hazard or other condition that is dangerous to the public health, safety, or welfare; or (4) are likely to attract use as shelter by transients.

(b) Solid waste, which includes "garbage," "refuse," and "rubbish," and all "solid waste" as may be defined in this Code, constitutes blight and blighted property in the following situations: (1) the accumulation of solid waste is visible from a street or public right-of-way, is not enclosed in a City-approved container, and is present for more than 72 consecutive hours; or (2) the accumulation of solid waste is being stored or disposed of in a manner that would allow the material to be transported by wind or otherwise onto or upon any public street, public right-of-way, or neighboring property, unless the method of storage or disposal is specifically allowed by this Code.

(5) Any swimming pool, pond, or other body of water which is abandoned, unattended, unfiltered, drained with no cover to prevent the existence of a hazard, or not otherwise maintained, resulting in polluted water. "Polluted water" is defined for the purpose of this Chapter, as water which contains organic growth, including algae, remains of rubbish, refuse, debris, papers, and any other foreign matter or materials, which, because of its nature or locations, constitutes an unhealthy or unsafe condition.

D "Building" means any structure, including, but not limited to, any residential, commercial, industrial, or assembly structure, approved for occupancy on either a lot of record or within a single project approved by the City pursuant to the City's Zoning Code.

E "Commercial Properties" means all properties in the City that are not developed for solely single family residential uses. The term "commercial properties" includes apartment buildings that include five or more rental units.

F "Development Related Agreement" means an agreement between the City and at least one other person or entity whereby an owner secures the authorization and approval of the City, whether through a duly authorized written contract, or via a land use permit or entitlement approval, to pursue a development or redevelopment project at a property where one or more abandoned buildings or structures, and/or vacant building is located.

G "Downtown" means all streets and portions of streets within the area described as follows: All that area bounded by Pine Street on the north, Oak Street on the south, Main Street on the west, McPherson Street on the east and North Harrison Street heading east on Redwood Avenue. Synonymous with CBD?

H "Enforcement Official" means the City Manager, Building Official, the Chief of Police, the Fire Chief, or their respective designees.

I “Evidence of Vacancy” means any building in the context of the totality of circumstances that would lead a reasonable Enforcement Official to believe that the building is vacant or occupied by a person without a legal right of occupancy. Such real property conditions include, but are not limited to: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers, or mail; past due utility notices or disconnected utilities; accumulation of trash, junk, or debris; the absence of window coverings such as curtains, blinds, or shutters; the absence of furnishings or personal items consistent with residential habitation; or statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

J “Historic Building or Site” means any building, structure, or site previously designated as an historic landmark by the City Council pursuant to the provisions of Chapter [17.74.030](#) of the CLUDC, or Chapter 18.74.030 of the ILUDC, which building or site is not located on lands owned by the United States for the benefit of any member of any federally recognized Indian tribe, or subject to a restriction against alienation imposed by the United States.

K “Local” means within 40 driving miles of the building, structure, or real property in question.

L “Out of Area” means in excess of 40 road or driving miles of the building, structure, or real property in question.

M “Owner” means any person having legal or equitable title or any interest in real property, including all persons shown as owners on the last equalized assessment roll of the Mendocino County Assessor’s Office. An owner includes a person with power of attorney, an executor of estate, trustee, or who is a court appointed administrator, conservator, guardian, or receiver.

N “Person” means any natural person, partnership of any kind, corporation, limited liability company, association, joint venture, or other organization, however formed, as well as trustees, heirs, executors, administrators, or assigns, or any combination of such persons.

O “Vacant building” means a building where at least thirty-five percent (35%) of the total floor area within the building is not lawfully occupied.

P “Vacant parcel” means a legal parcel with no building improvements, or with limited improvements that cannot not be classified as a residential building or commercial business.

#### **6.13.040 SCOPE**

A Applicability. The provisions of this Chapter shall apply generally to all improved and unimproved real property throughout the City of Fort Bragg where any of the conditions specified in this Chapter are found to exist.

B Regulations Cumulative. The regulations provided by this Chapter are cumulative to each other and to any other available under City, State, or federal law.

C Authority to Enforce Chapter. The Enforcement Official is authorized to administer and enforce this Chapter. The Enforcement Official may adopt supplemental regulations or policies to implement and interpret this Chapter. These regulations or policies must conform with the purpose of this Chapter.

D Development Agreement Exemption. In the event that the City enters a development related agreement with the owner or developer of a property incorporating the partial or total demolition, repair, reconstruction, or preservation of a vacant building or structure the vacant building or structure in question is exempt from application of this Chapter, provided that the property is maintained in strict accord with the terms and conditions of the development related agreement. In the event that the City

Manager, or his or her designee, determines in the City Manager's sole discretion the owner or developer of a property is in default with respect to any term or condition of a development related agreement through which any building or structure is exempt from application of this Chapter, the City may issue written notice to that owner that if the default in question is not cured in its entirety within 30 days of the issuance, that the exemption provided by this Section shall be revoked, and that this Chapter shall immediately become fully applicable to the building or structure in question.

**6.13.050 SERVICE REQUIREMENTS**

A Except as otherwise provided, any notice required to be served under this Chapter must be completed by either:

- (1) Personal service; or
- (2) Service by United States mail addressed to the person to be notified at the address as listed in the last equalized assessment roll. Service by mail is complete at the time of deposit in the mail. Failure of any person to receive a properly-addressed notice by mail shall not invalidate any action, decision, determination, or proceeding under this Chapter.

**6.13.060 REGISTRATION REQUIRED FOR VACANT PARCELS AND BUILDINGS**

A Registration Required. An owner of a vacant parcel or building must register their property with the Enforcement Official within 10 days of the building becoming vacant or being deemed vacant. If any building shows evidence of vacancy, it is hereby deemed vacant. All vacant parcels, as defined by this chapter, must be registered within sixty calendar days of the effective date of this ordinance and renewed annually.

B Application Required. Any person seeking to register a vacant parcel or vacant building must submit a complete, written application to the City using a form adopted by the City for that purpose.

C Application Contents. The application for registration pursuant to this Section must contain or be accompanied by the following:

- (1) The name and address of each owner and the local property management company, if any, responsible for the security, maintenance, and marketing of the property in question; and, the security agency, if any, responsible for the "continuous physical monitoring" as provided for within this Chapter .
- (2) A maintenance plan describing and documenting how the maintenance requirements of this Chapter will be complied with.
- (3) Documentation and information showing compliance with the local property management company requirements of this Chapter.

D Annual Registration. The registration pursuant to this Section must be renewed annually, no later than January 31 of each calendar year.

E Fee. The City Council may establish by resolution, and from time to time may amend, an annual registration fee and inspection fees. An application for registration or reregistration must be accompanied by the submission of the required fee. Registration fees are nonrefundable and may not be prorated. The fee represents the registration cost for a calendar year and the cost of one annual compliance inspection. When a subsequent compliance inspection is necessary to verify corrections of violations, a subsequent inspection fee shall be charged.

F Notice City of Changes to Registration. Any person, partnership, association, corporation, fiduciary, or other legal entity that has registered a property under this Chapter must notify the Enforcement Official in writing of any change of information contained in the registration within 10 days of the change.

**6.13.070 MAINTENANCE REQUIREMENTS FOR VACANT BUILDING AND PARCELS**

A Maintenance Required. It is unlawful for any owner to maintain any improved property in violation of the provisions of this Chapter. All vacant buildings, residential and commercial, must be maintained in compliance with the Fort Bragg Municipal Code.

B Additional Requirements for Commercial Properties. Any vacant commercial building must be maintained in accordance with the following requirements:

- (1) All doors, windows, and other openings are secured in accordance with this Chapter.
- (2) Any temporary site perimeter fencing is placed in connection with a building permit.
- (3) The property must be continuously monitored, as follows:
  - (a) Buildings with fire sprinkler systems must be maintained in working order.
  - (b) Buildings with a centralized and registered fire and burglar alarm system must be maintained in working order, and monthly reports showing continued and active service shall be submitted to the Enforcement Official.
  - (c) Buildings without fire sprinkler systems or fire alarm or burglar alarm systems shall be provided with continuous physical monitoring by means of an onsite patrol. "Continuous physical monitoring" shall mean the use of a licensed security agency operating in the City of Fort Bragg and providing regular surveillance of the vacant building as part of the agency's security route.
- (4) A quarterly report from the property owner or the property owner's representative or property management company that identifies each date inspections were performed for the reporting period and a statement affirming that the building interior, exterior, and the entire site was inspected, the landscaping is maintained in good condition, and that all buildings are secure.

C Requirements For Buildings Vacant More Than 90 Days. No person may allow a building designed for human use or occupancy to stand vacant for more than 90 days, unless the person establishes by substantial evidence to the reasonable satisfaction of the Enforcement Official that at least one of the following applies:

- (1) Active Construction. The building is the subject of Active Construction for repair or rehabilitation in order to make the building habitable, and the owner is progressing diligently to complete such repair or rehabilitation within one year of the issuance of the building permit related to such repair or rehabilitation.
- (2) Active Marketing. The building or property contains no Fort Bragg Municipal Code violations, is ready for occupancy, and is actively being offered for sale, lease, or rent.
- (3) Active Maintenance. The person is actively maintaining and monitoring the building, which includes:
  - (a) Maintenance of landscaping and plant materials in good condition.
  - (b) Maintenance of the exterior of the building including, but not limited to, paint, finishes, windows, doors, and signage in good condition and in compliance with this Chapter.

- (c) Any sign which advertises a use or business not being made on the premises, the name of the owner or user, or which identifies a product, an interest, service, or entertainment not available on the premises is regulated pursuant to CLUDC 17.38.040 and ILUDC 18.38.040.
- (d) Regular removal of all exterior trash, debris, and graffiti.
- (e) Prevention of criminal activity on the premises including, but not limited to, trespassing, use and sale of controlled substances, and criminal street gang activity.
- (f) Any windows screened will be in accordance with application and approval of the City of Fort Bragg Community Development Department Planning staff.
- (g) Securing the property in a manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, closing and locking of windows, doors (walk-through, sliding and garage), gates, and any other opening that may allow access to the interior of the property or structure(s). In the case of broken windows, securing includes the replacement of the broken window.
- (h) Maintaining sufficient utility services to provide power for any alarm or security system and to properly irrigate all landscaping on the property.
- (i) The building or the lot on which the building is located, and the landscaping on such lot, does not contribute to and is not likely to contribute to blight because the owner is actively maintaining and monitoring the building and the lot so that it does not contribute to blight.

**6.13.080 LOCAL PROPERTY MANAGEMENT REQUIRED**

- A Any owner located more than 40 miles by road from a property containing a vacant building that must be registered, must provide a name and contact information of a local individual or property management company who must be contracted to perform weekly inspections to ensure compliance with the Fort Bragg Municipal Code.
- B The property must be posted with the name and contact phone number of the local individual or property management company. The posting must be no less than 18" X 24", must be of a font that is legible from a distance of 45 feet, and must contain the following: "THIS PROPERTY MANAGED BY (LOCAL INDIVIDUAL OR PROPERTY MANAGEMENT COMPANY)," and "TO REPORT PROBLEMS OR CONCERNS CALL (PHONE NUMBER)."
- C The posting must be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building facing the street of the front of the property so it is visible from the street. If no such area exists, the posting must be on a stake of sufficient size to support the posting, in a location that is visible from the street to the front of the property, and to the extent possible, not readily accessible to potential vandalism. Exterior posting must be constructed of, and printed with weather resistant materials.
- D The local individual or property management company must inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this Chapter and must perform all monitoring duties prescribed in this Chapter. If the individual or property management company determines the property is not in compliance with this Chapter or any provision of the Fort Bragg Municipal Code, it is the individual or company's duty to notify the owner and bring the property into compliance.

**6.13.090 MONITORING PROGRAM FOR COMMERCIAL PROPERTIES**

A Monitoring Program Established. A program monitoring commercial properties is hereby established. The Enforcement Official is responsible for administering the monitoring program to enforce this Chapter.

B Monitoring Program Duties. The Enforcement Official has the duty and responsibility to do the following pursuant to the monitoring program:

- (1) Inspect properties in the City to identify commercial buildings that are vacant.
- (2) Order vacant commercial buildings to comply with this Chapter and any other applicable codes.
- (3) Order vacant commercial buildings that are open and accessible to be secured against unlawful entry in accordance with this Chapter.
- (4) Order the property on which the vacant commercial building is located to be properly maintained or cleared of trash and debris.
- (5) Initiate proceedings against the owner of any vacant commercial building found to be in violation of this Chapter or any other applicable code.
- (6) Maintain surveillance over vacant commercial buildings so that timely code enforcement proceedings are commenced in the event the property becomes substandard or a nuisance.
- (7) Establish and enforce rules and regulations for the implementation and compliance with the Property Improvement Program.
- (8) Identify blighted property and to initiate proceedings against the owner of record of any blighted property for failure to remedy such blight.

C Fee Imposed. There is imposed upon every owner of a vacant commercial building monitored pursuant to this Chapter an annual vacant commercial building monitoring fee in an amount the City Council may establish by resolution, provided that the fee shall not exceed the estimated reasonable cost of monitoring the vacant commercial building.

D Fee Procedure. If unpaid in connection with a vacant building registration, a vacant commercial building monitoring fee may be billed and mailed to the owner of the property. Any owner aggrieved by the decision of the Enforcement Official relating to a vacant registration fee bill may appeal the decision to the Administrative Hearing Officer or Body in the manner provided in Chapter 1.06 of this Code. If the fee is not paid within 60 days following billing, the City Council may thereupon order that the fee be specially assessed against the property involved. If the City Council 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 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, 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.

**6.13.100 ENFORCEMENT**

A Violation Unlawful. It is unlawful and declared a public nuisance for any person to violate any provision of this Chapter.

B Criminal Penalties. Any person who violates any provision of this Chapter is guilty of a misdemeanor punishable by a fine of up to \$1,000, or by imprisonment in the County jail not exceeding six months, or by both such fine and imprisonment, except the City Attorney may prosecute a violation of this Chapter as an infraction, in his or her discretion, as set forth in Section 1.04.060 of this Code.

C Administrative Penalties. Any person who violates any provision of this Chapter may be issued an administrative penalty in accordance with this Section and Chapter 1.12 of this Code.

(1) Appeal and Collection of Penalty. The Enforcement Official's administrative penalty may be appealed in the manner provided in Chapter 1.08 of this Code. Any administrative penalty may be collected as provided in Chapter 1.06 of this Code.

(2) Fine for Non-Residential Properties. For any non-residential properties subject to this Chapter, the initial penalty shall be \$1,500.00. If the violation continues after the compliance date in the first administrative citation or any extension period granted by the City, a second administrative penalty in the amount of \$3,000.00 may be issued. If the violation continues after the compliance date in the second administrative citation or any extension period granted by the City, a third administrative penalty in the amount of \$15,000.00 may be issued. For any residential properties subject to this Chapter, the penalties shall be in the amounts set forth in Section 1.12.070 of this Code.

D Civil or Equitable Enforcement. Nothing in this Chapter prevents the City Attorney from bringing a civil or equitable action, at his or her discretion, to seek the abatement of any violation of this Code.

E Ongoing Violations. Each and every day a violation is maintained, caused, aided, abetted, concealed, suffered, or permitted is a separate offense.

F Remedies Cumulative. The remedies, procedures, and penalties provided by this Chapter are cumulative to each other and to any other available under City, State, or federal law.

G Joint and Several Liability. The duties and liabilities specified in this Chapter are joint and several among and between all owners.