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June 10, 2008

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Tiffani L. Shin

HONORABLE MAYOR AND CITY COUNCIL City of Long Beach California

RECOMMENDATION:

Recommendation to receive supporting documentation into the record, conclude the hearing, declare the ordinance amending the Long Beach Municipal Code by amending Sections 18.21.020, 18.21.040 and 18.21.050, relating to maintenance of long-term boarded and vacated buildings, read the first time and laid over for second reading, and adopt resolution establishing service fees and charges relating to maintenance of long-term boarded and vacated buildings. (Citywide)

DISCUSSION

Pursuant to the request of City Council on May 6, 2008, and upon report from the Transportation and Infrastructure Committee on April 29, 2008, we have prepared the attached ordinance and corresponding fee resolution for your consideration.

The proposed ordinance amendments focus upon shortening the time periods by which City staff may proactively impose measures to eliminate or control potential nuisance properties that have been boarded or abandoned. The amendments also allow Code Enforcement personnel to actively monitor vacant buildings and structures and to record a "Notice of Vacant Building" with the County Recorders' Office. The amendments further establish an "Optional Vacant Building Plan and Timetable" which allows the City to actively engage building owners with an eye toward obtaining early compliance with all City regulations and returning the building or structure to a useful purpose at the earliest possible date. Honorable Mayor and City Council June 10, 2008 Page 2

The proposed "fee resolution" associated with the ordinance amendments allows the City to recoup the actual costs and expenditures incurred in enforcing the various provisions of the amended ordinance.

By

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

MICHAEL J. MATS Assistant City Attorney

MJM:kjm L:\Apps\CtyLaw32\WPDocs\D029\P007\00130715.DOC A08-00826

1 ORDINANCE NO. 2 3 AN ORDINANCE OF THE CITY COUNCIL OF THE 4 CITY OF LONG BEACH AMENDING LONG BEACH 5 MUNICIPAL CODE SECTIONS 18.21.020, 18.21.040 AND 6 18.21.050, RELATING TO MAINTENANCE OF LONG-7 TERM BOARDED AND VACATED BUILDINGS 8 9 The City Council of the City of Long Beach ordains as follows: 10 11 Section 1. Section 18.21.020 of the Long Beach Municipal Code is 12 amended to read as follows: 13 18.21.020 Owner Responsibilities. 14 A. No person shall allow a building or structure designed for human, 15 industrial, or commercial use, or occupancy to stand vacant for more than 16 thirty (30) days unless one of the following applies: 17 1. The building is the subject of an active building permit for 18 repair or rehabilitation, or a permit for demolition, and the owner is 19 progressing diligently to complete the repair or rehabilitation; 20 2. The building meets all applicable codes, does not 21 contribute to blight, is ready for occupancy and is actively being offered for 22 sale, lease, or rent; 23 3. The Building Official or designee determines that the 24 building does not contribute to, and is not likely to contribute to, blight 25 because the owner is actively maintaining and monitoring the building so 26 that it does not contribute to blight. Active maintenance and monitoring 27 shall include: 28 a. Maintenance and appropriate watering and care of 1

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-ong Beach, CA 90802-4664

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landscaping and plant materials;

b. Maintenance of the exterior of the building, including but not limited to, paint and finishes, in good condition;

c. Regular removal of all trash, debris and graffiti;

d. Maintenance of the building or structure in

continuing compliance with all applicable codes and regulations;

e. Prevention of criminal activity on the premises, including, but not limited to, use and sale of controlled substances, prostitution, or other criminal street activity.

B. "Vacant Building" or "vacant structure" shall mean a building which is without a lawful resident or occupant or which is not being put to a lawful commercial, residential, or industrial use, and which may be unoccupied and unsecured; occupied and secured by boarding or other similar means; unoccupied and a dangerous structure or; unoccupied with multiple City Municipal Code or nuisance violations.

C. The owner of any vacant or boarded building or structure, whether boarded by voluntary action of the owner or as a result of enforcement activity by the City, shall cause the boarded or vacant building to be rehabilitated for occupancy within sixty (60) days after the building or structure is boarded or becomes unoccupied.

Section 2. Section 18.21.040 of the Long Beach Municipal Code is
amended to read as follows:

18.21.040 Monitoring Program-Department responsibility and fees.

A. Purpose. The Building Official or designee shall be
 responsible for administering a program for identifying and monitoring the
 maintenance of all vacant buildings or structures in the City.

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B. Purposes. The purposes of the monitoring program shall be:

1	1. To identify buildings that become vacant;
2	2. To order vacant buildings that are open and accessible to
3	be secured against unlawful entry per Long Beach Municipal Code
4	18.20.370;
5	3. To initiate proceedings against any vacant or boarded
6	building or structure found to be substandard as defined in this Title; and,
7	4. To maintain surveillance over vacant or boarded buildings
8	so that timely code enforcement proceedings are commenced in the event a
9	building becomes substandard or a public nuisance.
10	C. Notice of Vacant Building.
11	1. Upon discovery of a potential vacant building by a Code
12	Enforcement Officer or receipt of a complaint about a vacant or boarded
13	building from any source, the City may cause an inspection of the property
14	in order to determine if the building or structure should be classified as a
15	vacant building;
16	2. If the City determines that a building or portion of a building
17	may be classified as a vacant building under this Chapter, the City shall
18	ascertain the identity of, and contact the owner or agent of the owner, and
19	advise the owner in writing that the building or structure is vacant and that
20	the following measures need to be taken by the owner:
21	a. Immediate measures to temporarily secure the
22	building or structure from unauthorized entry;
23	b. Measures to permanently secure the building during
24	the period of time that the building or structure remains vacant;
25	c. The posting of a sign or signs on the property in a
26	conspicuous place, as determined by the City, which sign[s] shall notify the
27	public of the owners or authorized agents' name and address and an
28	emergency contact telephone number;
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3. If the City determines that a building or structure is vacant it shall cause a "Notice of Vacant Building" to be recorded against the title of the property, which notice shall make reference to the provisions of this Chapter and disclose that administrative penalties and costs may likewise be assessed against the owner and property as a result of the building or structure remaining in a vacant condition;

4. If the owner fails to take immediate measures to temporarily or permanently secure the building from unauthorized entry, the City may, without further notice, and by any lawful means, abate the violation. In this event, the owner shall be liable for the costs incurred by the City for inspections or to secure the building or structure, including costs incurred to ascertain ownership of the property and obtaining title information, preparing notices, and any and all administrative costs together with actual labor or material cost or expense incurred by the City to secure the building or structure or otherwise abate the violation. If the owner does not reimburse the City within thirty (30) days of being billed therefore, the City may file a lien against the property for all of the expenses incurred by the City.

D. Optional Vacant Building Plan and Timetable.

1. If the owner of a vacant building files a Vacant Building Plan and Timetable with the City not later than seven (7) days after the owner or agent of the owner receives written notice pursuant to Section 18.21.040C, the City is authorized to:

a. Suspend the processing of any citation or other remedy for violation of this chapter.

b. Extend the period of time in which the owner of a vacant building must secure the building.

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2. The Vacant Building Plan and Timetable must be submitted

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on forms prepared by the City and must include, at a minimum, the following 1 2 information: 3 a. A description of the premises, including the address thereof: 4 5 b. The names, addresses, and telephone numbers of 6 all owners with a right of control over the vacant building or structure; 7 c. The names and addresses of all known lien holders 8 and all other parties with an ownership interest in the vacant building or 9 structure: 10 d. The name, address and telephone number of the 11 owner's property manager or agent, and whether the property manager or 12 agent has the authority to independently act on the owner's behalf to repair 13 or maintain the property; 14 e. The period of time the building is expected to remain 15 vacant; 16 f. If the owner plans on demolishing the building, the date the building is scheduled for demolition, and whether or not a permit 17 18 has been issued for said demolition; 19 g. If the owner plans on returning the building to a 20 lawful occupancy and use, the estimated date for returning the building to a 21 lawful occupancy or use, and whether or not a permit has been issued to 22 return the vacant building to a lawful occupancy or use; 23 h. A plan for regular inspection and maintenance of the 24 building during the period of vacancy; i. Measures the owner will employ to secure the 25 building to prevent access by trespassers. One (1) of the following methods 26 27 must be used to secure the building as specified in the discretion of the City: 28 (1) Installation of adequate windows and doors, 5

4 5 6 7 8 9 10 11 ROBERT E. SHANNON, City Attorney 333 West Ocean Boulevard, 11th Floor Long Beach, CA 90802-4664 OFFICE OF THE CITY ATTORNEY 12 13 14 15 16

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or window and door coverings:

(2) Installation and maintenance of adequate locks for windows and doors:

(3) Installation of boards on windows and doors or security screening to the satisfaction of the City;

(4) Employment of security officers to the satisfaction of the City;

(5) Installation, operation, and monitoring of an electronic security system, which monitors doors and windows by glass breakage or motion sensors, and a method of responding to alarms from the electronic security system, other than sole reliance on the City's police department;

(6) Any other methods as specified by the City;

j. Measures the owner will employ to monitor and inspect the property on a weekly basis. The weekly monitoring and inspection must be performed by the owner, property manager, or agent of the owner with full authority to maintain and make repairs to the property on a weekly basis;

3. The plan and timetable submitted by the owner or agent of the owner must be approved by the City. Any and all repairs required to effect the plan and timetable shall comply with all applicable City of Long Beach ordinances, codes and regulations. The owner shall be required to notify the City in writing of any changes in information supplied as part of the Vacant Building Plan and Timetable within ten (10) days of the change;

4. During the period of time that the Vacant Building Plan and Timetable are in effect, the Owner shall be responsible for paying to the City the monthly monitoring fee as said fee is established, and from time to time amended, in accordance with a duly adopted resolution of the City Council;

5. In the event that the owner fails to comply with the Vacant Building Plan and Timetable, the City shall so notify the owner or authorized agent and shall thereafter institute appropriate administrative, civil or criminal actions to secure compliance with this Chapter;

E. Monitoring Fee Imposed. Any vacant or boarded building or structure as defined in this Chapter shall be subject to a monthly monitoring fee, to recover the City's regulatory costs to monitor the status of the vacant or boarded building. The monthly monitoring fee shall be set by resolution of the City Council. The monitoring fee shall be applicable until such time as the building or structure is no longer vacant or boarded, and shall likewise be applicable even when a Vacant Building Plan and Timetable is in effect. The monitoring fee shall be imposed upon the initial determination that the building is vacant. The fee shall thereafter be imposed in each thirty (30) day period following the imposition of the initial monitoring fee, to be billed to the owner on a quarterly basis until such time as the building or structure is no longer vacant or boarded.

F. Code Enforcement Response Fee. In addition to the Monthly Monitoring Fee imposed pursuant to this Section, the City also hereby establishes a further and separate Enforcement Response Fee for actual costs incurred by the City to respond to or abate substandard or blighted conditions existing in or about the property upon which the boarded or vacant building or structure is located. Such costs shall include, but not be limited to, personnel costs involved with inspecting or responding to calls for service at the property, personnel costs involved in abating the substandard or blighted conditions existing on the property, costs of any materials or supplies either purchased or supplied by the City in connection with the abatement of any substandard or blighted condition in or about the property, costs of any contracted services, including the costs of materials, supplies,

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and labor provided by the City's contractor, if any, costs of procuring title or ownership information concerning or related to the property, as well as any other incidental enforcement costs incurred by the City in connection with remedying the substandard or blighted conditions existing on the property. The amount of the Code Enforcement Response Fee shall be established by resolution of the City Council.

G. Procedure. The Vacant or Boarded Building Monitoring Fee and the Code Enforcement Response Fee, if any, shall be billed to the owner of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the County Assessor. Said fee or fees and associated administrative costs shall be charged to and become an indebtedness of the owner of the property.

H. If the Monthly Monitoring or Code Enforcement Response fees or associated administrative costs and expenses are not paid within thirty (30) days after billing, then the fee or costs may be specially assessed against the property involved. If the fees or costs are specially assessed against the property, said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment;

I. The City may also cause a notice of lien to be recorded against the property. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee or costs assessed against the property.

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J. Hearing on Charges. Within thirty (30) days from the date that the

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property owner is mailed a notice regarding the imposition of either Monthly Monitoring Fees or Code Enforcement Response Fees or charges, the property owner may demand a hearing as to the reasonableness of the fees or charges imposed. Such demand shall be in writing and presented to the Director of Community Development for the City of Long Beach. Said demand shall describe the property involved, state the reasons for objecting, and include an address of the property owner for service of notice in connection with such hearing. Such demand shall be presented by the City to the Board of Examiners, Appeals and Condemnation for hearing at its next regularly scheduled meeting that is not less than ten (10) and not more than forty-five (45) days thereafter. The Director of Community Development shall give written notice of such hearing to the address furnished by the property owner in the demand for an appeal hearing. At the time set for such hearing, the Board of Examiners, Appeals and Condemnation shall hear all evidence pertinent to the reasonableness of such fees and charges and shall either confirm or modify the charges. The decision of the Board of Examiners, Appeals and Condemnation shall be final. If the amount of the charges is uncontested by the property owner or as set by the Board of Examiners, Appeals and Condemnation on appeal, has not been paid within thirty (30) days after imposition or appeal hearing whichever is later, the payment thereof shall thereupon become delinquent and the amount so imposed or determined shall thereafter bear interest at the rate of twelve percent (12%) per annum until paid, as determined by the tax collector.

Section 3. Section 18.21.050 of the Long Beach Municipal Code is
amended to read as follows:

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18.21.050 Civil remedy.

A. Penalty.

1. Any owner of a vacant or boarded building which remains boarded in violation of Subsection 18.21.020.B or any owner of a building which remains vacant or boarded in violation of Subsection 18.21.020.A shall be liable for an administrative penalty in an amount not to exceed one thousand dollars (\$1000.00) per calendar year per building;

2. A second or subsequent administrative penalty imposed upon any owner pursuant to this section shall be in an amount not to exceed five thousand dollars (\$5,000.00);

B. Procedure.

1. The administrative penalty shall be imposed by the Board of Examiners, Appeals, and Condemnation upon the recommendation of the Building Official or designee and after the owner shall have been afforded a hearing before the Board of Examiners, Appeals, and Condemnation. The hearing shall be conducted in accord with the provisions of Chapter 18.20. In setting the penalty, the board shall consider the severity of the blighting conditions on the property and the owner's efforts, or lack thereof, to remedy the problem. The decision of the Board shall be final;

2. The administrative penalty shall be due and payable within thirty (30) days after the decision of the Board. If the penalty is not paid within forty five (45) days after the decision of the Board, the penalty shall become a personal indebtedness or obligation of the property owner or it may be specially assessed against the property involved. If the property is specially assessed said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are

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applicable to the special assessment;

3. The City may also cause a notice of lien to be recorded against the property. The notice shall, at a minimum, identify the record owner or possessor of the property and set forth the last known address of the record owner or possessor, the date on which the penalty was imposed, a description of the real property subject to the lien, and the amount of the penalty or costs assessed against the property.

9 Section 4. The City Clerk shall certify to the passage of this
10 ordinance by the City Council and cause it to be posted in three (3) conspicuous
11 places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day
12 after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of ______, 20___, by the following vote:

16	Ayes:	Councilmembers:	
17			
18			
19	Noes:	Councilmembers:	
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21	Absent:	Councilmembers:	
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23			
24			City Clerk
25			
26			
27	Approved:		
28		(Date)	Mayor
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OFFICE OF THE CITY ATTORNEY ROBERT E. SHANNON, City Attorney 333 West Ocean Boulevard, 11th Floor Long Beach, CA 90802-4664 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH ESTABLISHING SERVICE FEES AND CHARGES RELATING TO MAINTENANCE OF LONG-TERM BOARDED AND VACATED BUILDINGS IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 18.21 OF THE LONG BEACH MUNICIPAL CODE.

RESOLUTION NO.

WHEREAS, the City Council of the City of Long Beach ("City") seeks to establish service fees and charges to recover the full, lawfully recoverable costs incurred by the City in providing services to those who either request or require them; and

WHEREAS, it is the City's policy to set service fees and charges at full cost recovery levels, except where a greater public benefit demonstrates the need to impose a lesser fee or charge to the satisfaction of the City Council, or when it is not cost effective 16 to do so; and

18 WHEREAS, in accordance with the provisions of Chapter 18.21 of the Long 19 Beach Municipal Code, the Community Development Department of the City of Long 20 Beach has conducted an analysis of its costs and services related to the maintenance of 21 long-term boarded and vacated buildings and structures, the beneficiaries of those 22 services, and the revenues produced by those paying service fees and charges for said 23 services; and

24 WHEREAS, on , 2008, the City Council, at a duly noticed public hearing, took public testimony and input regarding certain proposed new or 25 26 increased service fees and charges related to the implementation of Chapter 18.21 of the 27 Long Beach Municipal Code; and

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WHEREAS, California Government Code Section 66000, et. seq.,

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authorizes the City to adopt service fees and charges for municipal services, provided
 such fees do not exceed the cost to the City of providing the service; and

WHEREAS, in accordance Government Code Section 66016, at least
fourteen (14) days prior to the public hearing at which this Resolution was adopted,
notice of the time and place of the hearing was mailed to eligible interested parties who
filed written requests with the City for mailed notice of meetings regarding new or
increased fees or service charges; and

8 WHEREAS, in accordance with the Government Code 66016, data
9 regarding the estimated cost of the services and the revenue sources anticipated to
10 provide the services was available for public review and comment for ten (10) days prior
11 to the public hearing at which this Resolution was adopted; and

WHEREAS, publication of the notice of public hearing was given in accordance with the provisions of Government Code Section 6062a, ten (10) days in advance of the public hearing at which the adoption of this Resolution was considered; and

16 NOW, THEREFORE, the City Council of the City of Long Beach hereby
17 resolves as follows:

18 The facts set forth in the Recitals of this Resolution are true Section 1. 19 and correct and are hereby incorporated by reference herein as though set forth in full. 20 Section 2. Adoption of the new or increased service fees and charges 21 set forth and described in this Resolution, and in Exhibit "A" attached hereto, are intended 22 to recover costs necessary to provide the services within the City for which the fees are 23 charged. In adopting the new or increased service fees and charges set forth in this 24 Resolution, the City Council of the City of Long Beach is exercising its powers under 25 Article XI, Section 7 of the California Constitution.

Section 3. All requirements of California Government Code Sections
66000, et seq., are hereby found to have been satisfied.

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Section 4. The service fees and charges set forth in Exhibit "A" are

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1 reasonable estimates of the costs incurred by the City in providing the services to those 2 who require or request them. The service fees and charges for such services are 3 necessary to recover the reasonable, estimated cost of providing such services.

Section 5. The City Council hereby further adopts and approves the new, increased, or adjusted fees and charges as set forth and described in Exhibit "A", which is attached hereto and incorporated herein by this reference, as though set forth in full, word for word.

8 Section 6. The service fees and charges adopted and all portions of this 9 Resolution are severable. Should any of the service fees or charges or any portion of 10 this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining fees and/or Resolution portions shall be, and continue to 12 be, in full force and effect, except as to those fees and/or Resolution portions that have 13 been adjudged invalid. The City Council of the City of Long Beach hereby declares that it 14 would have adopted each of the service fees or charges and this Resolution and each 15 section, subsection, clause, sentence, phrase and other portion thereof, irrespective of 16 the fact that one or more of the service fees, charges or sections, subsections, clauses, sentences, phrases or other portions of this Resolution may be held invalid or 18 unconstitutional.

All provisions of prior City Council ordinances and resolutions, 19 Section 7. 20 including, establishing fees which in any way conflicts in part or in whole with this 21 Resolution, are hereby rescinded and repealed in part or in whole to the extent of any 22 conflict. However, the provisions of this Resolution are not meant in any way to affect, 23 repeal or rescind the Civil Remedy or Penalty provisions established by Section 18.21.050 of the Municipal Code. 24

25 Section 8. The establishment of fees and charges herein is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Public 26 Resources Code Section 21080(b)(8) and the adoption of this Resolution is for the 27 28 purposes of inter alia: (1) meeting operating expenses; (2) purchasing or leasing

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supplies, equipment or materials; (3) meeting financial reserve needs and requirements; or (4) obtaining funds for capital projects, necessary to maintain service within the various areas of the City.

Section 9. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 2008, by the following vote:

Ayes:	Councilmembers:	
Noes:	Councilmembers:	
Absent:	Councilmembers:	
Absent.	Councimentibers.	
		City Clerk
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EXHIBIT A

DEPARTMENT: COMMUNITY DEVELOPMENT - CODE ENFORCEMENT

FY2008

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Fee Name	Description	Requested Fee	Per	Annual Occurences	Annual Revenue Changes	Annual Subsidy	Fund	Index Code	Subobject
Substandard Program	1. S.							1	
Vacant Building Monitoring									
Various administrative a	activities related to monitoring Vacant Buil	dings							
	Preparation of the Vacant Building Levy	\$90	Hour	10	\$900		GP	CDNSCE	708002
Incidental Enforcement Costs	Property Owners pay for Investigations and Inspections of public nuisances	\$90	Hour	10	\$900		GP	CDNSCE	708002
Monthly Monitoring Fee	Vacant building is monitored twice a month; monthly fee will be billed quarterly	\$100	Month	30	\$3,000		GP	CDNSCE	708002
	Property owners pay for conversion of unpaid Billings to Notice of Lien	\$105	Notice	10	\$1,050		GP	CDNSCE	708002
Preparation of Lien	Bill is not paid in 30 days and lien is sent to the County Recorder	\$60	Lien	10	\$600		GP	CDNSCE	708002
Transfer of Collection to Tax Collector	Property owners pay for transfer of unpaid Liens to Tax Collector (Bill not paid by end of fiscal year)	\$90	Transfer	10	\$900		GP	CDNSCE	708002
Preparation of Termination of Declaration of Vacant or Boarded Building	Document preparation to remove the Notice of Vacant Building recorded against the property title.	\$90	Termination	2	\$180		GP	CDNSCE	708002
	Ensure property owner information is correct.	\$80	Title/Lot Book	10	\$800		GP	CDNSCE	708002
Issue Inspection Warrant	Warrant required for abate proceedings on private property, includes Inspection Warrant and Forced Entry Warrant	\$370	Warrant	1	\$370		GP	CDNSCE	708002
Code Enforcement Response Fee	City costs including personnel or contracted labor and material or related costs for response time to inspect or respond to boarded or vacant structures to abate substandard or blighted conditions	\$90/hour or actual costs incurred (in the event a contractor is used)	_				GP	CDNSCE	708002