



Planning Commission **STAFF REPORT**

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Bob Spears, Commissioner*

*Vincent Gonzalez, Planning and
Community Preservation Director*

DATE: February 18, 2016
TO: Planning Commission
FROM: Vincent Gonzalez, Director of Planning & Community Preservation
SUBJECT: Discussion Regarding Property Maintenance Nuisances.

ISSUE

Health and Safety Code Nuisances

Concerns have been expressed by residents, the Planning Commission and City Council regarding property maintenance of vacant residential properties. In some instances such properties have been sold with the intent to remodel or demolish the existing building for replacement with new construction. The issue is when such properties remain vacant for excessive periods of time as to become unsightly or in such condition of deterioration or disrepair that the property could potentially cause depreciation of property values of surrounding properties.

Title 8 – Health and Safety Code

Property maintenance is addressed in the Sierra Madre Municipal Code under Title 8 – Health and Safety Code. Applicable sections of Title 8 specific to property maintenance of residential structures are included as **Attachment A** for your purview and include Chapter 8.16.10 – Property Maintenance—Nuisances. Staff finds that the provisions contained in Chapter 8.16.10 adequately capture the variety of possible violations. Provided below are the specific Chapters that address residential property maintenance related to occupied and vacant properties.

8.08.10 - Control of Weeds

It is unlawful to allow vegetation, or trash if same is a menace to life, health, safety or is liable to promote the spread of fire, as determined by the building inspector, code enforcement officer, or fire marshal.

8.08.20 – Abatement of noxious weeds.

The city has availed itself of the procedures set forth in Sections 39501 and 39502, et seq., of the Government Code relating to the abatement of weeds.

8.12.130 - Unlawful accumulation.

No person shall cause or permit the following:

- A. The collection or accumulation of garbage, unless placed in a receptacle as provided in this chapter for disposal thereof by a contractor or for disposal thereof through automatic disposal units as provided for in this chapter or by some other means approved by the city manager;
- B. The collection of combustible rubbish to accumulate at any place or premises under a person's charge or control for a period in excess of one calendar week, excluding combustible rubbish of salvageable value;
- C. The collection of refuse, other than combustible rubbish, to accumulate at any place or premises under a person's charge or control for a period in excess of one calendar month;
- D. The burning of garbage.

8.16.010 - Property maintenance—Nuisances.

- S. Property maintained in such condition as to become so defective, unsightly or in such condition of deterioration or disrepair that the same causes depreciable diminution of the property values of surrounding properties or is materially detrimental to proximal properties and improvements;
- T. Maintenance of premises so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use or property values of such adjacent properties;
- U. Property maintained (in relation to others) so as to establish a prevalence of depreciated values, impaired investments and social and economic maladjustments to such an extent that the capacity to pay taxes is reduced and tax receipts from such particular area are inadequate for the cost of public services rendered therein;

8.04.020 – Violation-Penalty

Violation of any provision of the health code shall be deemed a misdemeanor, and shall be punishable by a fine of no more than one thousand dollars, or by imprisonment in the city or county jail for not more than six months, or both. Each day during any portion of which any violation of any provision of the health code is committed or permitted, shall be deemed to be a separate offense.

Abatement proceedings are under the purview of the Planning Commission. Whenever the Planning Commission finds, based upon recommendation by city administration, that any property may be maintained contrary to one or more of the provisions of Section 8.16.010, then the Planning Commission shall by resolution declare its intent to conduct a public hearing to ascertain whether the noted violations constitutes a public nuisance. Within 30-days after the passage of the resolution by the Planning Commission, the secretary of the Planning Commission shall cause to be posted on the premises, a certified copy of the resolution, and a public hearing notice. Upon conclusion of the hearing, the Planning Commission will determine if any condition of the property constitutes a public nuisance. The Planning Commission by resolution may declare such premises to be a public nuisance and order the abatement of the violations within thirty days, by having such premises, buildings, or structures, rehabilitated, repaired, or demolished in the manner and means set forth in the resolution. The decision of the Planning Commission shall be final in the absence of an appeal to the City Council.

If the nuisance is not completely abated within a 30-day period, then the Planning Commission or the City Council if the matter was appealed may direct the city administrator to cause the property to be abated by city forces or private contract. An assessment against the property in the form of a lien for the amount of such abatement shall be turned over to the tax collector to add the amounts of the respective assessments to the next regular tax bills levied against the property. The amount shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency.

Additional Options to Abate Vacant and Abandoned Property

The Planning Commission will determine if more stringent or specific provisions of the code should be revised or crafted to abate derelict, vacant, or abandoned properties. One consideration is to include language in the Municipal Code requiring vacant, and abandoned property to be registered with the City to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and/or security of abandoned and vacant properties. A copy of the City of Norwalk's Health and Safety Code is included as **Attachment B** for your purview and consideration of a vacant and abandoned property registration program.

Staff seeks further direction from the Planning Commission.

Attachments (2):

- 1) Exhibit A: Proposed Revisions to Sierra Madre Municipal Code Section 8.16.010
- 2) Exhibit B: City of Norwalk Vacant and Abandoned Property Registration, Maintenance, and Security Requirements.

TITLE 8 – HEALTH AND SAFETY CODE (Applicable Sections)

8.08.010 - Control of Weeds

It is unlawful to allow vegetation, or trash if same is a menace to life, health, safety or is liable to promote the spread of fire, as determined by the building inspector, code enforcement officer, or fire marshal.

8.08.020 – Abatement of noxious weeds.

The city has availed itself of the procedures set forth in Sections 39501 and 39502, et seq., of the Government Code relating to the abatement of weeds.

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No person shall cause or permit the following:

- A. The collection or accumulation of garbage, unless placed in a receptacle as provided in this chapter for disposal thereof by a contractor or for disposal thereof through automatic disposal units as provided for in this chapter or by some other means approved by the city manager;
- B. The collection of combustible rubbish to accumulate at any place or premises under a person's charge or control for a period in excess of one calendar week, excluding combustible rubbish of salvageable value;
- C. The collection of refuse, other than combustible rubbish, to accumulate at any place or premises under a person's charge or control for a period in excess of one calendar month;
- D. The burning of garbage.

The city has availed itself of the procedures set forth in Section 39501 and 39502, et seq., of the Government Code relating to the abatement of weeds.

Chapter 8.16 - SITE NUISANCES

Sections:

8.16.010 - Property maintenance—Nuisances.

It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this city to maintain such premises in such manner that any of the following conditions are found to exist thereon:

- A. Buildings or structures which are structurally unsafe or which are not provided with adequate egress or which constitute a fire hazard; or which are otherwise dangerous to human life; or which in relation to existing use constitute a hazard to safety or health or public welfare by reason of inadequate maintenance, dilapidation or abandonment;
- B. Buildings or structures maintained in violation of the Uniform Building Code of the city;

- C. Land, the topography, geology or configuration of which, whether in natural state or as a result of grading operations, causes erosion, subsidence or surface water run-off problems of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare or to adjacent properties;
- D. Premises maintained so as to constitute a fire hazard by reason of woods, rank overgrowth or accumulation of debris;
- E. Buildings which are abandoned, boarded up, partially destroyed or left unreasonably in a state of partial construction;
- F. Unpainted buildings likely to cause dry rot, warping and termite infestation;
- G. Broken windows constituting hazardous conditions and inviting trespassers and malicious mischief;
- H. Overgrown vegetation:
 - 1. Likely to harbor rats, vermin and other nuisances; or
 - 2. Causing detriment to neighboring properties or property values;
- I. Dead trees, weeds and debris:
 - 1. Constituting unsightly appearance; or
 - 2. Dangerous to public safety and welfare; or
 - 3. Detrimental to nearby property or property values.
- J. Trailers, campers, boats and other mobile equipment stored for unreasonable periods in yard areas open to view from the street which causes depreciation of nearby property value;
- K. Inoperable or abandoned motor vehicles stored for unreasonable periods in front and side yard areas which cause depreciation of nearby property values;
- L. Attractive nuisances dangerous to children in the form of:
 - 1. Abandoned and broken equipment,
 - 2. Hazardous pools, ponds and excavations, and
 - 3. Neglected machinery;
- M. Broken or discarded furniture and household equipment in front yard areas for unreasonable periods;
- N. Clothes lines in front yard areas;
- O. Garbage cans stored in front or sideyards and visible from public streets;
- P. Packing boxes and other debris stored in yards and visible from public streets for unreasonable periods;
- Q. Neglect of premises:
 - 1. To spite neighbors, or
 - 2. To influence zone changes,
 - 3. To cause detrimental effect upon nearby property or property values;
- R. Maintenance of premises in such condition as to be detrimental to the public health, safety or general welfare or in such manners as to constitute a public nuisance as defined by Civil Code 3480;
- S. Property maintained in such condition as to become so defective, unsightly or in such condition of deterioration or disrepair that the same causes depreciable diminution of the property values of surrounding properties or is materially detrimental to proximal properties and improvements;

- T. Maintenance of premises so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use or property values of such adjacent properties;
- U. Property maintained (in relation to others) so as to establish a prevalence of depreciated values, impaired investments and social and economic maladjustments to such an extent that the capacity to pay taxes is reduced and tax receipts from such particular area are inadequate for the cost of public services rendered therein;
- V. Any building or structure which has any or all of the following conditions or defects:
 - 1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size, or it is not so arranged as to provide safe and adequate means of exit, in case of fire or panic, for all persons housed or assembled therein who would be required to, or might use such door, aisle, passageway, stairway or other means of exit,
 - 2. Whenever the stress in any materials, member or portions thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Uniform Building Code,
 - 3. Whenever any portion thereof has been damaged by earthquake, wind, flood or by any other cause, in such a manner that the structural strength or stability thereof is appreciably less than it was before such catastrophe and is less than the minimum requirements of this code for a new building or similar structure, purpose or location,
 - 4. Whenever any portion or member or appurtenances thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property,
 - 5. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one and one-half that specified in the Uniform Building Code without exceeding the working stresses permitted in the Uniform Building Code,
 - 6. Whenever any portion thereof has settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquake than is required in the case of new construction,
 - 7. Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or some other cause, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way,
 - 8. Whenever, for any reason whatsoever, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is used,
 - 9. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base,

10. Whenever the building or structure, exclusive of the foundation shows thirty-three percent or more of damage or deterioration to the member or members, or fifty percent of damage or deterioration of a nonsupporting enclosing or outside wall or covering,
11. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminal or immoral persons, or as to enable person to resort thereto for the purpose of committing nuisance or unlawful or immoral acts,
12. Any building or structure which has been constructed or which now exists or is maintained in violation of any specific requirement or prohibition, applicable to such building or structure of the building regulations of this city, as set forth in the Uniform Building Code or Uniform Housing Code, or of any law or ordinance of this state or city relating to the condition, location or structure of buildings,
13. Any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion, less than fifty percent, or in any supporting member less than sixty-six percent of the strength, fire-resisting qualities or characteristics required by law or ordinance in the case of like area, height or occupancy in the same location,
14. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the health officer, or is likely to work injury to the health, safety or general welfare of those living within,
15. Whenever the building or structure, used or intended to be used for dwelling purposes, has light, air, and sanitation facilities inadequate to protect the health, safety or general welfare of persons living within,
16. Whenever any building or structure, by reason of obsolescence, dilapidated condition, deterioration, damage, electrical wiring, gas connections, heating apparatus, or other cause, is in such condition as to be a fire hazard and is so situated as to endanger life or other buildings or property in the vicinity or provide a ready fuel supply to augment that spread and intensity of fire arising from any cause.

(Prior code § 5250)

8.16.020 - Abatement—Repair, rehabilitation, removal.

All or any part of premises found, as provided in this chapter, to constitute a public nuisance shall be abated by rehabilitation, demolition or repair pursuant to the procedures set forth in this chapter. The procedures set forth in this chapter shall not in

any manner, however, limit or restrict the city from enforcing city ordinances or abating such public nuisances in any other manner provided by law.
(Prior code § 5251)

8.16.030 - Nuisance declaration.

Whenever the planning commission finds, based upon recommendation therefor by the city administrator, that any premises within the city may be maintained contrary to one or more of the provisions of [Section 8.16.010](#), then the planning commission shall by resolution declare its intent to conduct a public hearing to ascertain whether the same constitutes a public nuisance, the abatement of which is appropriate under the police power of the city. The resolution shall describe the premises involved by street address, referring to the street by the name under which it is officially or commonly known, shall further describe the property by giving the lot and block number thereof, shall give a brief description of the conditions contrary to the provisions of [Section 8.16.040](#) and a brief statement of the methods of abatement thereof.
(Prior code § 5252)

8.16.040 - Abatement hearing.

Within thirty days after the passage of the resolution by the planning commission, the secretary of the planning commission shall cause to be posted on the premises, a certified copy of such resolution, and a notice of the time and place of hearing before the planning commission, which notice shall be title: "NOTICE OF HEARING" in letters not less than one inch in height and shall be substantially in the following form:

**NOTICE OF HEARING
TO DETERMINE EXISTENCE OF
PUBLIC NUISANCE AND TO ABATE
IN WHOLE OR IN PART**

Notice is hereby given that on the; #rule; day of; daterule; the Planning Commission of the City passed a resolution declaring its intent to ascertain whether certain premises situated in the City of Sierra Madre, State of California, known and designated as _____ in said City, and more particularly described as Lot. No.;#rule; Tract No.;#rule;, constitute a public nuisance and are subject to abatement by the rehabilitation of such subject to abatement by the rehabilitation of such premises or by the repair or demolition of buildings or structures situated thereon. If said premises, in whole or part, are found to constitute a public nuisance as defined to constitute a public nuisance as defined by [Section 8.16.010](#) of this Code and if the same are not promptly abated by the owner, such nuisances may be abated by municipal authorities, in which case the cost of such rehabilitation, repair or demolition will be assessed upon such premises and such cost will constitute a lien upon such land until paid. (Reference is hereby made to Resolution No.;#rule; on file with the Secretary of the Planning Commission for further particulars.)

Said alleged violation consist of the following:

The methods of abatement available are:

All persons having any objection to, or interest in said matters are hereby notified to attend a meeting of the Planning Commission of the City to be held on the ;#rule; day of ;daterule; at the hour of _____ when their testimony and evidence will be heard and given due consideration.

Dated: This ; #rule; day of; daterule;, 19_____.

Secretary of the Planning Commission

(Prior code § 5253)

8.16050 - Notice—Service—Posting.

A.

The city clerk shall cause to be served upon the owner of each of the affected premises, one copy of the notice and a certified copy of the resolution of the planning commission, in accordance with the provisions of [Section 8.16.060](#).

B.

The notice and resolutions shall be posted and served, as aforesaid, at least ten days before the time fixed for such hearing; proof of posting and service of such notices and resolution shall be made by affidavit filed with the planning commission.

(Ord. 1084 § 1 (part), 1992: prior code § 5254)

8.16.060 - Notice—Form of service.

A.

Service of the notice and resolution shall be by personal service upon the owner of the affected premises as such owner's name and address appears on the last equalized assessment roll if he is found within the city limits; or if he is not found within the city limits, by depositing a copy of the notice and resolution in the U.S. Postal Service enclosed in a sealed envelope and with the postage thereon fully prepaid. The mail shall be registered or certified and addressed to the owner at the last known address of the owner, and if there is no known address, then in care of the property address.

B.

The service is complete at the time of such deposit. "Owner" as used in this chapter means any person in possession and also any person having or claiming to have any legal or equitable interest in the premises, as disclosed by a title search from any accredited title company. The failure of any person to receive such notice shall not affect the validity of any proceedings under this chapter.

(Prior code § 5255)

8.16.070 - Notice—Hearing.

- A. At the time stated in the notices, the planning commission shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged public nuisance and to proposed rehabilitation, repair or demolition of such premises. Such hearing may be continued from time to time.
- B. Upon the conclusion of the hearing, the planning commission shall, based upon such hearing, determine whether the premises, or any part hereof, as maintained constitutes a public nuisance as defined in this chapter. If the planning commission finds that such public nuisance does exist and that there is sufficient cause to rehabilitate, demolish or repair the same, the planning commission may by resolution declare such premises to be a public nuisance and order the abatement of the same within thirty days, by having such premises, buildings or structures, rehabilitated, repaired or demolished in the manner and means specifically set forth in the resolution. The decision of the planning commission shall be final in the absence of an appeal therefrom to the city council as provided in this chapter.

(Ord. 1084 § 1 (part), 1992: prior code § 5256)

8.16.080 - Resolution to abate.

A copy of the resolution of the planning commission ordering the abatement of the nuisance shall be served upon the owners of the property in accordance with the provisions of [Section 8.16.060](#), and shall contain a detailed list of needed corrections and abatement methods. Any property owner shall have the right to have any such premises rehabilitated or to have such buildings or structures demolished or repaired in accordance with the resolution and at his own expenses provided the same is done prior to the expiration of the thirty-day abatement period. Upon such abatement in full by the owner, then proceedings under this chapter shall terminate.

(Ord. 1084 § 1 (part), 1992: prior code § 5257)

8.16.090 - City action—Appeal.

- A. Appeal. Any person entitled to service under [Section 8.16.060](#) may appeal from the decision of the planning commission by filing at the office of the city clerk within seven days from the date of service of such decision, a written, dated appeal, containing:
 - 1. A headline in the words: "Before the City Council";
 - 2. A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal;
 - 3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order;
 - 4. A statement in ordinary and concise language of the specific order or action protested, together with any material facts supporting the contentions of the appellant.

- B. Hearing. As soon as practicable after receiving the written appeal, the city clerk shall set a date for hearing of the appeal by the city council, which date shall be not less than ten days nor more than forty-five days from the date the appeal was filed. Written notice of the time and place of the hearing shall be given, at least ten days prior to the date of the hearing, to each appellant by the city clerk either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal. Continuances of the hearing may be granted by the city council on motion of either party for good cause shown, or on the city council's own motion.
- C. Decision. Upon the conclusion of the hearing on such appeal, the city council shall by resolution either:
1. Terminate the proceedings;
 2. Confirm the action and decision of the planning commission; or
 3. Modify such decision based upon evidence adduced at the hearing.
- In the cases of alternatives 2 or 3 of this subsection, the resolution shall declare such premises to be a public nuisance and order the abatement of the same within thirty days or such other period of time as may be fixed by order of the council by having such premises, buildings or structures rehabilitated, repaired or demolished in the manner and means specifically set forth in the resolution.
- (Ord. 1084 § 1 (part), 1992; prior code § 5258)

8.16.100 - City abatement.

If such nuisance is not completely abated by the owner as directed within the thirty-day period, then the planning commission or the city council if the matter was appealed may direct the city administrator to cause the same to be abated by city forces or private contract and the city administrator is expressly authorized to enter upon the premises for such purpose.

(Ord. 1084 § 1 (part), 1992; prior code § 5259)

8.16.110 - Abatement cost.

The city engineer shall keep an account of the cost (including incidental expenses) of abating such nuisance on each separate lot, or parcel or land where the work is done and shall render an itemized report in writing to the body ordering the abatement, as specified in [Section 8.16.100](#), showing the cost of abatement and the rehabilitating, demolishing or repairing of the premises, building or structures, including any salvage value relating thereto; provided, that before the report is submitted to the directing body as specified in [Section 8.16.100](#), showing the cost of abatement and the rehabilitating, demolishing or repairing of the premises, buildings or structures, including any salvage value relating thereto; provided, that before the report is submitted to the directing body as specified in [Section 8.16.100](#), a copy of the same shall be posted for at least five days upon such premises, together with a notice of the time when the report shall be heard by the planning commission or city council for confirmation; a copy of such report,

in accordance with the provisions of [Section 8.16.060](#), at least five days prior to submitting the same to the planning commission or city council; proof of the posting and service shall be made by affidavit filed with the city clerk. The term "incidental expenses" includes, but not be limited to, the actual expenses and costs of the city in the preparation of notices, specifications and contracts, and in inspecting the work, and the costs of printing and mailing required under this chapter.

(Prior code § 5260)

8.16.120 - Report—Hearing and proceedings.

At the time and place fixed for receiving and considering the report, the directing body as specified in [Section 8.16.100](#) shall hear and pass upon the report of the city engineer together with any objections or protests. Thereupon the directing body may make such revision, correction or modification in the report as it may deem just, after which by resolution the report, as submitted or as revised, corrected or modified, shall be confirmed. The decision of the directing body on all protests and objections which may be made shall be final and conclusive.

(Prior code § 5261)

8.16.130 - Assessment against property—Lien.

The total cost for abating such nuisance, as so confirmed by the directing body as specified in [Section 8.16.100](#), shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county recorder of a notice of lien, as so made and confirmed, shall constitute a lien on the property for the amount of such assessment.

- A. After such confirmation and recordation, a copy may be turned over the tax collector for the city, whereupon it shall be the duty of the tax collector to add the amounts of the respective assessments to the next regular tax bills levied against the respective lots and parcels of land for municipal purposes, and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes; or
- B. After such recordation such lien may be foreclosed by judicial or other sale in the manner and means provided by law.
- C. Such notice of lien for recordation shall be in form substantially as follows:

NOTICE OF LIEN (Claim of City of Sierra Madre)

Pursuant to the authority vested in the provisions of the Section 18.16.010 of the Sierra Madre City Code., the City Engineer of the City of Sierra Madre did on or

about the ;daterule; day of ;daterule;, 19;daterule;, cause the premises hereinafter described to be rehabilitated or the building or structure on the property hereinafter described, to be repaired or demolished in order to abate a public nuisance on said real property; and the (City Council or Planning Commission) of the City of Sierra Madre did on the ;#rule; day of ;daterule; , 19_____, assess the cost of such rehabilitations, repair or demolition upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that said City of Sierra Madre does hereby claim a lien on such rehabilitation, repair or demolition in the amount of said assessment, to wit: the sum of \$;\$rule; and the same shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinbefore mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Sierra Madre, County of Los Angeles, State of California, and particularly described as follows:

(DESCRIPTION)

;adv=10; Dated: This; #rule; day of; daterule;, 19_____.

City Engineer of the City
of Sierra Madre

(ACKNOWLEDGMENT)

8.16.140 - Civil or criminal proceeding.

Nothing in this chapter shall be deemed to prevent the directing body as specified in [Section 8.16.100](#) for ordering the city attorney to commence a civil or criminal proceeding to abate a public nuisance under applicable city or penal code provisions as an alternative to the proceedings set forth in this chapter.

(Prior code § 5263)

CITY OF NORWALK

Vacant and Abandoned Property Registration, Maintenance, and
Security Requirements

TITLE 8 HEALTH AND SAFETY CODE

8.56.010 Purpose and scope.

It is the purpose and intent of the City Council, through the adoption of this chapter, to establish a registration program for abandoned and vacant property as a mechanism to protect residential neighborhoods and commercial areas from becoming blighted through the lack of adequate maintenance and/or security of abandoned and vacant properties.

8.56.020 Definitions.

As used in this chapter, the following definitions shall apply and, for purposes of this chapter, shall supersede any other definitions of the same terms in this code.

Abandoned shall mean real property that is vacant and that meets any of the following conditions:

1. Is under a current Notice of Default.
2. Is under a current Notice of Trustee's Sale.
3. Is pending a tax assessor's lien sale.
4. Has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure.
5. Has been transferred under a deed in lieu of foreclosure.

Accessible property shall mean any property that is accessible through a gate, fence, wall, or other barrier that is broken, unlocked, unsecured, or otherwise missing or lacking.

Accessible structure shall mean a building or structure (as defined by the Building Code) that is unsecured in any manner that could allow access to the interior of the building or structure by unauthorized persons.

Agreement shall mean any agreement or written instrument which provides that title to real property shall be transferred or conveyed from one owner to another in any manner (whether by sale, gift, exchange, transfer, partition, assignation, placement in a trust, or any other method).

Assignment of rents shall mean an instrument that transfers the beneficial interest under a deed of trust from one lender or entity to another.

Beneficial interest shall mean the interest held in a deed of trust by a beneficiary.

Beneficiary shall the person or persons who own or hold a promissory note that is secured by a deed of trust and who is/are named in that document. *Beneficiary* shall include, but shall not be limited to, the assignees, successors, or transferees of a holder of such a promissory note.

City shall mean the City of Norwalk.

Code shall mean the Norwalk Municipal Code and all laws and regulations incorporated therein, as well as all uncodified and adopted ordinances.

Deed in lieu of foreclosure/sale shall mean a deed to real property accepted by a lender/beneficiary from a defaulting trustor/borrower to avoid the necessity of foreclosure proceedings by the lender.

Deed of trust shall mean an instrument by which an interest in title to real estate is transferred to a third party trustee as security for a real estate loan (and often used in California instead of a mortgage). This definition applies to any and all subsequent deeds of trust (e.g., second deed of trust, third deed of trust).

Default shall mean the failure to fulfill a contractual obligation, monetary or otherwise, under a promissory note and/or deed of trust.

Distressed property shall mean a property that meets any of the following conditions:

1. Is under a current Notice of Default that has been recorded with the Los Angeles County Recorder's Office.
2. Is under a current notice of trustee's sale that has been recorded with the Los Angeles County Recorder's Office.
3. Is pending a tax assessor's lien sale.
4. Has been the subject of a foreclosure sale where legal title was retained or acquired by the beneficiary of a deed of trust involved in the foreclosure.
5. Has been transferred under a deed in lieu of foreclosure.

Evidence of vacancy shall mean 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 shall include, but shall not be limited to, overgrown and/or dead

vegetation; accumulation of newspapers, circulars, flyers, and/or mail; past-due utility notices and/or disconnected utilities; accumulation of trash, junk, and/or other debris; the absence of window coverings such as curtains, blinds, and/or shutters; the absence of furnishings and/or personal items and/or commercial furnishings consistent with the permitted residential or commercial uses permitted within the zone of the real property; or statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

Foreclosure shall mean the process by which real property pledged as security for a debt is sold to satisfy the debt in event of default in payments or terms. Said process may include recordation of a Notice of Default and/or Notice of Trustee's Sale against the property that is the subject of a default.

Local shall mean within forty (40) driving miles distance of the subject property.

Notice of Default shall mean a recorded notice indicating that a default has occurred under a Deed of Trust and that the beneficiary/trustee named therein, or a successor trustee, intends to proceed with a trustee's sale and/or other foreclosure proceeding. This Notice remains current so long as an instrument evidencing its cancellation, withdrawal, or rescission has not been recorded.

Notice of Trustee's Sale shall mean a recorded notice that follows a Notice of Default to announce the date, time, and place that a sale of real property may occur as a result of a default under a Deed of Trust. This Notice remains current so long as an instrument evidencing its cancellation, withdrawal, or rescission has not been recorded.

Out-of-area shall mean not within forty (40) driving miles distance of the subject property.

Owner shall mean any person having legal or equitable title or any interest in any real property, including the right to possess and use that property.

Owner of record shall mean the person having title to the property at any given point in time as recorded with the Los Angeles County Recorder's Office.

Person shall mean and include any individual, 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. *Person* also includes any public entity or agency that acts as an owner in the City.

Personal property shall mean property that is not real property, and includes, without limitation, any appliance, article, device, equipment, item, material, product, substance or vehicle.

Real property shall mean any improved or unimproved real property owned by any person and/or any building, structure, or other improvement thereon, or any portions thereof.

Responsible party shall mean any person or persons who has/have equitable or legal title to or control over real property. *Responsible party* includes, but is not limited to, every owner, owner of record, beneficiary, lien holder, trustee, servicing company, real estate agent, property management company, as well as any person acting on behalf of another responsible party.

Securing shall mean and include such measures as may be directed by the Building Official (or designee thereof) that assist in rendering real property inaccessible to unauthorized persons, including, but not limited to, the repair of fences, walls, and other barriers; chaining or padlocking of gates; and/or the repair or boarding of doors, windows, and/or other openings. The boarding of any window, door, or other opening shall be completed to a minimum of the current United States Department of Housing and Urban Development (HUD) securing standards at the time the boarding is completed or required and shall be consistent with the requirements of this chapter.

Substitution of Trustee shall mean a document executed by a beneficiary that replaces a trustee under a Deed of Trust with another.

Trustee shall mean the person holding a deed of trust on real property, and who has the power to sell the property if the trustor does not fulfill the obligations as recited in the instrument.

Trustor shall mean a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

Vacant shall mean real property and any building or structure thereon that is not legally occupied, or that otherwise shows evidence of vacancy.

8.56.030 Recordation of transfer of loan/deed of trust.

A. Within ten (10) calendar days following the purchase or transfer of a loan or deed of trust secured by real property, the new beneficiary and trustee shall record with the Los Angeles County Recorder's Office an assignment of rents or similar document that lists the name of the person purchasing or acquiring the loan or deed of trust and the mailing address and contact telephone number of the new beneficiary and trustee responsible for receiving payment associated with the loan or deed of trust. This requirement shall not apply to the sale or transfer of a property when such sale or transfer does not include the sale or transfer of any loan or deed of trust associated with such property.

B. Within ten (10) calendar days following the change of a trustee in a deed of trust secured by real property, the beneficiary shall record with the Los Angeles County

Recorder's Office a Substitution of Trustee or similar document that lists the name of all new trustees, as well as the mailing address and contact telephone number of all new trustees.

8.56.040 Inspection and registration—Fees.

A. Any beneficiary and trustee who holds a deed of trust on real property located within the City of Norwalk shall, within ten (10) calendar days of recordation of a Notice of Default with the Los Angeles County Recorder's Office, perform an inspection of said real property. If the real property is found to be abandoned or shows evidence of vacancy (as these terms are defined by this chapter), the beneficiary and trustee shall register the real property with the City, on City-approved forms, within ten (10) calendar days of the inspection and shall pay an initial registration fee and annual monitoring fee as set by resolution of the City Council. The registration (including the Statement of Intent as referenced in subsection (D)(4) of this section) and accompanying monitoring fee shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. The registration fee shall not be prorated. The annual monitoring fee shall be prorated according to the quarter the initial registration is filed. Subsequent fees shall be due January 1st of each year and must be received by the City no later than January 31st of the year due for as long as the property is subject to registration pursuant to this chapter.

B. If the property is occupied at the time of the initial inspection but a Notice of Default or Notice of Trustee's Sale remains current in connection therewith, it shall be inspected by the beneficiary and trustee every subsequent calendar month until:

1. The trustor or other party remedies the default;
2. The foreclosure is completed and ownership is transferred to a new owner who is not the former beneficiary or trustee; or
3. The real property is found to be vacant or shows signs of vacancy, at which time the beneficiary and trustee shall register the real property with the City within ten (10) calendar days of said inspection.

C. The beneficiary and trustee shall register with the City any real property which becomes vacant or shows evidence of vacancy after a foreclosure where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any property which becomes vacant or shows evidence of vacancy after being transferred under a deed in lieu of foreclosure/sale. Registration shall be filed on City-approved forms within ten (10) calendar days of the inspection demonstrating the vacancy or the evidence of vacancy.

D. The registration forms, as established by the City Manager (or designee thereof) shall contain, at a minimum, the following information:

1. Name and street/office address (not a P.O. Box) and, if different, the mailing address of each beneficiary and trustee;

2. A direct contact name, telephone number, and e-mail address for the person handling the deed of trust and/or foreclosure;

3. The name, street address, telephone and facsimile numbers of a local property management service provider responsible for the security and maintenance of the real property, as well as identical information for all realtors who have been engaged to market the real property;

4. A Statement of Intent that provides the following information:

a. The expected period of vacancy,

b. A detailed plan for the regular maintenance of the real property during the period of vacancy,

c. A time-table for the lawful re-occupancy of the real property, or for the rehabilitation or demolition of the structures thereon.

E. Persons required to register real property pursuant to this chapter shall keep such property registered and shall comply with all security and maintenance requirements of this chapter (as well as all other provisions of this code) for the entire time such property remains vacant or shows evidence of vacancy. Persons required to register real property pursuant to this chapter shall also report in writing to the City any change of information contained in the registration within ten (10) calendar days of the change.

F. When real property subject to registration pursuant to this chapter becomes occupied or title is transferred to another responsible party, the beneficiary, trustee and/or prior responsible party shall notify the City in writing within ten (10) calendar days of the property's occupancy or the transfer of title.

G. In such instance where title to an abandoned or vacant real property that was subject to registration pursuant to the provisions of this chapter has been transferred to another responsible party, the new responsible party shall re-register the real property with the City on City-approved forms within ten (10) calendar days of the transfer. Re-registration forms shall contain, at a minimum, all of the information required by subsection D of this section. A re-registration fee as set by Council resolution shall accompany the re-registration form.

H. Nothing contained within this chapter relieves a responsible party from complying with any other obligation set forth in any applicable "Conditions, Covenants, and Restrictions" and/or Homeowner's Association rules and regulations or with any other provision of this code.

8.56.050 Inspection and registration of previously abandoned property.

Any beneficiary and trustee who holds a deed of trust on real property located within the City of Norwalk, which property is distressed (as defined by this chapter) on the effective date of this chapter, shall, within sixty (60) days of adoption of the ordinance establishing this chapter as part of the Code, perform an inspection of the real property that is the security of the deed of trust. If the real property is found to be vacant or shows evidence of vacancy, the beneficiary and trustee shall register the real property with the City, on City-approved forms, within ten (10) calendar days of the inspection, and shall otherwise comply with the requirements of Section 8.56.040.

8.56.060 Property maintenance requirements.

Real property subject to the registration requirements of this chapter shall be maintained in a neat, clean, healthful, and sanitary condition at all times. The following conditions do not constitute a neat, clean, healthful, and sanitary condition and shall be explicitly prohibited:

A. Buildings or structures with graffiti, tagging, or other markings, or graffiti, tagging, or other markings that have not been completely removed or painted over with a color matching the exterior of the remaining portion of the building or structure;

B. Accumulations of lumber, junk, trash, debris, construction material, household furniture, appliances, clothing, or discarded, unused, or abandoned personal property on exterior portions of the real property;

C. Accumulations of newspapers, circulars, flyers, notices, or other printed material that give the appearance that the property is vacant (except those required by Federal, State, or local law);

D. Vegetation that is overgrown, dead, decaying, or otherwise that is not adequately trimmed, pruned, cut, fertilized, watered, or replaced;

E. Swimming pools, spas, or other bodies of water that are not maintained in such a manner as to be free and clear of pollutants or debris, or that are maintained in such a manner as to be likely to harbor mosquitoes, insects, or vector, including, but not limited to, water that is clouded or green, water containing bacterial growth, algae, insect larvae, insect remains, or animal remains; or swimming pools that are not covered, secured and/or maintained in such a manner that water cannot collect or accumulate therein or on top of a cover thereon; and

F. Accessible property or accessible structures not secured as required by this chapter.

8.56.070 Security requirements.

A. Real properties subject to registration pursuant to this chapter (and buildings or structures thereon) shall be secured within forty-eight (48) hours of becoming abandoned, vacant, or showing evidence of vacancy, in a manner to prevent access by unauthorized persons, including, but not limited to, the closure, locking, and/or boarding of windows, doors, gates, or other openings of such a size that it may allow a child to access the interior of the real property and/or buildings or structures located thereon (including garage structures or detached accessory structures).

1. No window, door, or other opening shall be boarded without prior written approval of the Building Official (or designee thereof) and when such approval has been granted, the boarding of any window, door, or other opening shall be completed to a minimum of the current United States Department of Housing and Urban Development (HUD) securing standards at the time the boarding is completed or required and shall be consistent with the requirements of this chapter. The factors that shall be considered in determining whether the boarding of windows, doors, or other openings include, but are not limited to:

- a. Whether the window, door, or other opening is visible from a public vantage;
- b. The difficulty of adequately securing the window, door, or other opening in another manner so as to prevent unauthorized entry;
- c. The length of time the real property has been abandoned or vacant; and
- d. The length of time the real property is expected to remain abandoned or vacant (as indicated in any Statement of Intent on file with the City).

B. Responsible parties for any real property subject to registration pursuant to this chapter shall submit a "Letter of Agency" (or other similarly entitled authorization) to the Los Angeles County Sheriff's Department (Norwalk Station) every thirty (30) calendar days and post "No Trespassing" signs as required and approved by the City so that the Sheriff's Department is authorized to remove and/or arrest all unauthorized persons from the property.

8.56.080 Local property management service provider required.

A. If the responsible parties' place of residence or business location is not local, as defined by this chapter, then the responsible parties for any project subject to the registration pursuant to this chapter shall retain the services of a local property management service provider that shall be responsible for the maintenance and security of the real property. Responsible parties shall provide in writing the name and twenty-four (24) hour contact telephone number of the local property management service provider to adjoining neighbors in case of emergency or other issues that arise in connection with the subject property. Use of out-of-area property management service providers is prohibited. The retention of a local property management service provider shall not relieve

other responsible parties of their obligations, duties, or responsibilities for the maintenance and security of the real property.

B. Responsible parties shall cause the on-site inspection of any real property subject to registration pursuant to this chapter to be inspected on a weekly basis and shall submit a written inspection report to the City Manager (or designee thereof) for the previous calendar month on or before the tenth (10th) day of each calendar month for which the real property remains vacant or shows evidence of vacancy. The written report shall consist of, at a minimum, the following:

1. The address of the real property being inspected;
2. The dates of inspection;
3. A description of any unlawful conditions observed; and
4. The actions taken or proposed to be taken by the responsible party to abate the unlawful conditions.

C. Responsible parties shall cause the abatement of any unlawful condition existing on real property subject to registration pursuant to this chapter within forty-eight (48) hours of observing or of being notified of the unlawful condition. Nothing in this chapter relieves any responsible party of the need to obtain approvals, permits, and/or licenses as otherwise required by this code.

8.56.090 Additional requirements—Appeal.

A. In addition to the specific maintenance and security requirements provided in this chapter, the Building Official, Sheriff's Department, and/or Fire Department (or designees thereof) shall have the authority to require responsible parties for real property subject to registration pursuant to this chapter to implement additional maintenance and security measures in order to effectuate the purpose of this chapter, including, but not limited to, the installation of security lighting, increasing the frequency of on-site inspections, employment of an on-site security guard, and/or posting of additional signage at the subject property.

B. Any responsible party may request a hearing before the City Manager (or designee thereof) in order to challenge or appeal the imposition of any additional maintenance and/or security requirements pursuant to this section in accordance with the requirements, procedures, and provisions of Chapter 1.13 of this code.

8.56.100 Re-occupancy of abandoned or vacant property.

No person shall reoccupy or cause, permit, or suffer the re-occupancy of any real property (or building or structure thereon) that has been subject to registration pursuant

to this chapter in excess of ninety (90) calendar days without having first met the following conditions:

A. All charges, fees, and/or costs imposed pursuant to this chapter or other applicable provisions of this code have been tendered-in-full to the City;

B. City officials have conducted an onsite inspection of the real property (including all structures located thereon) to confirm they are in compliance with applicable provisions of this code; and

C. All unlawful conditions existing at the subject property have been fully corrected and abated with all requisite approvals, permits, and/or inspections.

8.56.110 Violations and penalties.

A. Notwithstanding any other provision of this chapter to the contrary, any person who causes, permits, or suffers a violation of any provision of this chapter, or who fails to comply with any obligation or requirement of this chapter, is guilty of a misdemeanor punishable in accordance with Chapter 1.16 of this code and is also subject to administrative citations in accordance with Chapter 1.13 of this code.

B. Each person shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this chapter, or of any law or regulation referenced herein, is allowed, committed, continued, maintained, permitted or suffered by such person, and shall be punishable accordingly.

C. This chapter does not exclusively regulate the use, maintenance, and security of real and/or personal property within the City, and the remedies provided in this chapter are in addition to other civil or criminal remedies and penalties authorized by this code, or by the laws of the State of California or of the United States. Nothing in this chapter shall be intended to limit the City from engaging in efforts to obtain voluntary compliance by means of warnings, notices, administrative citations or educational programs.