

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** City Manager – Development & Infrastructure

**AGENDA DATE:** August 17, 2010

**CONTACT PERSON NAME AND PHONE NUMBER:**  
Patricia D. Aduato, Deputy City Manager  
(915) 541-4853

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

Discussion and Action on final policy direction for establishing requirements, procedures and fees to administer a new program under a Proposed Chapter 18.40 (Vacant Buildings), Title 18 (Building and Construction), of the El Paso City Code; for amending Chapter 18.50 (Property Maintenance Code) of the El Paso City Code to provide for local amendments; and for amending Chapter 2.38 (Building and Standards Commission) of the El Paso City Code to allow appeals of the Proposed Vacant Building Registration and Requirements by the Commission.

**BACKGROUND / DISCUSSION:**

This item is scheduled to allow policy direction on drafting of the proposed regulations. As currently drafted, the proposed regulations provide for the requirements for registration of vacant buildings, preparation of a plan for demolition, rehabilitation or maintenance, and maintenance responsibilities for residential and commercial buildings.

**PRIOR COUNCIL ACTION:**

The proposed regulations were drafted by City staff and presented to the Planning & Development Legislative Review Committee on June 28, 2010. Action by the LRC was deferred to the full City Council, and the LRC report presented on July 20, 2010. Attachment A is a summary of major issues related to the proposed ordinance based upon the City Council direction provided.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

---

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**           *P. Aduato*            
(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

*Information copy to appropriate Deputy City Manager*

JOHN COOK  
MAYOR



CITY COUNCIL  
ANN MORGAN LILLY, DISTRICT 1  
SUSANNAH M. BYRD, DISTRICT 2  
EMMA ACOSTA, DISTRICT 3  
CARL ROBINSON, DISTRICT 4  
RACHEL QUINTANA, DISTRICT 5  
EDDIE HOLGUIN JR., DISTRICT 6  
STEVE ORTEGA, DISTRICT 7  
BETO O'ROURKE, DISTRICT 8

JOYCE WILSON  
CITY MANAGER

## MAYOR AND COUNCIL

# MEMORANDUM

**TO:** Mayor and Council  
**FROM:** Susie Byrd, City Representative, District #2  
**DATE:** August 16, 2010  
**RE:** Council Agenda Item 17B – Proposed Amendment Backup

~~~~~  
Dear Mayor and Council:

During the discussion of the Vacant Building Ordinance, it was determined that the ordinance should be more narrowly applied than what was proposed by City staff. Instead of being declared vacant after 6 months, we changed it to two years. So according to the changes made by council, a building could be vacant and boarded for two years and then we would go to the property owner after two years of being boarded and make them take down the boards and fix the windows and doors on the street façade. I think it is better to just ask all property owners whether vacant or not to always maintain the street façade windows and doors.

I would like you to consider the following amendment to the Property Maintenance Code.

**Motion that:**

the proposed prohibition against boarding of street façade windows and doors for vacant buildings apply to all buildings and structures, whether vacant or occupied, and specifically, that the International Property Maintenance Code, Appendix A (Boarding Standard), when adopted, include a local amendment to Appendix A (Boarding Standard) prohibiting any boarding up of street façade windows and doors of any building or structure, but allowing boarding of any other windows and doors when all other boarding standard requirements are met.

Thanks,

Susie Byrd

**ATTACHMENT A - TABLE OF MAJOR ISSUES**

|   | <b>Issue</b>                                                            | <b>6/28/2010 LRC Draft</b>                                                                                                                                                     | <b>Redraft, Response to LRC input &amp; presented to City Council 07/20/2010</b>                                                                                                                | <b>Redraft, Response to City Council direction 07/20/2010</b>                                                                                                          |
|---|-------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | <b>Effective Date of Regulations</b>                                    | Adoption 8/2010; Effective date of 9/1/2010                                                                                                                                    | Adoption 8/2010; Effective date 3/1/2011                                                                                                                                                        | <i>Recommendation: No Change</i>                                                                                                                                       |
| 2 | <b>Registration &amp; Plan Submission Timelines</b>                     | Registration following 30 days of building vacancy; Plan Submission no later than 2/28/2011 for registration applications received during period of 9/1/2010 through 2/28/2011 | Registration and plan submission are one concurrent process (registration) and required within 30 days of building vacancy                                                                      | <i>Recommendation: No Change</i>                                                                                                                                       |
| 3 | <b>% of Building Vacancy triggering compliance with regulations</b>     | 50% of building                                                                                                                                                                | 50% of building                                                                                                                                                                                 | <u>Direction:</u> Range of 60-65% of Building<br><i>Recommendation: Commercial Buildings - 60% of building; Residential Buildings - Not Occupied (regardless of %)</i> |
| 4 | <b>Duration of building vacancy to trigger registration requirement</b> | 180 consecutive days or more for any building, structure, or portion thereof                                                                                                   | 365 consecutive days or more for any <u>Residential</u> building, structure, or portion thereof; 180 consecutive days or more for any <u>Commercial</u> building, structure, or portion thereof | <u>Direction:</u> Range of 2, 3, 4, or 5 or more years for all buildings<br><i>Recommendation: 2 years or more for any building, structure, or portion thereof</i>     |
| 5 | <b>Inspection Requirement</b>                                           | Timeline undefined, but before certificate issuance                                                                                                                            | Inspection conducted within 180 days of registration application                                                                                                                                | <i>Recommendation: No Change</i>                                                                                                                                       |
| 6 | <b>Certificate Issuance</b>                                             | Within 120 days of completed application (registration application and plan submission)                                                                                        | Following inspection and within 180 days of registration application                                                                                                                            | <i>Recommendation: No Change</i>                                                                                                                                       |
| 7 | <b>Code compliant building improvements</b>                             | 1 Year from certificate issuance; based on improvements schedule noted and approved as part of Certificate                                                                     | 1 Year from certificate issuance; based on improvements schedule noted and approved as part of Certificate                                                                                      | <i>Recommendation: No Change</i>                                                                                                                                       |

**ATTACHMENT A - TABLE OF MAJOR ISSUES**

|    | <b>Issue</b>                         | <b>6/28/2010 LRC Draft</b>                                                                                                                                                                                                                                                          | <b>Redraft, Response to LRC input &amp; presented to City Council 07/20/2010</b>                                                                                                                  | <b>Redraft, Response to City Council direction 07/20/2010</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8  | <b>Exemptions</b>                    | Fire or extreme weather damage (90 days for registration requirement following date of event); vacant building with issued status, actively marketed for sale or lease, under contract for 100% occupancy, unused for occupancy authorized (plan submission exemption for 365 days) | Allow two exemptions: fire or extreme weather damage (90 days for registration requirement following date of event); Tax foreclosed/struck-off vacant buildings (full exemption from regulations) | <i>Recommendation: Maintain exemption for fire or extreme weather damage only</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 9  | <b>Applicability of requirements</b> | Citywide due to public safety exposure to all areas of the community                                                                                                                                                                                                                | Citywide due to public safety exposure to all areas of the community                                                                                                                              | <p><u>Direction:</u> Applicable to Redevelopment Areas (Downtown, Segundo Barrio, Lower Dyer &amp; Chamizal) and Board &amp; Secure Properties</p> <p><i>Recommendation: Applicable to Redevelopment Areas (Downtown, Segundo Barrio, Dyer &amp; Chamizal); to Empowerment Zone Area; to Board &amp; Secure Properties defined as any property where a Notice of Violation or order of the Building &amp; Standards Commission has been given by the City [Another Option for Board &amp; Secure Properties is to make applicable to any property that meets the definition pursuant to Title 18]</i></p> |
| 10 | <b>Registration renewals</b>         | Annual renewal from date of Certificate issuance                                                                                                                                                                                                                                    | Annual renewal from date of Certificate issuance                                                                                                                                                  | <i>Recommendation: No Change</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 11 | <b>Registration Fees</b>             | TBD                                                                                                                                                                                                                                                                                 | Registrations under 5,000 sf - \$150; 5,000 to 20,000 sf - \$300; greater than 20,000 sf - \$450; transfer fee - \$48                                                                             | <p><u>Options:</u> Fees as proposed, lower/higher fees, no fees</p> <p><i>Recommendation: No fees due to applicability to targeted areas, unless areas are expanded</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                               |

**ATTACHMENT A - TABLE OF MAJOR ISSUES**

|    | <b>Issue</b>                                 | <b>6/28/2010 LRC Draft</b> | <b>Redraft, Response to LRC input &amp; presented to City Council<br/>07/20/2010</b> | <b>Redraft, Response to City Council direction 07/20/2010</b>                                                                                                                                                                          |
|----|----------------------------------------------|----------------------------|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12 | <b>Window Replacement<br/>[New Issue]</b>    |                            |                                                                                      | <u>Options:</u> Maintain, change, or delete requirements of Property Maintenance Code<br><i>Recommendation: Maintain existing requirements of Property Maintenance Code and window replacement along the street frontage side only</i> |
| 13 | <b>Insurance Requirement<br/>[New Issue]</b> |                            |                                                                                      | <u>Options:</u> Maintain, change, or delete requirement<br><i>Recommendation: Maintain requirement for general liability &amp; property insurance coverage</i>                                                                         |
| 14 | <b>Security Requirement<br/>[New Issue]</b>  |                            |                                                                                      | <u>Options:</u> Maintain, change, or delete requirement<br><i>Recommendation: Maintain requirement for fire suppression systems for designated uses</i>                                                                                |
| 15 | <b>Penalties [New Issue]</b>                 |                            |                                                                                      | All administrative, civil and criminal remedies applicable<br><i>Recommendation: No change; investigate use of receivership programs &amp; institute process if determined viable</i>                                                  |



# CITY OF EL PASO

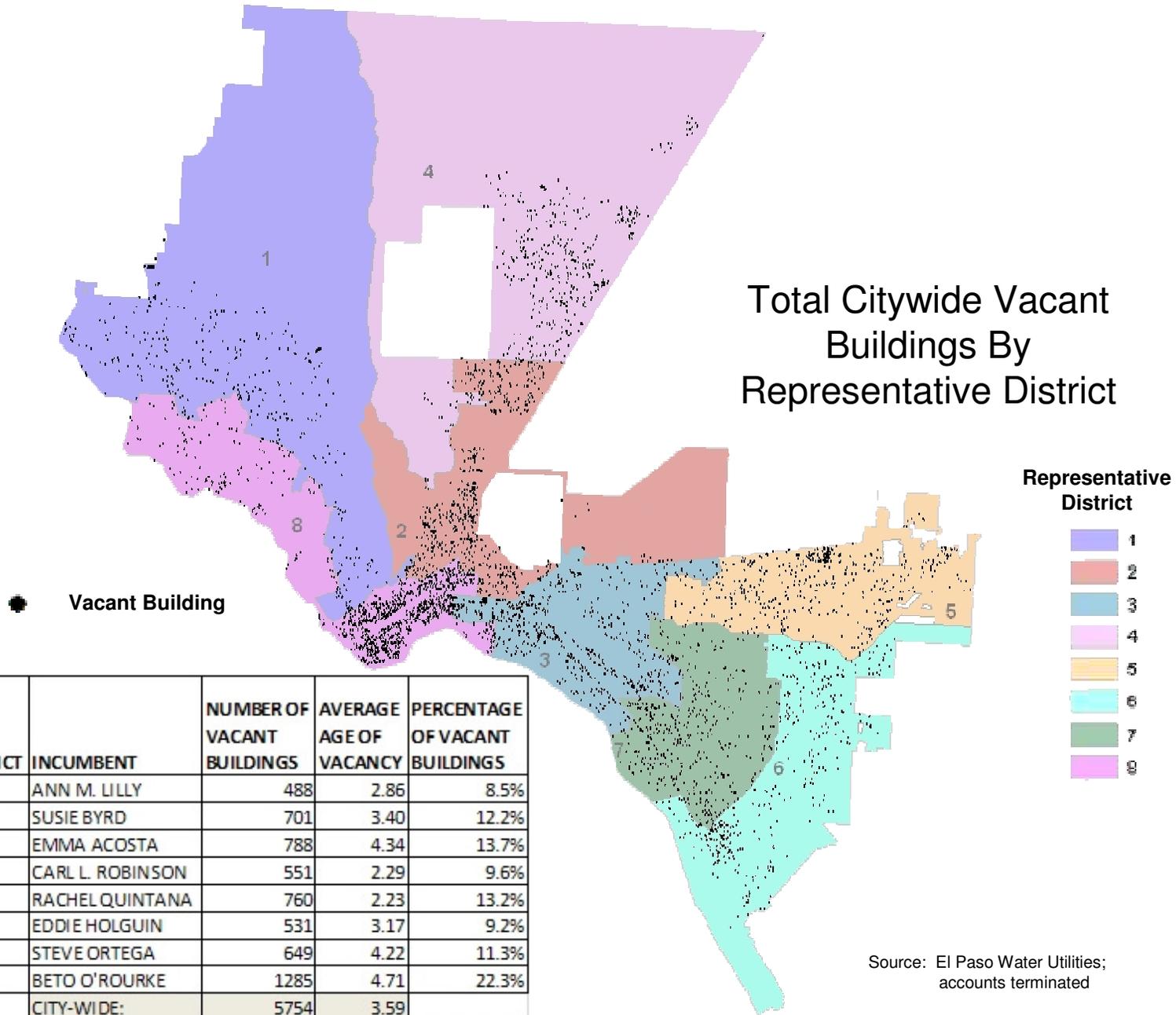
## Vacant Building Program

Overview of Major Issues  
M&CC Policy Direction  
Introduction of Ordinances





## Total Citywide Vacant Buildings By Representative District



| DISTRICT   | INCUMBENT        | NUMBER OF VACANT BUILDINGS | AVERAGE AGE OF VACANCY | PERCENTAGE OF VACANT BUILDINGS |
|------------|------------------|----------------------------|------------------------|--------------------------------|
| 1          | ANN M. LILLY     | 488                        | 2.86                   | 8.5%                           |
| 2          | SUSIE BYRD       | 701                        | 3.40                   | 12.2%                          |
| 3          | EMMA ACOSTA      | 788                        | 4.34                   | 13.7%                          |
| 4          | CARL L. ROBINSON | 551                        | 2.29                   | 9.6%                           |
| 5          | RACHELQUINTANA   | 760                        | 2.23                   | 13.2%                          |
| 6          | EDDIE HOLGUIN    | 531                        | 3.17                   | 9.2%                           |
| 7          | STEVE ORTEGA     | 649                        | 4.22                   | 11.3%                          |
| 8          | BETO O'ROURKE    | 1285                       | 4.71                   | 22.3%                          |
| CITY-WIDE: |                  | 5754                       | 3.59                   |                                |

Source: El Paso Water Utilities; accounts terminated



**§18.40.020.B** – Definition of “Vacant”  
*Duration of Building Vacancy*

**Council Direction:** Range of 2, 3, 4 or 5 years for all buildings

**Staff Recommendation:** 2 years or more  
 for any building, structure or portion thereof

| Citywide Vacancy | Commercial | Residential | Total | Percent |
|------------------|------------|-------------|-------|---------|
| 2+ years         | 1431       | 2049        | 3,482 | 60%     |
| 3+ years         | 1185       | 1647        | 2,834 | 49%     |
| 4+ years         | 1035       | 1371        | 2,408 | 42%     |
| 5+ years         | 939        | 1061        | 2,002 | 35%     |
| 6+ years         | 840        | 915         | 1,755 | 30%     |
| 7+ years         | 758        | 781         | 1,539 | 27%     |
| 8+ years         | 678        | 650         | 1,328 | 23%     |
| 9+ years         | 608        | 551         | 1,159 | 20%     |
| 10+ years        | 527        | 484         | 1,011 | 18%     |

Source: El Paso Water Utilities; accounts terminated



## §18.40.020.C – Definition of “Occupied”

**Council Direction:** Range 60-65%

**Staff Recommendation:**

Commercial – over 60% not occupied; Residential – not occupied

---

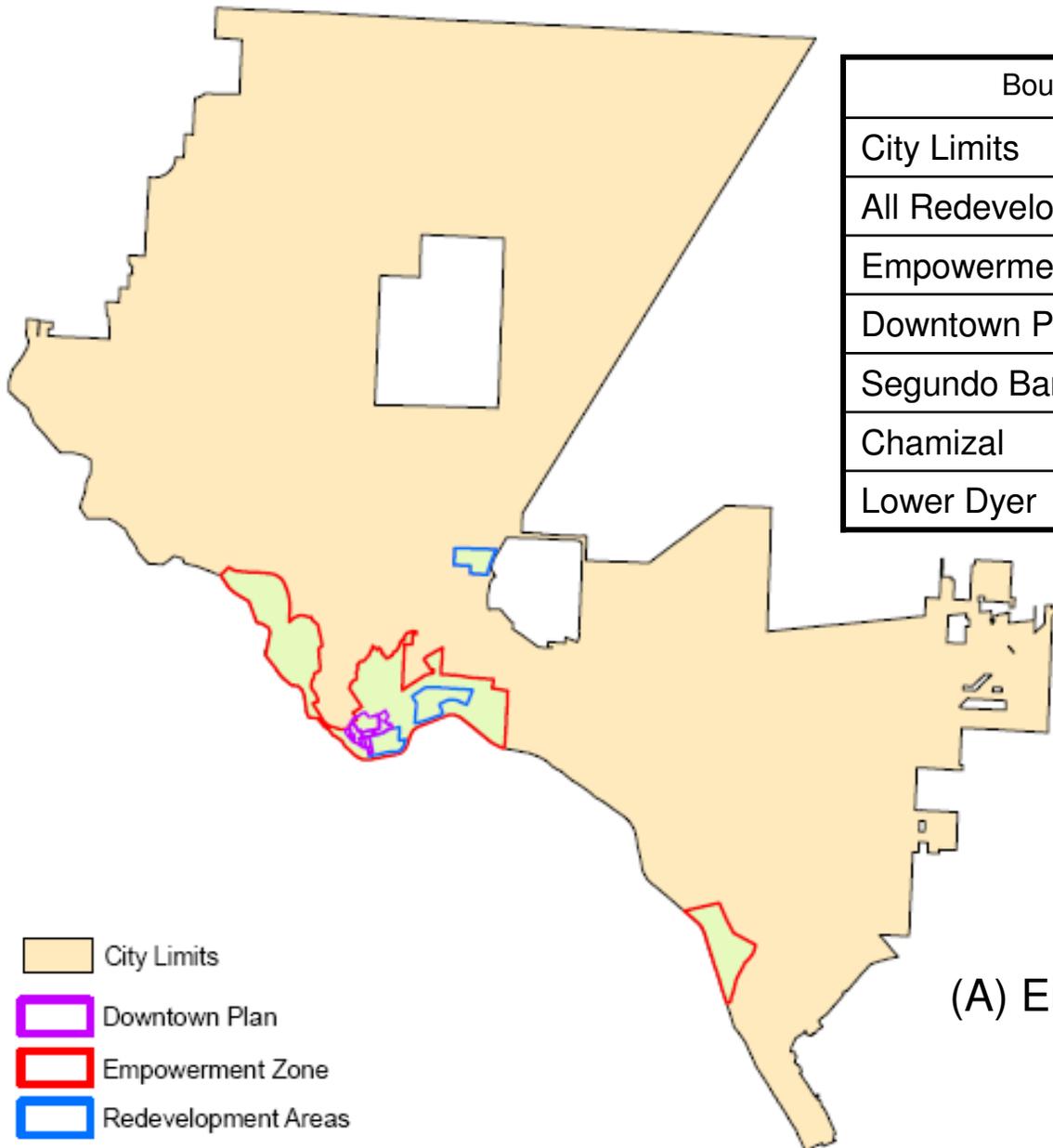
## §18.40.020.D – Definition of “Enforcement Area”

**Council Direction:** Applicable to Enforcement Areas (Downtown, Segundo Barrio, Lower Dyer & Chamizal) and Board & Secure properties

**Staff Recommendation:** Applicable to:

(A) Enforcement Areas  
(Downtown, Segundo Barrio, Lower Dyer, Chamizal &  
El Paso Empowerment Zone); and

B) Board & Secure properties



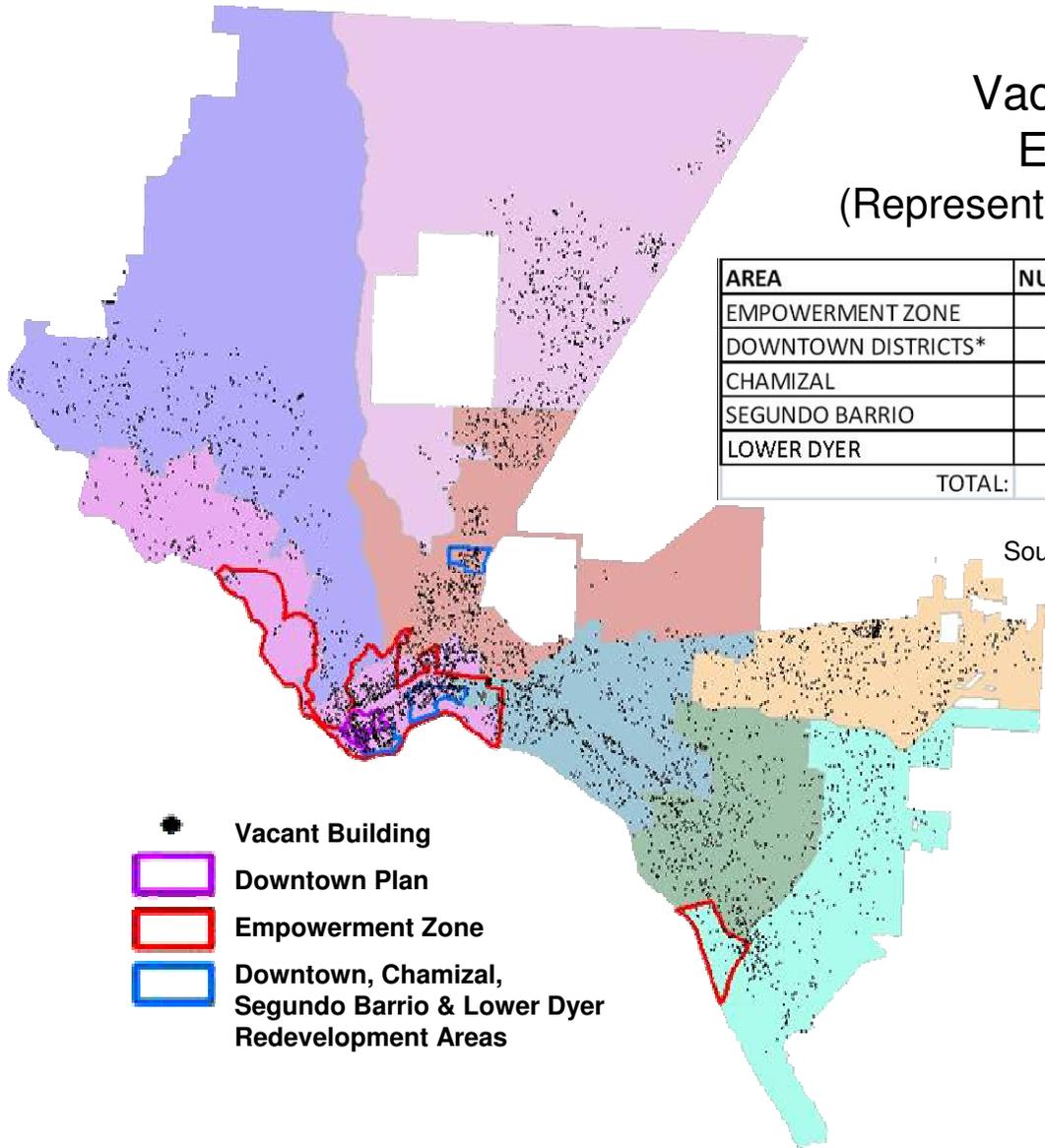
| Boundary                | Square Miles | %     |
|-------------------------|--------------|-------|
| City Limits             | 256.56       | 100%  |
| All Redevelopment Areas | 11.08        | 4.32% |
| Empowerment Zone        | 10.62        | 4.14% |
| Downtown Plan           | .53          | 0.21% |
| Segundo Barrio          | .37          | 0.14% |
| Chamizal                | .64          | 0.25% |
| Lower Dyer              | .45          | 0.18% |

-  City Limits
-  Downtown Plan
-  Empowerment Zone
-  Redevelopment Areas
-  Area Containing Empowerment Zone, Downtown Plan & Redevelopment Areas

(A) Enforcement Areas



## Vacant Buildings Within Enforcement Areas (Represents Total Vacancy & not 2+ Yrs)



| AREA                | NUMBER OF VACANT BUILDINGS | AVERAGE AGE OF VACANCY |
|---------------------|----------------------------|------------------------|
| EMPOWERMENT ZONE    | 999                        | 4.92                   |
| DOWNTOWN DISTRICTS* | 173                        | 5.86                   |
| CHAMIZAL            | 140                        | 4.94                   |
| SEGUNDO BARRIO      | 103                        | 4.96                   |
| LOWER DYER          | 46                         | 4.26                   |
| <b>TOTAL:</b>       | <b>1461</b>                | <b>5.02</b>            |

Source: El Paso Water Utilities records

- Vacant Building
- Downtown Plan
- Empowerment Zone
- Downtown, Chamizal, Segundo Barrio & Lower Dyer Redevelopment Areas

### Representative District

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8



(B) Board & Secure Properties

Defined as:

*City issued order to the owner of the building or structure requiring that it be boarded up, fenced, or otherwise secured in an approved manner pursuant to Section 214.001 Texas Local Government Code [Building & Standards Commission]; and*

*City issued notice of violation of Chapter 18.50 of the El Paso City Code to the owner of the building or structure.*

Applicable to:

*Citywide properties with no vacancy duration trigger, & based upon City's official records (1,666 estimated).*

Other Board & Secure Option:

Make applicable to any property satisfying Title 18 definition



**§18.40.030 – Code-compliant building improvements**

**Staff Recommendation:** No change

---

**§18.40.030 – Registration renewals**

**Staff Recommendation:** No change

---

**§18.40.030.C – Registration & plan submission timelines**

**Staff Recommendation:** No change

---

**§18.40.030.E – Certificate issuance**

**Staff Recommendation:** No change

---

**§18.40.030.F – Inspection requirement**

**Staff Recommendation:** No change

---

**§18.40.040 – Exemptions**

**Staff Recommendation:** Delete Tax Foreclosed Property Exemption



## Registration Fee Options— As proposed, higher/lower fees, no fees

**Staff Recommendation:** No fees due to applicability to targeted areas, unless application areas are expanded

---

## Window Replacement

**Staff Recommendation:** Maintain existing requirements of Property Maintenance Code and window replacement along street frontage

---

## Insurance Requirement

**Staff Recommendation:** Maintain requirement for general liability & property insurance coverage

---

## Security Requirement

**Staff Recommendation:** Maintain requirement for fire suppression systems for identified designated uses

---

## Penalties

**Staff Recommendation:** No change; investigate use of receivership programs & institute process if determined viable



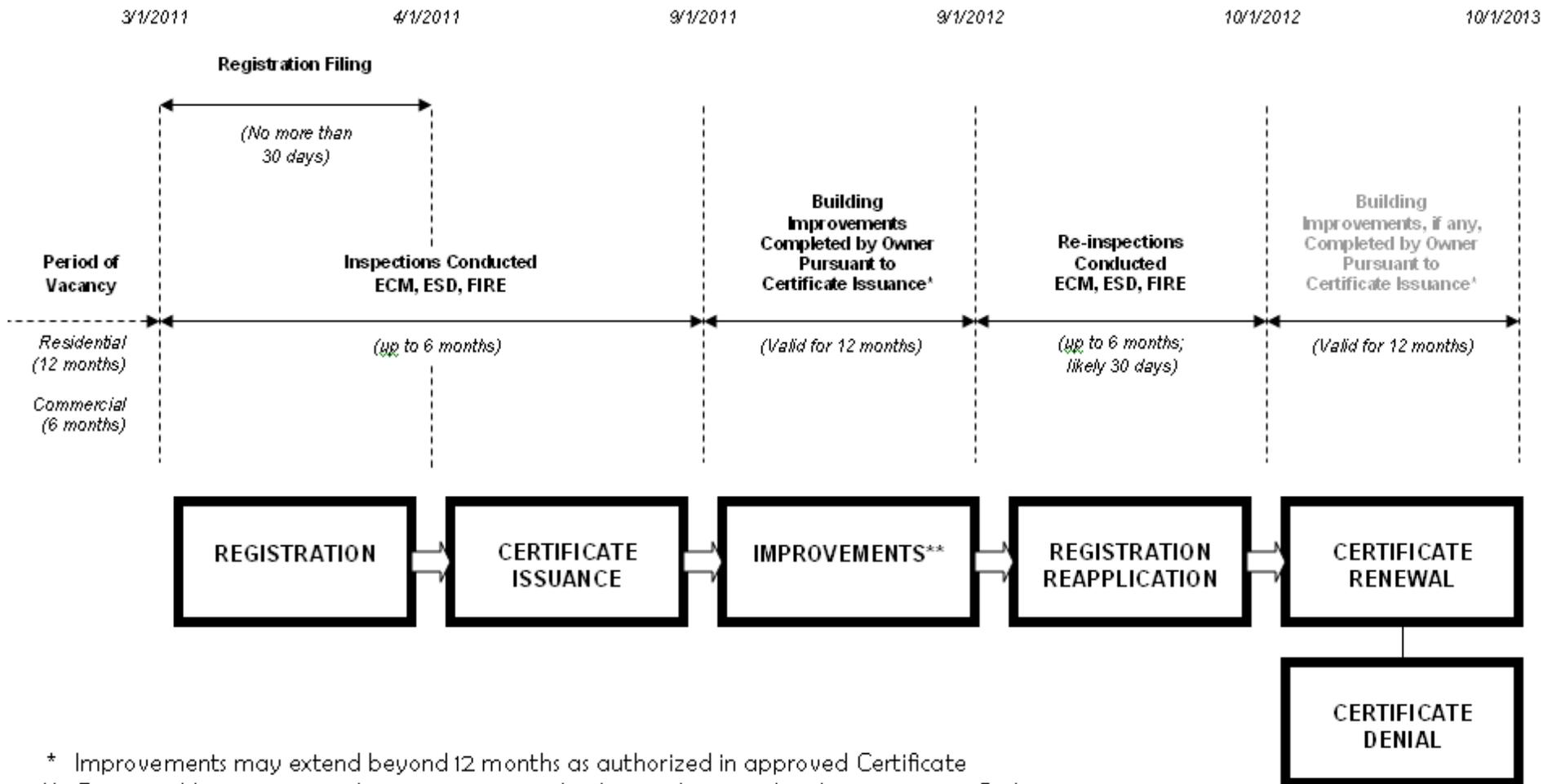
## Effective Date of Regulations

**Staff Recommendation:** Adoption August 2010; Effective Date March 1, 2011

---



# Administrative Process



\* Improvements may extend beyond 12 months as authorized in approved Certificate  
 \*\* Property Maintenance violations are required to be made immediately pursuant to Code requirements

(Administrative & Civil Actions Pursued)



## City Council Actions Requested on Proposed Vacant Building Program:

- 1      Policy direction on text development for Major Issues:
  - Duration of building vacancy
  - % of Building Vacancy
  - Enforcement Areas
  - Exemptions
  - Registration Fees
  - Window Replacement, Street Frontage Only
  - Applicability of Insurance
  - Security Requirement
  - Other
  
- 2      Authorization to bring forward proposed regulations for City Council finalization; Introduction of Ordinances & scheduling of Public Hearing



## City Council Action Requested on Proposed Vacant Building Ordinance:

- 3      Authorize 2 Building Inspectors for Code Enforcement Program; Environmental Services Department, FY 2011 Program Improvement Request for \$62,370
- 4      Direct City Manager to implement Vacant Building Program, including creating administrative mechanisms