

ORDINANCE NO. 2023-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY, STATE OF CALIFORNIA, ADDING CHAPTER 8.05 (“VACANT BUILDING AND STOREFRONT NUISANCES”) TO TITLE 8 (“HEALTH AND SAFETY”) TO THE CITY OF NEVADA CITY MUNICIPAL CODE, RELATING TO VACANT BUILDING AND STOREFRONT NUISANCES

WHEREAS, the City of Nevada City is continuing to experience the economic impacts of the Covid 19 pandemic, in which many nonresidential properties became vacant, vacancies remained unfilled, and vacant properties became blighted;

WHEREAS, the City Council believes, based on experiences of other communities, that blight can be arrested and reversed through a program of registration and proper maintenance by property owners, and monitoring and enforcement by the City; and

WHEREAS, the City of Nevada City, California, pursuant to the provisions of the California Environmental Quality Act (“CEQA”) (Cal. Pub. Res. Code §§21000 and following) and State CEQA Guidelines (14 CCR §§15000 and following) has determined that this ordinance is not a project under CEQA pursuant to Title 14, Section 15378 (b)(5) of the California Code of Regulations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and incorporated into this ordinance.

SECTION 2. Chapter 8.05 is hereby added to the Nevada City Municipal Code, to read as follows:

Chapter 8.05 - VACANT BUILDING AND STOREFRONT NUISANCES

8.05.010 - Purpose.

Vacant buildings and storefronts are a major cause and source of blight in nonresidential neighborhoods, especially when the owner of the building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood. Vacant buildings and storefronts (whether or not those buildings and storefront windows are boarded), substandard, or unkempt buildings, and long-term vacancies discourage economic development; retard appreciation of property values; invite criminal activity such as vandalism, squatting and dumping; and are an attractive nuisance to children. Vacant buildings are potential fire hazards and can jeopardize the ability of owners of neighboring property from securing or maintaining affordable fire insurance. It is the 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. One vacant building which is not actively and well maintained and managed can be the core and cause of spreading blight. It is the purpose and intent of the city council, through the

adoption of this chapter, to define the responsibilities of owners of, and to establish registration and monitoring programs for, vacant buildings, storefronts and properties.

8.05.020 - Definitions.

As used in this chapter:

ADMINISTERING OFFICIAL means the City Planner and/or designees authorized to administer and create and implement administrative rules for this chapter.

BUILDING means any physical edifice that is built or installed and is located on and affixed to the land and used for or intended for supporting or sheltering any commercial use or occupancy. The term "building" shall include any portion thereof. The term "building" does not include residential buildings or structures.

DISPLAY means an exhibit of objects arranged for people to look at. A display may be presented in two or three dimensions and may include artwork, window paintings, or other items that serve to screen a vacant building's interior from the view of those on public rights-of-way, public places, and private parking lots serving the building.

ENFORCEMENT OFFICIAL means the Police Chief and/or designees authorized to enforce this chapter.

EVIDENCE OF VACANCY means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to, overgrown and/or dead vegetation, utilities turned off, statements by neighbors, passers-by, delivery agents or other officials, lack of response to notices, returned or forwarded mail, unsecured doors, absence of, or condition of, personal belongings on the property, habitation by trespassers, or lack of marketing for purposes of selling or renting property.

PROPERTY OWNER means the owner or owners of record of real property as shown on the latest equalized assessment roll of Nevada County and any person, partnership, co-partnership, association, corporation, beneficiary in a deed of trust, fiduciary, including a trustee or substitute trustee, or any other legal entity having a legal or equitable interest in the subject property as otherwise known to the Enforcement Official by virtue of more recent and reliable information, including any beneficiary that is pursuing foreclosure of a property subject to this section secured by a mortgage, deed of trust or similar instrument or a property that has been acquired by the beneficial interest at a trustee's sale. The terms "owner" and "property owner" shall be synonymous, except where specified.

VACANT BUILDING means a building that shows evidence of vacancy, including where substantially all lawful business or construction activity or occupancy has ceased, or which is substantially devoid of contents. Property shall be considered vacant if business operations are conducted daily on less than ten (10%) percent of the overall square footage of the building. Property shall not be considered vacant if the building is the subject of an active, valid building permit for repair or rehabilitation and the owner provides proof to the enforcement official, such as receipts, invoices or executed contracts, that the repair or rehabilitation is proceeding without significant delay.

VACANT STOREFRONT BUILDING means a vacant building that includes windows visible from a public right of way or other public place, or from a private parking lot serving the building.

8.05.030 - Compliance Required; authority.

- A. Every property owner shall maintain vacant buildings in accordance with this chapter.
- B. Every property owner is liable for violation of this chapter regardless of any contract or agreement the owner has with any third party.
- C. Except as otherwise provided herein, the administering official shall have the authority to administer and create and implement administrative rules for this chapter.
- D. Except as otherwise provided herein, the enforcement official shall have the authority to enforce the provisions of this chapter.

8.05.040 - Public Nuisance and City remedies.

Any vacant building in violation of this chapter shall constitute a public nuisance. The City shall have the right to address violations of this chapter using any admirative or legal proceeding provided in this Code.

8.05.050 - Vacant building registration and removal from registration.

- A. The property owner of a vacant building shall register it in accordance with this section:
 - 1. Within 30 days after it has become vacant; or
 - 2. Within 10 days after notice to do so from the enforcement official; whichever occurs first.
- B. The property owner shall register vacant buildings by providing information to the administering official in a format approved by Nevada City, including:
 - 1. The address of the vacant building.
 - 2. The assessor parcel number of the real property where the vacant building is located.
 - 3. The name, address, and daytime telephone number of the owner. If a notice of default has been issued, the name, address, and daytime phone number of the beneficiary or trustee on the deed of trust shall be included. In the case of a corporation or out of area beneficiary or trustee or owner, the local property management company or agent responsible for the security, maintenance, and monitoring of the property shall be included.

4. The date the building became vacant.
 5. For vacant storefront buildings, a picture of each display, as defined in this chapter, that the owner has caused to be placed in each window visible from a public right of way or other public place, or from a private parking lot serving the building.
 6. Any other information reasonably needed to aid the administration of this chapter.
- C. Any change in the information provided pursuant to this section, including but not limited to a change in ownership, shall be filed with the enforcement official within fifteen days of the change.
- D. The property owner may be relieved from the obligation of registration if the owner demonstrates with evidence to the administering official that:
1. The building is occupied; and
 2. The building has not been in violation of this Code for at least six consecutive months; or
 3. The building is the subject of an active, valid building permit for repair or rehabilitation and the owner provides evidence, such as receipts, invoices or executed contracts, that the repair or rehabilitation is proceeding without significant delay.

8.05.060 - Inspections and monitoring.

- A. The owner of a vacant building shall cause it to be inspected at least weekly for compliance with the maintenance standards of this chapter.
- B. Upon payment of the monitoring fee provided in this chapter, the enforcement official will monitor the vacant building for compliance with the maintenance standards of this chapter.

8.05.070 - Maintenance standards.

- A. **Vacant buildings.** The owner of a vacant building shall maintain it and the property where it is located in accordance with the following standards, without limitation:
- a. Landscaping and plant material alive, growing, and healthy.
 - b. Building exterior well maintained; with finishes, doors, roofing, windows and paint intact and no cracks, peeling, rust or worn areas.
 - c. No exterior trash, debris, personal property, or graffiti.

- d. The building in continuing compliance with all applicable codes and regulations.
 - e. Criminal activity prevented on the premises and in the building, including but not limited to use and sale of controlled substances, prostitution, criminal street gang activity, vandalism, loitering or trespassing.
- B. **Vacant storefront buildings.** The owner of a vacant storefront building shall comply with all maintenance standards for vacant buildings, and in addition shall maintain a display in each window visible from a public right of way or other public place, or from a private parking lot serving the building. Except insofar as windows are painted or otherwise covered with displayed objects, windows shall be cleaned and maintained so that display objects inside the building are clearly visible.
- C. **Updated window displays in vacant storefront buildings.** For each window visible from a public right of way or other public place, or from a private parking lot serving the building: the owner shall submit pictures to the administering official showing updated window displays no less than every six months while the building remains vacant.

8.05.080 - Processing fees.

The owner of the vacant building shall pay the following fees, in the amount as established by resolution of the City Council, at the following times:

- A. Vacant building registration processing fee: at the time of submitting an application for vacant building registration or removal from registration.
- B. Vacant building monitoring fee: at the time of submitting a registration for vacant building registration, and quarterly thereafter while the building remains vacant.

SECTION 3. **ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be not a project under Section 15378 (b)(5) of the CEQA Guidelines.

SECTION 4. **INCONSISTENCIES.** Any provision of the Nevada City Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and/or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION 5. **SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 6. **EFFECTIVE DATE.** This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen

(15) days in The Union, a newspaper of general circulation printed and published in the County of Nevada and circulated in the City of Nevada City and hereby designated for that purpose by the City Council.

SECTION 7. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner and form provided by law in The Union, a newspaper of general circulation printed and published in the City of Nevada City, State of California, which said newspaper is hereby designated for that purpose.

Introduced at a regular meeting of the City Council on the 12th day of April, 2023, by the following roll call vote:

MOTION:

AYES: FLEMING, PETERSEN, KLINE, CECI
NOES:
ABSENT: FERNÁNDEZ
ABSTAINED:

Passed and approved at the regular meeting of the City Council on the 26th day of April, 2023, by the following roll call vote:

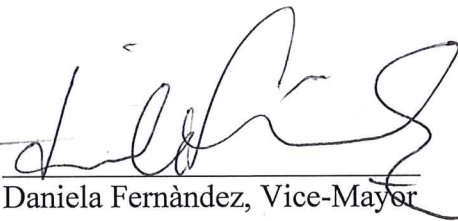
MOTION:

AYES: FERNÁNDEZ, PETERSEN, KLINE, CECI
NOES:
ABSENT: FLEMING
ABSTAINED:

ATTEST:



Gabrielle Christakes, Deputy City Clerk



Daniela Fernández, Vice-Mayor

APPROVED AS TO FORM:



Dean J. Pucci, City Attorney