

ORDINANCE NO. 2346

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA AMENDING CHAPTER 4 OF ARTICLE IX OF THE ARCADIA MUNICIPAL CODE, WITH AN EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA"), TO ESTABLISH REQUIREMENTS AND REGULATIONS FOR REGISTRATION OF RESPONSIBLE PARTIES FOR UNOCCUPIED RESIDENCES IN THE CITY OF ARCADIA AND TO REORGANIZE AND UPDATE THE CITY'S PROPERTY MAINTENANCE AND NUISANCE ABATEMENT REGULATIONS

WHEREAS, the City of Arcadia has determined that unoccupied residences can lead to neighborhood decline and can take from the aesthetics of the community and the quality of life of residents; and

WHEREAS, unoccupied residences can become nuisances, causing the City to incur significant costs in the form of staff time to identify, locate and contact the property owner and/or other responsible parties for code enforcement or public safety actions seeking to maintain and ensure acceptable conditions of these properties; and

WHEREAS, the City has determined that unoccupied residences which have deteriorated or been neglected are a threat to the public safety, health and welfare of the community; and

WHEREAS, the City has determined that unoccupied residences attract vagrants, and/or harbor wild animals, pests, rodents, vectors, and vermin; and

WHEREAS, it is the responsibility of the owners of unoccupied residences and/or any other person(s) holding equitable title or any other interest in an unoccupied residence to prevent such property from becoming a nuisance to the neighborhood and community and/or a threat to the public health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 4 of Article IX of the Arcadia Municipal Code is hereby amended in its entirety to read as follows:

**“9400. TITLE.**

The provisions of this Chapter shall be known as the Property Maintenance and Nuisance Abatement Code and will be referred to herein as "this Code."

**9401. PURPOSE AND LEGISLATIVE FINDINGS.**

The purpose of this Code is to ensure proper maintenance of property within the City of Arcadia so that the public health, safety and welfare are not endangered by substandard properties and the blighting effect such properties have on the entire community in consideration of the following findings:

- A. The City Council of the City of Arcadia ("Council") has determined that the City has an extensive and widely recognized history and reputation for well-kept properties and that the general welfare of the City is founded, in part, upon the appearance and maintenance of properties.
- B. The Council has determined that the keeping or maintaining of properties at variance with the level of maintenance of surrounding properties will result in substantial diminution in the enjoyment, use, aesthetic and property values of such surrounding properties.
- C. The Council has determined that it is desirous to enhance and promote the maintenance of property and the enhancement of the livability, community appearance, and the socioeconomic conditions of the community.

- D. The Council has further determined that the uses and abuses of property as described herein reasonably relate to the proper exercise of police power to protect the health, safety and general welfare of the public.
- E. The Council has determined that the provisions prescribed herein will enhance the appearance and value of such properties rather than be a burden on the owners thereof.
- F. The strong role of aesthetic concerns as justification for exercise of the police power has been reemphasized by the United States Supreme Court in the case of *Members of City Council v Taxpayers for Vincent*, 104 S. Ct. 2118 (1984).
- G. Unless corrective measures of the type set forth in this Chapter are undertaken to alleviate such existing conditions, the public health, safety and general welfare, and the property values and social and economic standards of this community will be substantially depreciated, and the abatement of the conditions will enhance the environment of the residents of the City.
- H. The abatement procedures set forth in this Chapter are reasonable and afford a maximum of due process and procedural guarantees as to affected property owners.

## 9402. DEFINITIONS.

### 9402.1 BUILDING OFFICIAL.

"Building Official" shall mean the Chief Building Official of the City, or their authorized representative, or any Code Enforcement Officer or Inspector designated by the Planning Director to enforce this Chapter.

#### 9402.2 DIRECTOR.

“Director” shall mean the Development Services Director or his or her designee.

#### 9402.3 OWNER.

“Owner” shall mean any person, partnership, co-partnership, association, corporation, fiduciary or any other legal entity having a legal or equitable title or any interest in the property. For purposes of providing notice to an owner under this Code, “owner” includes the owner’s agent, employee, or other legal representative.

#### 9402.4 PREMISES.

A lot or parcel of land or property including a building or part thereof situated thereon, improved or unimproved, parking areas thereon, walkway, and sidewalks.

#### 9402.5 RESPONSIBLE PARTY.

“Responsible party” or “responsible person” shall mean any person that is responsible for causing or maintaining a violation of this Code, including but not limited to a property owner, lessee, occupant, tenant, a person with a legal interest in the property, or a person in possession or control of the property.

#### 9402.6 SUBSTANDARD.

Any of the following listed conditions on real property are substandard:

- A. Any condition which is maintained in violation of or in noncompliance with any regulation of the Arcadia Municipal Code.
- B. Any unsafe building or structure as defined by Section 116 of the California Building Code, as adopted by Article VIII of the Arcadia Municipal Code.

C. Any building or structure, including components or parts thereof, and the site upon which it stands, which has faulty weather protection, including but not limited to the following:

1. Deteriorated, crumbling or loose plaster.
2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
3. Defective, or lack of, weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved protective covering.
4. Deteriorated, broken, rotted, split or buckled exterior wall coverings or roof coverings.

D. A building or structure or part thereof which was constructed, or partially constructed, without complying with applicable provisions of the Arcadia Municipal Code or other law.

E. Any building or structure or portion thereof which cannot be lawfully used in its existing location and condition for any purpose for which it is designed.

F. Any partially constructed building or structure, together with material and equipment used for construction, which is not completed within a reasonable time, or upon which there is a cessation of work for more than sixty (60) days, unless such completion or cessation of labor is caused by factors which are not within the control of the owner, such as war, labor strikes and litigation.

G. Unoccupied buildings left open or unlocked, or otherwise unsecured from intrusion by persons, animals or the elements, or which have been secured

by unlawful means, including but not limited to windows, doors and other openings which are not boarded up.

H. Unsightly, partly completed or partly destroyed buildings, structures or improvements that endanger or injure neighboring properties or the public health, safety or general welfare.

I. Weeds or dead vegetation on the premises or adjacent parkways.

J. Vegetation which is excessively overgrown so as to constitute a fire, health or safety hazard.

K. An accumulation of debris, or equipment, which is not lawfully screened from view from adjacent property, public or private.

L. Refuse, rubbish, garbage, offal, animal excrement or other waste material which is not kept or disposed of in accordance with regulations of the Arcadia Municipal Code or other provisions of law.

M. A lack of maintenance of buildings, structures and landscaping, including lawns, trees, and shrubbery, which results in conditions out of harmony or conformity with the maintenance standards of adjacent property.

N. Soil which is in such a condition, from whatever cause, that dust clouds form when the soil is disturbed by any cause.

O. Vehicles, motorcycles, trailers, campers, boats, other recreational vehicles, or any vehicular-related items parked or stored on front or side yards or on any part of property used or zoned for residential, commercial, and/or industrial purposes, other than on a lawfully installed paved surface, or vehicles parked on unpaved surfaces on the front or side yards or any property used or zoned

for residential, commercial, and/or industrial purposes, or on the rear yard adjacent to any public street on any property used or zoned for residential, commercial, and/or industrial purposes.

P. Maintenance of premises by any person owning, leasing, occupying, or having charge or possession of said premises, in a manner which is at variance with the level of maintenance of surrounding premises, including but not limited to the existence of any of the following:

1. Buildings which are abandoned, boarded up without City direction, partially destroyed, or partially constructed or uncompleted building after building permits have expired;
2. Buildings with deteriorating or peeling paint that allows the exterior building coverings to deteriorate or to permit the effects of sun and water penetration so as to encourage decay, dry rot, warping and cracking;
3. Broken windows, doors, attic vents and underfloor vents;
4. Improperly maintained landscaping visible from streets, right-of-way, and adjacent properties at grade level which includes, but is not limited to:
  - a. Untrimmed hedges and grass;
  - b. Dying trees, shrubbery, lawns and other desired plant life from lack of water or other necessary maintenance;
  - c. Trees, shrubbery allowed to grow uncontrolled without proper pruning;
5. Overgrown vegetation which is unsightly and likely to harbor rats or vermin;
6. Dead, decayed or diseased trees, weeds and other vegetation;

7. Trash, garbage or refuse cans, bins, boxes, or other such containers stored in front, side or rear yards visible from public streets;
8. Lumber, junk, trash, debris or salvage materials maintained upon any premises which is visible from a public street, alley, adjoining property;
9. Abandoned, discarded or unused furniture, stoves, sinks, toilets, cabinets or other household fixtures or equipment stored so as to be visible at ground level from a public alley, street or adjoining premises;
10. Abandoned, wrecked, dismantled or inoperative trailers, campers, boats and other motor vehicles which are accumulated or stored in yard areas;
11. The accumulation of dirt, litter or debris, in vestibules, doorways on the premises adjoining walkways or parkways;
12. Building exteriors, walls, fences, driveways, or walkways which are cracked, broken, defective, deteriorated, in disrepair, or defaced due to any writing, inscription, figure, scratches or other marking commonly referred to as "graffiti";
13. Signs, posters, or banners that are not permitted uses;
14. The failure to keep the sidewalk and parkways in front of any house, place of business or premises, or on the side or rear portions thereof adjacent to a public street, in a clean and wholesome condition.

Q. The use, or maintenance or allowance of conditions that are inconsistent with the site plan and design review regulations, and any noncompliance with said regulations as set forth in the Arcadia Municipal Code Sections 9107.19 et seq.

- R. The placement, allowance, use or maintenance of signs, posters, and banners that are not permitted uses in the City of Arcadia.
- S. Hanging of laundry on clothes lines or on any other structures within the required front and street side yard areas where the laundry is visible from the public street. In the family zones, laundry may not be hung from any patio or balcony.
- T. The topography or configuration of any property, whether the natural state or as a result of grading operations, which causes or will cause erosion, subsidence, surface water runoff problems, or other conditions which will, or may, be injurious to the public health, safety and welfare or to adjacent properties.
- U. Constructing, carrying on, or maintaining any public washhouse or laundry without connecting the same with a sewer or with a cesspool of sufficient size to properly receive and dispose of all wash or laundry water, or failing to keep such washhouse or laundry in a thoroughly clean, sanitary and safe condition.
- V. Pools and spas that are not kept in working order so the water remains clear and free of pollutants and debris or that could be a breeding ground for mosquitoes and other vectors or that do not comply with the minimum security fencing requirements of the state of California.
- W. The property has become a refuge for coyotes, vermin or other wildlife.

#### 9403. SUBSTANDARD, UNLAWFUL CONDITIONS; DUTIES AND PROHIBITIONS.

- A. Substandard and unlawful conditions as referred to in this Code shall constitute public nuisances.

- B. It shall be the duty of the owner, responsible party, agent of the owner, lessee, occupant, person in possession, any person with a legal interest in any premises, lot, parcel, tract, or piece of land, improved or unimproved, in the City to keep such premises, lot, parcel, tract, or piece of land free from all substandard, nuisance, and unlawful conditions.
- C. It shall be unlawful for any person to construct or maintain property in a substandard condition.
- D. Any condition of property that is substandard, unlawful, or otherwise constitutes a public nuisance shall be abated by repair, rehabilitation, demolition, removal, or otherwise brought into full compliance with this Code.
- E. Nothing in this Code shall be deemed to provide authority or permission to trim or remove trees within the parkway area or to remove protected trees on the property.

#### **9404. ENFORCEMENT; ABATEMENT OF NUISANCES.**

The Director, the Building Official, and their designee(s) shall have the rights and powers of enforcing the provisions of this Development Code.

#### **9404.1 INSPECTIONS.**

- A. Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the Director, Building Official, or their designee(s) have reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises substandard, the Director, Building Official, or their designee(s) may enter such building or premises at all reasonable times to inspect the same or to perform any duty

imposed upon the Building Official by this Code; provided that if such building or premises be occupied, he or she shall first present proper credentials and demand entry. If such entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry.

B. For the purpose of necessary investigations and inspections, the Director, the Building Official, and their designee(s) are hereby authorized to enter upon the following defined areas of private property within the City:

1. Any area which is open to the public generally;
2. Any area which is visible and accessible from the public street and which is not fenced or locked or otherwise physically arranged in a manner as to evidence an intent to prohibit entry;
3. Any area which is used as common area by persons residing or staying in structures located upon the property, unless the area is fenced or locked or otherwise physically arranged in a manner as to evidence an intent to prohibit entry; and
4. Any area where the privacy of an individual would not be violated by entry.

C. Any person who interferes or refuses with the right of entry granted by this Section shall be guilty of a misdemeanor.

#### 9404.2 INITIAL ENFORCEMENT ACTION.

A. Determination. This Section describes the procedures for initiating enforcement actions in cases where the Director, the Building Official, and/or their designee(s) have determined that real property within the City is being used, maintained, or allowed to exist in a substandard condition. It is the

objective of these provisions to encourage the voluntary cooperation of responsible parties in the prompt correction of violations, so that the other enforcement measures provided by this Code may be avoided.

B. Notice to Responsible Parties. The Building Official or the City's Code Services Staff, shall provide the record owner of the subject site and any person in possession or control of the site and any other responsible parties with a written Notice of Violation. The notice shall be given by personal delivery to the owner and the responsible party described in the notice or by depositing it in the United States mail addressed to the owner, agent of the owner, lessee, occupant, or person in possession of the premises therein described at his or her last known address. If no address is known or made known, then to general delivery, Arcadia, California, and there shall be a copy of such notice posted in a conspicuous place upon the building, structure, or improvement.

C. Contents of Notice. The Notice of Violation shall include the following information:

1. A description of each violation and citations of applicable Code provisions being violated;
2. An order to correct and abate the violations and any public nuisance within 14 days from the date of the notice, or within a shorter time as stated in the notice if the violation constitutes a hazard to public health or safety;
3. A statement that the City intends to charge the property owner for all administrative costs associated with the abatement of the violation(s); and

4. A statement that the property owner or any person in possession or control of the site may, within fourteen (14) days from the issuance of the Notice of Violation, submit a written appeal of the order to abate to the Director.

D. Proof of Service. In the absence of fraud, no error or mistake in the sending of the notices, and no failure on the part of any property owner to receive the same shall in any way affect the validity of the proceedings, but the person mailing or posting such notice may file his or her affidavit of mailing or posting, and such affidavit shall be conclusive evidence that the notices have been mailed or posted as required.

E. Other Procedures. Other enforcement procedures, including but not limited to civil or criminal prosecution may be employed by the City after or instead of the provisions of this Section.

#### **9404.3 APPEAL OF NOTICE OF VIOLATION.**

- A. Upon request by a responsible party that is filed with the Development Services Department within fourteen (14) days after mailing of the Notice of Violation, the Director or his or her designee shall hold a hearing at a date and time determined by the Director. The Director may designate a third party hearing officer to hold the hearing.
- B. The Director or his or her designee shall hear and consider objections and/or protests from any responsible party or other interested persons relative to the Notice of Violation. The Director, or his or her designee, shall hear and receive all relevant evidence and testimony relative to the alleged public

nuisance and shall consider methods to abate such nuisance. The Director or designee may continue the hearing from time to time.

C. Upon or after the conclusion of the hearing, the Director, or his or her designee, shall, based upon the evidence presented at the hearing, determine whether the affected premises, or any part thereof, as maintained, constitute a public nuisance as defined herein. The decision of the Director or his or her designee shall be final.

#### 9404.4 RECORDING NOTICE OF VIOLATION.

- A. Recordation. If property in the City exists in violation of this Development Code and the owner fails or refuses to correct the violation within the time set forth in the Notice of Violation, the City may record the Notice of Violation against the affected property in the County Recorder's Office.
- B. Mailing Notice. Before recording a Notice of Violation, the City shall send a written Notice of Violation to the current owner(s) of record and any mortgage holder(s) notifying that a violation(s) exists and request that the owner(s) correct the violation within a specified, reasonable period of time.
- C. Constructive Notice. The Notice of Violation, when recorded, shall be deemed to be constructive notice of the violation(s) to all successors-in-interest in the property, under California Civil Code Sections 1213 and 1215.
- D. Release or Cancellation of Notice of Violation. If the owner or other responsible party corrects the violation(s) after the Notice of Violation has been recorded, and the owner or other responsible party has notified the City in writing and consented to an inspection to confirm the correction, Code

Services Staff shall record a release or cancellation of the Notice of Violation upon receipt of the costs to record the release or cancellation.

#### 9404.5 ENFORCEMENT OF FINAL ORDER; ABATEMENT BY CITY.

- A. After any order made pursuant to this Code becomes final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of either a misdemeanor or an infraction, punishable pursuant to Section 1200 of the Arcadia Municipal Code.
- B. After any order made pursuant to this Code becomes final, the Director or Building Official may in his or her sole discretion grant an extension of time, or establish a schedule, for the person subject to the order to complete the repair, rehabilitation, or demolition required by the order. Any extensions shall only be granted upon the person subject to the order agreeing to the extensions and any conditions of the extensions.
- C. If, after any order made pursuant to this Code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Building Official may (1) cause such person to be prosecuted pursuant to Section 1200 of the Arcadia Municipal Code, and (2) institute any appropriate action or procedure to abate the public nuisance by proper means including rehabilitation, demolition or repair. It shall be the duty of the Building Official in conjunction with the designated department to take such action as specified in the notice necessary to abate the unlawful condition(s) on the premises.

D. Nothing in this Chapter shall be deemed to prevent the City from directing the City Attorney to commence a civil action to abate a nuisance.

#### 9404.6 SUMMARY ABATEMENT.

Any substandard or nuisance conditions, as defined in this Code, for which the responsible parties cannot be readily ascertained and which can be abated by the City pursuant to the removal of specific items, or any substandard or nuisance conditions which are causing an imminent risk to public health, safety, and welfare, are subject to immediate abatement by City forces, without use of the procedures set forth in Section 9404. The costs for summary abatement shall be assessed to the responsible parties.

#### 9405. RECOVERY OF COSTS.

##### 9405.1 LIABILITY FOR COSTS.

A. The property owner and any other party responsible for the substandard or nuisance conditions shall be liable for the City's costs of enforcement and abatement.

B. In any judicial action, or administrative or special proceeding brought by the City to abate a public nuisance pursuant to this Chapter or to otherwise enforce this Chapter, the prevailing party shall be entitled to recover its reasonable attorneys' fees if the City elects, at the initiation of the individual action or proceeding, to seek recovery of its own attorney fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding. A judicial action includes, but is not limited to, any civil or criminal

action, inspection or abatement warrant, administrative proceeding, or appeal from an administrative proceeding.

#### 9405.2 DETERMINATION, INVOICING, AND HEARING.

- A. The Development Services Department shall maintain records of all enforcement and abatement costs and prepare an itemized invoice. Unless otherwise ordered or determined by a court of competent jurisdiction, Code Services staff shall give notice by certified mail of the costs of abatement to the owner and any responsible person. The notice shall contain an itemized invoice of the costs and shall include a statement that the owner and any responsible person may request a hearing with the Director in writing within 10 days of the date of the notice. The Director may designate a third party hearing officer to hold the hearing.
- B. If a hearing is requested, the Director or his or her designee shall set a date for the hearing and cause notice of the hearing to be sent by certified mail to the owner and any responsible person at least ten (10) days before the date of the scheduled hearing. After the hearing, the Director may confirm, revise, correct, or modify the amount of the costs. The Director shall give notice of the decision on the assessment of the costs, which shall be delivered by certified mail to the owner and any responsible party. The decision of the Director shall be final. Any appeal of the Director's decision shall be governed by California Code of Civil Procedure section 1094.6, or as may be amended from time to time.

9405.3 RECOVERY BY SPECIAL ASSESSMENT.

- A. If the cost of abating the nuisance is not paid within thirty (30) calendar days after the cost becomes final, the cost shall become a special assessment against the real property upon which the nuisance was abated. The assessment shall continue until it is paid, together with interest at the legal maximum rate computed from the date of confirmation of the statement until payment. The assessment may 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 and sale in case of delinquency as provided for ordinary municipal taxes.
- B. The City Council shall adopt a resolution assessing such unpaid costs of abatement as liens upon the respective parcels of land as they are shown upon the last available assessment roll.
- C. The City Clerk shall prepare and file with the County Auditor a certified copy of the resolution of the City Council assessing the costs of abatement as a lien on the land. Notice of lien shall be mailed by certified mail to the property owner, if the property owner's identity can be determined from the County Assessor's or County Recorder's records. The notice shall be given at the time of imposing the assessment and shall specify that the property may be sold after three years by the Tax Collector for unpaid delinquent assessments. The Tax Collector's power of sale shall not be affected by the failure of the property owner to receive notice.

D. The County Auditor shall enter each assessment on the County tax roll upon the parcel of land. The assessment 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 procedure and sale in case of delinquency as is provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

#### 9405.4 RECOVERY BY LIEN.

- A. As an additional remedy, the City may cause a nuisance abatement lien to be recorded with the Los Angeles County Recorder's Office. From the date of recording, the lien will have the force, effect, and priority of a judgment lien and may be foreclosed by an action brought by the City for a money judgment.
- B. Prior to recordation, a notice of lien must be served on the owner in the same manner as a summons in a civil action in accordance with Code of Civil Procedure section 415.10. If the owner after diligent search cannot be found,

the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publishing the notice in a newspaper of general circulation in the City.

- C. The lien must specify (1) the amount of the lien, (2) that the lien is imposed on behalf of the City, (3) the date of the City's abatement order or other order related to the enforcement action, (4) the street address, legal description and assessor parcel number of the parcel on which the lien is imposed, and (5) the name and address of the owner of the property.
- D. The City may recover from the owner any costs incurred regarding the processing and recording of the lien and providing notice to the owner. In the event the lien is satisfied, the City will cause a notice of release of lien to be recorded.

#### 9405.5 CIVIL ACTIONS AND OTHER REMEDIES.

- A. The City may sue in any court of competent jurisdiction for the amount of the assessment, penalties, fees and costs owed to the City, and the satisfaction of any judgment thereby obtained shall cancel any lien or assessment.
- B. The remedies in this section shall be cumulative and the City may recover its enforcement and abatement costs through any other lawful remedy.

#### 9406. REGISTRATION OF UNOCCUPIED RESIDENCES.

##### 9406.1 PURPOSE.

It is the purpose and intent of the City of Arcadia, through the establishment of an unoccupied residence registration program to protect neighborhoods from becoming

blighted by the lack of adequate maintenance and security of unoccupied residences and to prevent unoccupied residences from becoming substandard properties.

#### 9406.2 DEFINITIONS.

For the purposes of this Division, the following definitions shall apply:

- A. "Authorized Contact" shall mean the person(s) and/or agent(s) that the property owner has designated for the unoccupied residence registration as having authority to act on the property owner's behalf.
- B. "Evidence of vacancy" means any condition or information that on its own or combined with other conditions would lead a reasonable person to believe that the property is an unoccupied residence. Such conditions include, but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or personal items consistent with residential habitation, or statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.
- C. "Unoccupied Residence" shall mean a building or structure intended for use as a single family residence which is legally unoccupied or for which there is evidence of vacancy, if the evidence of vacancy has existed for a period of at least thirty (30) days. Periodic visits to the residential property shall not constitute occupancy. The following do not constitute unoccupied residences:
  - (1) properties which are actively under construction, (2) properties which are

in escrow to be sold or transferred, and (3) properties that are actively being marketed by an identified listing agent, that are posted with the listing agent's contact information, that are listed for sale in the Local Multiple Listing Service, that are regularly being shown to prospective buyers, and that are being actively maintained for the purpose of attracting buyers.

#### 9406.3 REGISTRATION.

- A. The property owner of any unoccupied residence shall register the property with the Development Services Department. Registration shall be made when (1) a property becomes unoccupied and the owner does not intend to have the property occupied within thirty (30) days, (2) a property becomes unoccupied and the property does not actually become occupied within thirty (30) days, (3) a certificate of occupancy is issued for newly constructed or renovated property and the owner does not intend to have the property occupied within thirty (30) days, or (4) a certificate of occupancy is issued for newly constructed or renovated property and the property does not actually become occupied within thirty (30) days.
- B. The registration shall identify the name and contact information for the property owner and at least two other authorized agents for the property. At least one contact shall be identified as a twenty-four (24) hour contact phone number for a person or company who is authorized to act on behalf of the owner. The 24-hour contact must be local and must be able to respond to problems related to the property within one hour of receiving telephone notice.

EXCEPTION: If the owner provides the name of a bona fide property management company that is actively engaged in managing properties, that is available twenty-four hours a day to respond to calls and that has an office located within 20 miles of the unoccupied residence, then the owner will not need to provide information for any additional contacts.

- C. In completing the registration, the property owner shall acknowledge that: (1) the property owner shall be strictly liable for any failure to maintain the unoccupied property or to respond within a timely manner regarding problems at the property, and (2) the City may enter the property to summarily abate any substandard or nuisance condition, including but not limited to the abatement of standing water that can be a breeding ground for mosquitoes and other vectors and the abatement of coyotes, vermin, or other wildlife that have infested the property.
- D. The property owner shall pay a registration fee at the time of registration in an amount set forth by resolution adopted by the City Council from time to time. The registration shall be valid for one year from the date the registration form is received by the City. The property owner may renew the registration as long as the property remains unoccupied and shall pay renewal fee.
- E. The owner or authorized agent shall notify the Development Services Department and provide proof of occupancy once any unoccupied residence becomes occupied.

#### 9406.4 VIOLATIONS.

- A. It shall be unlawful and a violation of this Code for a property owner to fail to register an unoccupied residence, which shall be treated as a strict liability offense regardless of intent.
  1. If the City finds that any residence is unoccupied or exhibits evidence of vacancy the City may post a notice of violation and order to register the property. A copy of the notice and order shall be sent to the owner. The owner may contest the notice and order by filing a written objection with the Development Services Department within 7 days of the posting of the notice and order. Department staff will contact the owner to discuss the objection. If the Department does not withdraw the notice and order or the owner does not register the unoccupied residence within 7 days of filing the written objection, then a hearing on the objection will be scheduled at a date and time determined by the Director. After a hearing, the determination of the Director or his or her designee as to whether the residence is occupied shall be final.
  2. An owner's failure to register an unoccupied residence shall be deemed an infraction and shall be punishable pursuant to Section 1200(b) of the Arcadia Municipal Code.
  3. An owner's failure to register an unoccupied residence shall be subject to an administrative fine pursuant to Chapter 4A of Article I of the Arcadia Municipal Code.

4. Each day that an unoccupied property remains unregistered shall be a separate offense.

B. It shall be unlawful and a violation of this Code for an owner to fail to respond, either personally or through an authorized agent, to any contact from the City within 48 hours, or within one (1) hour if the contact relates to an immediate public health and safety concern, which shall be treated as a strict liability offense regardless of intent.

1. If the owner or authorized contact person cannot be timely reached, does not timely respond, or does not abate any substandard conditions, it shall be grounds for the City to proceed with summary abatement and recover its costs pursuant to Sections 9404 and 9405 of the Arcadia Municipal Code.
2. If an authorized contact person cannot be reached, the owner shall be liable for an infraction, which shall be punishable pursuant to Section 1200(b) of the Arcadia Municipal Code.
3. If an authorized contact person cannot be reached, the owner shall be subject to an administrative fine pursuant to Chapter 4A of Article I of the Arcadia Municipal Code.

#### 9406.5 MAINTENANCE.

A. Unoccupied properties shall not be substandard. Unoccupied properties shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, 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 or any other items that give the appearance that the property is vacant or abandoned. The 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. Visible front and side yards shall be landscaped and maintained to the neighborhood standard existing at the time registration was required.

- B. Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or that could be a breeding ground for mosquitoes and other vectors, or drained and kept dry. In either case properties with pools or spas must comply with the minimum security fencing requirements of the state of California.
- C. Unoccupied properties shall be maintained so as not to become a refuge for coyotes, vermin or other wildlife.
- D. Failure to adhere to the maintenance standards for unoccupied properties shall be a public nuisance, subject to abatement or summary abatement in accordance with this Code.

#### 9406.6 ENFORCEMENT.

- A. Nothing in this chapter shall be intended to limit the city from engaging in efforts to obtain voluntary compliance by means of educational programs, notices, and administrative citations.

- B. The Director or his or her designee, including but not limited to police officers, code services officers, the Building Official or other enforcement officials, shall have the authority to enforce the provisions of this Chapter.
- C. Violations of this chapter may be enforced through any lawful means under this Code or the Arcadia Municipal Code.”

SECTION 2. CEQA. The City Council finds that this Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (“CEQA”), the State and local CEQA Guidelines, and the environmental regulations of the City. This Ordinance will have no significant effect on the environment and is therefore not a “project” for purposes of CEQA. As such, no further environmental review is required. Pursuant to State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) section 15060(c)(2), CEQA does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment. Similarly, under State CEQA Guidelines section 15061(b)(3), where it can be seen with certainty that there is no possibility of a significant effect on the environment, the activity is not subject to CEQA. Finally, under State CEQA Guidelines section 15378(b)(5), CEQA does not apply to administrative activities of governments that will not result in direct or indirect physical changes in the environment. Here, the proposed ordinance merely rearranges an existing City ordinance, and establishes a registration process for vacant properties. This Ordinance does not change land use designations, development regulations, or permit or prohibit development. Therefore, no environmental impacts will occur. The City Council,

therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council of the City of Arcadia hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrases be declared unconstitutional.

SECTION 4. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's Office located at 240 West Huntington Drive, Arcadia, CA 91007. The custodian of these records is the City Clerk.

SECTION 5. Restatement of Existing Law. Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this Ordinance, insofar as they are substantially the same as the ordinance provisions previously adopted by the City relating to the same subject matter or relating to the enumeration of permitted uses under the City's zoning code, shall be construed as restatements and continuations, and not as new enactments.

SECTION 6. Effective Date. This Ordinance shall become effective upon the thirty-first (31st) day following its adoption by a majority vote of the City Council.

SECTION 7. Certification and Publication. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in the official newspaper of the City of Arcadia within fifteen (15) days after its adoption. This Ordinance shall take effect thirty-one (31) days after its adoption, and be in force according to law.

Passed, approved, and adopted this 4th day of April, 2017.

/S/ Tom Beck  
Mayor of the City of Arcadia

ATTEST:

/S/ Gene Glasco  
City Clerk

APPROVED AS TO FORM:

/S/ Stephen P. Deitsch  
City Attorney

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES ) SS:  
CITY OF ARCADIA            )

I, GENE GLASCO, City Clerk of the City of Arcadia, hereby certifies that the foregoing Ordinance No. 2346 was passed and adopted by the City Council of the City of Arcadia, signed by the Mayor and attested to by the City Clerk at a regular meeting of said Council held on the 4th day of April, 2017 and that said Ordinance was adopted by the following vote, to wit:

AYES:        Amundson, Chandler, Tay, Verlato, and Beck

NOES:        None

ABSENT:      None

ABSTAIN:     None

/S/ Gene Glasco

City Clerk of the City of Arcadia