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Date: December 21, 2004
To: Members of the Housing and Neighborhoods Committee
From: Fady Mattar, Acting Director of Planning and Building 
Subject: Recommendations for Code Amendment to Request Fencing of Vacant Lots

DISCUSSION

In response to problems that have occurred as a result of illegal dumping on vacant properties, staff was asked to review the issue of whether owners of such properties should be required to secure them with fencing. Staff contacted thirteen area cities including Anaheim, Carson, Cerritos, Downey, Garden Grove, Huntington Beach, Lakewood, Paramount, Santa Monica, Signal Hill, Torrance and Westminster and was told that none of these cities require fencing of vacant lots. The only city that was found to require such fencing was the City of Los Angeles that has an ordinance (see attached) that enables its Department of Building and Safety to fence vacant properties on a case-by-case basis. In summary, the Los Angeles ordinance requires the following:

- If the lot is found to constitute a public nuisance due to the presence of accessible, abandoned buildings, accumulation of trash, debris, vehicle parts or graffiti, the City notifies the property owner and provides a 10-day abatement period.
- If after 10 days the problem is not abated, the City or its contractor may enter the property and remedy the violation, including the fencing of the lot.
- The City then bills the property owner for the cost of the abatement, including administrative costs.

Planning staff contacted the Neighborhood Services/Code Enforcement Bureau of Community Development to determine if a requirement like that described above would be a helpful tool in preventing violations. It was generally agreed that not every vacant lot in the city poses a problem. In some cases, fenced vacant lots cause more problems as they are more difficult to access, cause the accumulation of trash within the fencing and in some cases, the conditions of the fencing deteriorates and becomes a problem. However, Code Enforcement staff felt that having an additional tool at their disposal to require the fencing of problematic properties would be beneficial.

December 21, 2004

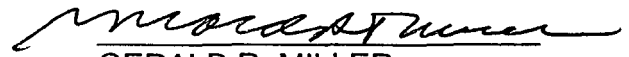
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IT IS RECOMMENDED THAT THE COMMITTEE:

Forward a recommendation to the City Council that the City Attorney be requested to prepare an amendment to the Municipal Code that enables the Department of Community Development to fence vacant lots after they have been determined to be a public nuisance.

FM:gc
Fencing.mmo

APPROVED:



GERALD R. MILLER
CITY MANAGER

Attachment: Section 8904.1.1 of the City of Los Angeles Municipal Code

cc: Melanie Fallon, Director of Community Development
Dennis Thys, Neighborhood Services Bureau Manager

order as specified in the Notice of Intention. A request after such date may not be accepted for processing unless it is submitted prior to the department's awarding a contract or issuing a work order and it is authorized by the board. Failure of the owner or any party of interest in the property to request a hearing within the specified time or failure to pay the required filing fees shall be deemed a waiver of request for such a hearing.

2. At the hearing, the department shall submit for the record evidence to show whether or not the building or structure falls within the scope of this chapter. The evidence shall consist of, but need not be limited to, the inspection report originally issued by the department pursuant to Section 8903.1, recent pictures and testimony by a representative of the department. The owner or any party of interest shall have the opportunity prior to the hearing to examine the evidence to be submitted by the department. The owner, the owner's representative or counsel, or a party of interest should be present at the hearing and will be given the opportunity to present any relevant evidence or witnesses, cross-examine any department witnesses and ask questions or make comments concerning the department's evidence and testimony. Failure of the owner or the owner's representative to appear at the hearing after receiving notice of the hearing shall be deemed a waiver of hearing rights.

3. At the conclusion of the hearing, the board shall make findings and determine whether the building falls within the scope of this chapter and whether the building or structure should be repaired or demolished and how much time, if any, should be given for compliance with the department's order.

8903.7.3 Time limits for vacant buildings. Any appeal or request for hearing to the board for an extension of time to repair or demolish a vacant privately owned building shall be decided by the board no later than 30 days after the hearing thereon and may be granted only on the condition that such repairs be completed within a maximum period of 180 days after the date of the board's first action to grant an extension of time and on the further condition that no additional time will be granted.

8903.7.4 Notification. Only those persons who request a hearing need to be notified of the date and time of the hearing. Notification shall be made by certified mail, postage prepaid, return receipt requested, to the address as shown on the hearing request application. The employee of the department, upon giving notice as provided in the section, shall file an affidavit thereof certifying to the date and manner in which such notice was given. Any receipt card which may have been returned to the employee in acknowledgment of the receipt of such notice by certified mail shall also be filed with the affidavit.

SECTION 8904 — SPECIAL PROVISIONS FOR FENCING VACANT PROPERTY, SECURING VACANT BUILDINGS AND STRUCTURES, CLEANING PROPERTY AND REMOVING GRAFFITI

8904.1 Duties of the Owner of Vacant Property. It shall be unlawful for the owner or person in control to permit the accumulation of trash, debris, vehicle parts, rubbish, excessive vegetation or other similar nuisance conditions on the parcel or in and around any building or structure located on the parcel. The department may order the fencing of such a parcel in the manner described below.

It shall be unlawful for the owner or person in control of a parcel of land to allow to exist a vacant building or structure which is open to unauthorized entry on such land. The owner or person in control of a vacant building, structure or lot which is open to unauthorized entry shall secure all openings, accessible for entry from the exterior of the building or structure and, where appropriate, the entire lot itself, with one of the following methods:

1. Minimum ³/₄-inch (19.1 mm) exterior grade plywood. The plywood shall have a positive connection to the building or structure using minimum ¹/₂-inch (12.7 mm) bolts which shall not be removable from the outside.

2. Minimum 16-gage steel mesh attached to a minimum 1-inch-by-¹/₈-inch (25 mm by 3.2 mm) angle iron frame. The frame shall have a positive connection to the building or structure using minimum ¹/₂-inch (12.7 mm) bolts which shall not be removable from the outside.

3. Other means of barricading as directed or approved by the department, including wrought iron fencing of the lot. The department may, working in cooperation with the police department, develop standards for alternative fencing.

4. The entire building or structure shall be securely maintained.

Unless directed otherwise by the department, the owner or person in control also shall erect a maximum 10-foot-high (3048 mm) unobstructed chainlink fence complete with lockable gates. The fence, once constructed, shall become the property of the owner of the property upon which it is constructed and all structures on the property, including the fence, shall be maintained in good repair. In the event that the fence or other barriers cannot be maintained in good repair, the department may order an alternative method of barricading. The property so fenced shall be conspicuously posted with a "No Trespassing" sign pursuant to Section 41.24 of the Los Angeles Municipal Code.

It shall also be unlawful for the owner or person in control to allow to exist any graffiti on a building or fence when such graffiti, as defined in Section 49.84 of the Los Angeles Municipal Code, is visible from a public street or alley. It shall also be unlawful if such owner or person refuses to consent to the removal of the graffiti by the city after being notified by the department that the city wishes to remove the graffiti.

Owners whose property displays graffiti shall completely remove the graffiti by washing, sandblasting or chemical treatment, or shall completely and uniformly cover or otherwise obscure the graffiti with paint or other approved materials.

It is unlawful to maintain a swimming pool in violation of Sections 6109 and 8118 of this code. The 10-foot-high (3048 mm) chainlink fence described above may be used to comply with Section 6109 of this code. The swimming pool water shall be removed if the property is vacant.

8904.1.1 Procedure for securing vacant property and removing graffiti—notification. The City Council finds that the following conditions constitute a public nuisance: the maintenance of vacant buildings or structures open to unauthorized entry; the storage and accumulation of trash, debris, vehicle parts or other items prohibited under Section 8904 of this code; and the maintenance of vacant or occupied property with graffiti visible from a public street or alley, as described by Section 8904 of this code.

If the property owner or person in control consents to the removal of the graffiti, the city may enter upon the property and remove such graffiti.

If the owner or person in control refuses to remove the graffiti, or if any of the public nuisance conditions described above exist, then the Department of Building and Safety may issue an order by certified mail, return receipt requested, or may deposit an order in the United States mail in a sealed envelope, postage prepaid, to the owner as shown on the last equalized assessment roll to abate these conditions. A copy of the order shall also be posted on the subject property. The order may give no more than 10 days from the date the notice was mailed to perform the work. However, if the order is served by way of personal service, the order may give no more than five days from the date the order was served to perform the work.

8904.1.2 Abatement by the city. In the event the nuisance, including graffiti, is not removed or otherwise eliminated or abated by the date specified in the notice, the city, or its contractor, may enter upon the parcel and remove or eliminate the nuisance. Abatement may be accomplished by contract or work order and may be performed by a private contractor submitting a competitive sealed bid, a public entity performing under a Memorandum of Understanding or by means of an Annual Awarded Contract.

For the purposes of this section, an Annual Awarded Contract shall mean one or more 12-month contracts awarded by the department after competitive bidding. The contracts may be based on both stipulated prices and unit cost for the fencing of vacant or vacated property; for removal of graffiti visible from a public street or alley; for draining swimming pools; for the securing of vacant buildings open to unauthorized entry; for the removal of debris, rubbish, excessive vegetation, weed abatement or similar nuisance conditions on property containing a vacant building or vacant lots, when and as directed by the department by means of a work order. No work order shall be executed except in conjunction with the necessary contract or contracts.

If abatement is performed by a city department other than the Department of Building and Safety, that department shall bill the owner for the cost of removal, or other elimination or abatement of the nuisance, including administrative costs. An itemized written report showing the date and cost of abatement work done by the city or its contractor, together with a proposed assessment with respect to the parcel involved, shall be submitted to the department. Payment for the cost of abatement and recovery of the cost from the property owner shall be pursuant to Section 8906 of this code.

If the building again becomes open to unauthorized entry, or graffiti is again visible from a public street or alley, or the building's premises or vacant parcel again contain debris, rubbish, excessive vegetation or other similar nuisance conditions, the department may, upon three days notice to the owner, execute a contract or work order to have the required work performed by one of the methods provided by this section. The cost of performing the work may be paid from the Repair and Demolition Fund as established in Section 8906 of this code. Further, the provisions of Sections 8903.4, 8903.5 and 8903.6 shall apply to this section.

The above abatement procedures are in addition to any other remedy the department may choose to pursue to eliminate the nuisance conditions.

This section may also be used to abate graffiti, as defined in Section 49.84 of the Los Angeles Municipal Code, observable from the public street.

If at the time of removal of the graffiti the owner or occupants object, then the city will immediately obtain the necessary consent, warrants or court order prior to completion of the graffiti removal. This section should not be administered in any way that would violate the constitutional rights of any person.

8904.2 Abatement of Vacant Buildings or Structures that Are Open to Unauthorized Entry and Fire Damaged or Repeatedly Used for Illegal Purposes.

8904.2.1 Declaration of purpose. Any vacant buildings open to unauthorized entry, which become fire damaged or used repeatedly by vagrants and gang members or for other illegal purposes without the owner's permission, constitute a public nuisance. The expeditious repair or demolition of such vacant buildings and attached or detached appurtenances is essential in order to eliminate fire hazards, and public nuisance conditions which adversely affect the public safety and have a blighting effect on the neighborhood. It is the purpose of this section to establish a fair and expedi-

tious procedure which may be used in connection with those buildings and attached or detached appurtenances.

8904.2.2 Procedures. The department may declare a vacant building to be a public nuisance building under the following circumstances:

1. The vacant building has been secured pursuant to Section 8904.1;
2. It has subsequently become open to unauthorized entry; and
3. It has become fire damaged or is used repeatedly without the owner's permission by vagrants, criminals or gangs, or for other illegal purposes.

If the department determines that a vacant building is a public nuisance building as defined in this section, then the department may proceed to abate the public nuisance building utilizing the procedures set forth in Sections 8907.2, 8907.3 and 8907.4 of this code. The cost of any work done by the city or its contractor to abate the nuisance may be assessed against the property in accordance with the procedures set forth in Section 8906.

A copy of any order issued pursuant to this section shall be provided to the fire department and police department.

8904.3 Inspection Fee for Periodic Inspection of Property and Buildings. Whenever the department determines after notice and hearing that a property or building requires a monthly inspection to abate public nuisance and encourage future maintenance in compliance with applicable codes, the department may make monthly inspections and assess fees pursuant to Section 98.0412 of the Los Angeles Municipal Code. These fees shall be imposed annually when the nuisance condition is abated by the city pursuant to this chapter, but not more than once during any 12-month period.

The notice of hearing and intent to impose the annual fee shall be mailed to the owner as listed on the last equalized assessment roll or supplemental roll. The matter shall be scheduled for a hearing before the Board of Building and Safety Commissioners on the date specified on the notice. The board shall determine whether the conditions and previous record of public nuisance conditions and failure to comply with the code justify the imposition of the annual fee and monthly inspection.

The monthly inspection may be accomplished by contract or work order and may be performed by a private contractor submitting a sealed bid or by means of an Annual Awarded Monitoring Contract. An Annual Awarded Monitoring Contract shall mean one or more 12-month contracts awarded by the department after competitive bidding. Payment for the cost of monthly inspections shall be made from the Repair and Demolition Fund. Any payments received as a result of the annual fee assessed pursuant to this section shall be deposited into the Repair and Demolition Fund. This fee may be assessed against the property pursuant to Sections 8906.3 and 8906.4 of this code.

SECTION 8905 — SPECIAL PROVISIONS FOR VACATING, BARRICADING, REMOVING OR DEMOLISHING BUILDINGS OR STRUCTURES WITHOUT NOTICE

8905.1 Notwithstanding anything to the contrary in this section, whenever the department determines that any building, structure, premises or portion thereof falling within the scope of this chapter is a present, imminent, extreme and immediate hazard or danger to life or limb, health or safety, so as to necessitate the immediate elimination thereof without prior notice to the owner, the department may, without an order or notice of any kind whatsoever and without a hearing, cause the building, structure, premises or any



Date: August 10, 2004
To: The Honorable Mayor and City Councilmembers
From: Bonnie Lowenthal, Councilmember, First District *BL*
Subject: **FENCING OF VACANT LOTS**

In our City, for various reasons, abandoned residential structures are demolished which often leaves a vacant lot, presenting an open invitation for dumping, trespassing, and other criminal activity. Vacant sites throughout the City are being overwhelmed with trash dumped by individuals unwilling to shoulder the responsibility for legal disposal. A possible solution to this problem is to require a property owner, once a residential structure has been demolished, to construct a fence around the property. Fenced vacant lots discourage dumping and other criminal activities.

Recommendation

I respectfully request that the City Council refer this matter to the Housing and Neighborhoods Committee for discussion and report from the Department of Planning and Building regarding requiring property owners to enclose vacant properties with a fence.

I thank you for your consideration of this request. I hope my colleagues will support moving this action forward.