

ORDINANCE NO. 2023-507

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUADALUPE, CALIFORNIA, ADDING CHAPTER 8.80 TO THE CITY OF GUADALUPE MUNICIPAL CODE CONCERNING VACANT COMMERCIAL PROPERTY REGISTRATION AND PROPERTY MAINTENANCE

WHEREAS, vacant buildings contribute to blight in the city, discourage economic development, diminish appreciation of property values, endanger public health and safety, attract criminal activity, and create fire hazards; and

WHEREAS, it is the responsibility of property owners to prevent buildings from becoming a burden to the neighborhood and community and a threat to the public health, safety, and welfare; and

WHEREAS, vacant buildings result in increased expenditures for police, fire, and code enforcement inspections and calls; and

WHEREAS, in addition to posing a threat to environmental health, vacant commercial buildings can thwart potential community development, fiscal, and economic opportunities of the City as a result of a decline in property values and environmental degradation, making it more difficult to attract private and public investments and making revitalization strategies more difficult to implement.

WHEREAS, it is desirable for the maintenance of public health, safety, and welfare and to improve economic development opportunities for the City to maintain an accurate registration of all vacant commercial buildings, which will help to decrease the number of vacant commercial buildings by encouraging owner to actively market their properties for sale, lease, or rent.

NOW, THEREFORE, the City Council of the City of Guadalupe does ordain as follows:

SECTION 1. Chapter 8.80 of the Guadalupe Municipal Code is hereby added to read as follows:

Chapter 8.80 - VACANT COMMERCIAL PROPERTY REGISTRATION AND PROPERTY MAINTENANCE

8.80.010 Purpose.

Recognizing that vacant buildings contribute to blight in the city, discourage economic development, diminish appreciation of property values, endanger public health and safety, attract criminal activity, and create fire hazards, it is the responsibility of property owners to prevent buildings from becoming a burden to the neighborhood and community and a threat to the public health, safety, and welfare. The City Council finds that vacant buildings result in increased expenditures for police, fire, and code enforcement inspections and calls. Maintenance

of public health, safety, and welfare thus requires the city to maintain an accurate registration of all vacant commercial buildings and to impose each of the requirements, procedures, and penalties set forth herein. The ordinance codified in this chapter shall be known as the "vacant commercial property registration and property maintenance ordinance," and is hereinafter referred to within this Chapter 8.80, as "this chapter."

8.80.020 - Definitions.

For the purposes of this chapter, the following terms are defined as set out in this section:

A. "Commercial building" means a building, accessory structure, mobile or modular structure, or other structure adapted to permanent occupancy for commercial or industrial purposes, and which is located within either the Commercial Services, Mixed-Use, General Commercial, Neighborhood Commercial, Industrial-Commercial, Commercial Recreation, General Industrial, or Urban Reserve/Light Industrial zoning designations. A "commercial building" also includes any structure, or any portion of a structure, located within the city and designed or intended for occupancy as a hotel or motel.

B. "Commercial unit" means each separate space within a commercial building designed or intended for occupancy.

C. "Secured" means treated with such measures as may be directed by the Building Official or his or her designee that assist in rendering the vacant building inaccessible to unauthorized persons, squatters, and trespassers, including, but not limited to, the closure, locking, padlocking, chaining, repair and/or boarding of fence(s), wall(s), gate(s), window(s), door(s), including walk-through, sliding and/or garage doors, and/or other openings of such size that may allow a child access to the interior of the structure/property. In case of broken windows, "secured" includes the re-glazing or boarding of the window. Boarding 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 additionally require painting the boards with an exterior grade paint that matches the color of the building.

D. "Unsecured" means any building that is accessible through a compromised, breached, or broken gate, fence, wall, window, door, or similar entry points and/or is unsecured so as to allow access to any interior space by unauthorized persons or trespassers.

E. "Vacant commercial building" means a commercial building where greater than fifty percent of the commercial units within the building have been unoccupied for over ninety days. Notwithstanding the foregoing sentence, a commercial building shall not be considered vacant if:

1. There is a valid building permit for alterations or rehabilitation, excluding standard maintenance and repairs, of the commercial building and the owner completes the alterations or rehabilitation, within one year from the date the initial permit was issued, unless the Director of Public Safety, after consultation with the Planning Director and/or Building Official, and with the consent of the City Administrator, determines that good cause exists to extend to the owner an additional period of time to complete the alterations or rehabilitation of the commercial building; or

2. The owner or leaseholder has filed an application for and is actively seeking to obtain authorization, permits, or a license required by state or local law permitting the lawful use and occupancy of the commercial building; or

3. In the case of a structure or portion of a structure designed or intended as a hotel or motel, the owner or operator is actively engaged in operating such premises as a hotel or motel. At a minimum, active engagement as a hotel or motel requires that the owner or operator participate as a certified registrant of the Transient Occupancy Tax Ordinance of the City of Guadalupe (Chapter 3.20 of the Guadalupe Municipal Code) with respect to such premises.

8.80.030 Property owner's obligation to register a vacant commercial building; registration fee.

A. The owner(s) of a vacant commercial building shall within ninety days after the effective date of this chapter, or after it has become vacant, whichever occurs later, register the commercial building with the Building and Planning Department on a form provided by the department.

B. The annual registration fee, based on gross square footage, in an amount established by City Council resolution, shall accompany the registration form. The registration payment deadline will serve as the date for calculating an annual renewal fee which shall be paid every year the commercial building remains vacant. Funds derived from said fee shall be used to offset the city's cost of inspection, administration, and enforcement under this chapter.

1. An owner shall not have to pay the annual renewal fee if his or her building meets all codes, does not contribute to blight, is ready for occupancy, is being maintained and monitored as required by this chapter, and can provide satisfactory evidence that the vacant commercial building is actively being offered for sale, lease, or rent. Satisfactory evidence shall include, but is not limited to, evidence that the owner has an active contract with a real estate agent or other rental agent who advertises and promotes the vacant commercial building for rent, lease or sale, or proof that the vacant commercial building is offered for rent, lease or sale on the Multiple Listing Service or any other comparable real estate listing service.

C. Any subsequent owner or majority owner of a vacant commercial building must register or re-register the building with the city designated officer within thirty days of any transfer of any ownership interest in the building.

D. Vacant commercial buildings subject to this chapter shall remain under the annual registration, security, and maintenance requirements of this chapter as long as the properties remain vacant. However, if the owner rents the building to a tenant who occupies the premises in a manner that complies with this chapter and with all other applicable provisions of state and local law prior to the registration payment deadline, the building shall be removed from the department's registry and the owner need not pay the registration fee, and if rented after the registration fee is paid, the building will be removed from the registry and the owner may request a prorated refund of the registration fee.

E. If any owner fails to register a vacant commercial building as required by this chapter, the Building and Planning Department may register the vacant commercial building and impose

the annual registration fee on the owner. Notice of such registration shall be made pursuant to Section 8.50.120.A. The notice shall state the amount due for the registration fee and shall constitute enrollment in the city's vacant commercial building registration program. The notice shall further advise that the owner must comply with all requirements of this chapter and submit all of the information required within Section 8.80.040 within ten days following service of such notice. The failure to pay the registration fee and submit all required information following service of such notice is a violation of this chapter, shall constitute a public nuisance, and shall be subject to the penalties and procedures set forth in Section 8.50 (Property Nuisance) and/or Title 1. The city may collect any unpaid registration fee by use of any method authorized by law, including procedures set forth in Chapter 8.50.

8.80.040 - Registration requirements.

A. The required registration shall be submitted on the form provided by the city and shall include:

1. The name, current mailing address, phone number and any other contact information of the owner as well as the names and addresses of all known lien holders and all other parties with a legal or equitable ownership interest in the building.

2. If the owner(s) of the vacant building or property resides out of Santa Barbara or San Luis Obispo Counties, for at least six months a year, then they must provide the information for a local property manager or designated responsible person(s) with authority to act with respect to the property, including name, current mailing address, phone number and any other contact information of the owner's property manager or other designated responsible person(s).

3. Situs addresses of the commercial building and the Assessor Parcel Number(s).

4. Square footage and occupancy rating(s) of the commercial building.

5. Most recent permitted use(s) of the commercial building.

6. Period of time the commercial building is expected to remain vacant, and a plan and timetable for returning the commercial building to appropriate occupancy or use.

7. Statement as to whether there is fire and liability insurance coverage.

8. Methods by which the owner has secured the commercial building against unauthorized entry.

9. Other information as the department(s) may require.

B. Upon registration of a vacant commercial building, the owner will be asked to provide authorization to the City of Guadalupe Police Department to detain or arrest for trespassing pursuant to California Penal Code Section 602, any persons found on the property without the owner's consent or without lawful purpose.

C. Pursuant to the registration requirements of this subsection, for every subsequent year a commercial building remains vacant beyond the initial registration, the owner of the vacant building must:

1. Re-register the building and pay appropriate fees, and

2. Submit an updated plan for returning the vacant building to appropriate occupancy or use.

8.80.050 Maintenance and security requirements.

The property owner(s) or designated responsible person(s) shall maintain properties subject to registration pursuant to this chapter as required by this chapter and any other applicable provisions of federal, state, or local law, and shall take any other action necessary to prevent giving the appearance that the property is abandoned or unmaintained, including but not limited to, the following:

A. Property shall be maintained free of weeds, dry brush, dead vegetation, trash, junk, debris, and excessive foliage growth that diminishes the value of surrounding properties and/or causes a blight.

B. Property shall be maintained free of any excess building materials; any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law); discarded personal items, including but not limited to furniture, clothing, large and small appliances, printed material.

C. Property shall be maintained free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure and completely conceals such graffiti, tagging, or similar markings.

D. Exterior shall be cleared of any advertisements or signage of previous businesses.

E. To the extent permitted by law, any vacant commercial building shall be secured, as defined in this chapter.

8.80.060 Additional authority.

In addition to the enforcement remedies established in this chapter or otherwise by law, the building official or his or her designee shall have the authority to require the beneficiary, trustee, owner, or owner of record of any property subject to this chapter to implement additional maintenance or security measures, including but not limited to securing any and all doors, gates, windows or other openings, installing additional security lighting, increasing onsite inspection frequency, or other measures as may be reasonably required to prevent the decline of the condition or appearance of the property.

8.80.070 Signage requirements.

Any vacant commercial building shall be posted with the name and twenty-four-hour contact phone number of the trustee, beneficiary, owner, realtor, or a local property management company that must be retained by an out-of-area beneficiary, trustee, or owner. The posting shall be no less than eighteen inches by twenty-four inches and shall be of a font that is legible from a public right of way and shall contain along with the name and twenty-four-hour contact number the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall 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 or structure facing the street to the front of the property so it is visible from the street; if no such

area exists, the posting shall be placed 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 but not readily accessible to vandals. Exterior postings must be constructed of and printed with weather resistant materials.

8.80.080 Annual inspection requirement.

A city designated officer, including the Director of Public Safety or the building official, or their appointee(s), may inspect or cause to be inspected any premises in the city for the purposes of enforcing and assuring compliance with the provisions of this chapter and safeguarding the health, safety, and welfare of the general public. Upon the request of the city designated officer or designated appointee, an owner may provide access to all interior portions of any vacant commercial building or suspected vacant commercial building in order to permit a complete annual inspection. The owner(s) may decline to provide grant consent for such inspection(s); however, a city designated officer(s) may request an administrative search warrant pursuant to California Code of Civil Procedure sections 1822.50, *et seq.* If such search warrant is granted and if any search reveals any violations of Chapter 8.50 or other relevant section(s) of this Code, the owner(s) may be subject to pay for the administrative costs incurred by the City in investigating or abating such violations as authorized by relevant provisions of Chapter 8.50 of the Guadalupe Municipal Code.

8.80.090 Owner inspection requirements.

The owner(s) or their local property manager or other designated responsible person(s) if the owner resides out of San Luis Obispo or Santa Barbara Counties more than six (6) months a year shall inspect the vacant commercial building on a monthly basis to determine if the building remains in compliance with this chapter or if notification of noncompliance is reported to the owner(s). The property shall be brought back into compliance with this chapter within five days of it becoming out of compliance herewith.

8.80.100 Penalties—Procedures.

A. Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this chapter shall be subject to prosecution, public nuisance abatement and/or administrative enforcement pursuant to Title 1 and/or Chapter 8.50 of the Guadalupe Municipal Code, and/or any other enforcement and legal remedies available to the city under the law.

B. All administrative or civil penalties assessed shall be payable directly to the city.

C. Any and all administrative or civil penalties assessed under this section shall be billed to the owner or other responsible party. Failure or refusal to pay any and all such penalties permits the city to pursue any and all available legal remedies for the enforcement and collection of such penalties; including but not limited to, civil actions being filed in any court of competent jurisdiction, abatement of nuisances maintained in violation of this chapter, institution of injunction, mandamus, or other appropriate action or proceedings to enforce the penalty provisions of this chapter.

D. In addition to all other lawful remedies available to the city to address any violation of this chapter, the Director of Public Safety or his or her designee may issue an administrative citation and fine pursuant to Guadalupe Municipal Code Chapter 1.11 and/or a compliance order with or without administrative penalties pursuant to Guadalupe Municipal Code Chapter 1.10 upon any owner of a registered vacant commercial building that has remained in a continuously vacant condition at the time of the second annual inspection. An additional administrative penalty may be imposed upon an owner if the owner's building remains vacant one hundred eighty days following the first administrative penalty. Additional penalties may be imposed semi-annually as long as the building remains vacant. A second and any subsequent penalty shall be in an amount not to exceed one thousand dollars.

8.80.110 Declaration of public nuisance.

Pursuant to the city's police powers authorized in Article XI, Section 7 of the California Constitution, and other provisions of California law, including, but not limited to, California Government Code Section 38771, the city council hereby declares that violation of this chapter, including but not limited to the registration, inspection, maintenance and security requirements of this chapter shall constitute a public nuisance and shall be subject to abatement in accordance with Chapter 8.50 (Property Nuisance).

SECTION 2. This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA guidelines, and has been found to be exempt pursuant to §15306 of the CEQA Guidelines (Information Collection) because it does not have the potential to create a physical environmental effect.

SECTION 3. The City Council declares that each section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this Ordinance is severable and independent of every other section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this Ordinance. If any section, subsection, paragraph, subparagraph, sentence, clause, or phrase of this Ordinance is held invalid, the City Council declares it would have adopted the remaining provisions of this Ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this Ordinance should remain in effect after the invalid portion has been eliminated.

SECTION 4. The City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the City Clerk shall consult with the City Administrator and City Attorney concerning any changes deemed necessary.

SECTION 5. The City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the City Clerk shall consult with the City Administrator and City Attorney concerning any changes deemed necessary.

INTRODUCED at a regular meeting of the City Council on the 28th day of February 2023, by the following roll call vote:

MOTION: MEGAN LIZALDE / EUGENE COSTA JR.


AYES: 5 Councilmembers: Costa Jr., Hernandez, Julian, Lizalde, Robles
NOES: 0
ABSENT: 0
ABSTAINED: 0

PASSED AND ADOPTED at a regular meeting of the City Council on the 14th day of March 2023, by the following roll call vote:

MOTION: MEGAN LIZALDE / CHRISTINA HERNANDEZ

AYES: 4 Councilmembers: Hernandez, Julian, Lizalde, Robles
NOES: 0
ABSENT: 1 Councilmember: Costa Jr.
ABSTAINED: 0

ATTEST:




Amelia M. Villegas, City Clerk



Ariston Julian, Mayor

APPROVED AS TO FORM:



Philip F. Sinco, City Attorney