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City of Gainesville Policy Program Preliminary Research & Analysis

TOPIC: Empty Storefront Activation
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REQUESTED BY: Commissioner Hayes-Santos

OBJECTIVE

Explore methods of storefront activation including temporary art installations or pop up spaces to reduce the negative appearance and economic impact of vacant storefronts.

EXECUTIVE SUMMARY

Empty storefronts can make neighborhoods less attractive to visit and can have a concrete, negative impact on sales at remaining businesses in the area. People tend to avoid areas with higher rates of vacancies, and are less inclined to stop by other stores in the same general vicinity. Additionally, storefront vacancies also create missed opportunities for cities to generate sales taxes, and additionally pose financial costs to landlords and business owners. For every year a building which could accommodate a mid-size business that sells \$250,000 in goods annually sits vacant, it costs the surrounding community over \$75,000 a year through a loss of taxes, utility payments, and general revenue. This cost is paid not just by the building owner, but by state and local governments, utility companies, banks, and workers.¹

There are many underlying causes for storefront vacancies, including site-specific causes such as a knowledge gap between tenant and landlord, high or speculative rent, a disinterested owner,

¹ https://www.kenoshanews.com/news/amy-greil-empty-storefronts-carry-economic-effects/article_96e6c983-e8de-5528-bb45-b0f81b589e16.html

community opposition, and municipal level causes such as strenuous licensing and permitting policies. Due to this range of causes for storefront vacancies, cities have adopted a variety of solutions to combat this issue. Many cities have opted to create a Vacant Property Registration Ordinance (VPRO), which requires that owners of vacant commercial properties submit information to a registry and may additionally require that owners pay an annual fee for each year that a property remains vacant. Through these programs, cities are able to track and monitor vacant properties, establish dialogue with property owners to understand the nature of vacancies, and develop strategies to help the owner either tenant the space, temporarily activate it, or adhere to minimum standards for appearance and maintenance of the property while vacant.²

In regards to strategies to cope with vacant storefronts in the immediate term, cities have partnered with local nonprofits and institutions to facilitate temporary art installations or pop-ups in the empty storefronts. Temporary strategies can range from placing 2D paintings or photos in building windows or putting 3D art structures in building storefronts, to creating art or retail pop-ups sites, such as temporary art studios or coffee shops. These initiatives improve the appearance of empty storefronts, provide economic opportunities for local artists, and may serve to attract tenants to the location. CultureHouse, a nonprofit which places pop-up shops in vacant storefronts, has collected data which has shown an eightfold increase in the number of people who visit and linger on the block around the pop-ups compared to when a building is vacant, indicating the effect these programs can have on the surrounding community.³ Some municipalities have combined the two strategies, implementing a VPRO while offering to waive the vacant storefront fee if the landlord chooses to allow public art to be displayed in their storefronts until the property is filled. This combination may serve to compel businesses to install art in the vacant storefronts, while additionally ensuring the city stays informed about the status of vacant buildings through the VPRO.

HISTORY/BACKGROUND INFORMATION

Vacant Property Registration Ordinance (VPRO)

VPROs are systems under which owners of vacant commercial or industrial buildings must register any vacant property with the city, and which frequently require owners to pay fines when registering a vacant building. VPROs generally operate under the assumption that landlords are declining offers from tenants and are purposefully keeping their properties empty in the hopes of landing a higher paying tenant. Many business owners report that this is generally not the case for empty storefronts, and thus this policy simply creates an additional financial penalty for landlords who are already struggling financially.⁴ These programs vary considerably based on the location and context in which they are established, however municipalities that have implemented similar programs have reported increased and improved communication between property owners and municipal agencies, however the overall

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https://www.cambridgema.gov/~media/Files/CDD/EconDev/retailstrategy/cambridgevacancystorefrontreport_6302018.pdf

³ <https://www.fastcompany.com/90478242/this-portable-furnace-could-stop-coronavirus-in-its-tracks>

⁴ <https://www.bisnow.com/national/news/retail/fed-up-with-vacant-storefronts-residents-force-cities-to-punish-retail-landlords-91715>

impact on vacancy rates is less clear. Additionally, these policies can help municipalities determine the underlying, root causes of vacancies, to craft additional policy to prevent the problem.

Enforcement of these programs and the imposition of fees is largely discretionary, typically based on the judgement of the building inspector and their determination of what constitutes a vacancy at the time of inspection. Generally, property owners are required to report a vacancy within 30 to 90 days, with fees typically being due at the time of registration. Responsibility over this enforcement typically falls to a city's planning department.

The structure of registration fees varies, with some cases adopting a flat rate year over year, and others growing cumulatively over the lifespan of the vacancy. Fine structures for failing to register vary, but tend to have the capacity to accrue rapidly for persistent/repeat offenders. Exemptions are typically provided on a discretionary basis and are determined based on the proceedings of a hearing.⁵

While supporters of VPROs believe that levying a tax may drive landlords to fill a vacancy more quickly, critics say that this policy may force businesses into accepting tenants that do not contribute to the success of the region.

In addition to these concerns, municipalities that have implemented VPROs have reported that some business owners have tried to avoid the penalties by filing for exemptions or by asking for building permits and then never making improvements. As might be expected, landlords are generally in opposition to these penalty fees, as they believe that market-driven solutions are better for the long-term support of the community.

Temporary Art Installations/Storefront Activation

Many cities have combatted the oftentimes negative and unwelcoming presence of empty storefronts by partnering with local artists, businesses, and nonprofits to place temporary art installations in the empty storefronts. These initiatives became particularly popular in the wake of the recession, as cities were dealing with high levels of vacancies. These programs are able to address short-term space needs for artistic projects and to encourage creative, experimental, and collaborative approach to artistic practice in unconventional spaces. In addition to the benefits to artists and the appearance of empty storefronts, art installations physically occupying these spaces have been shown to increase foot traffic and viable new retail businesses taking shape, in addition to increasing engagement with area residents.⁶

Placing art in empty storefronts can also help the community at large, as research has shown that communities which place an emphasis on arts and culture are happier and healthier. Specifically, data shows that the vibrancy of arts is critical to health communities because arts and cultural organizations

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https://www.cambridgema.gov/~media/Files/CDD/EconDev/retailstrategy/cambridgevacancystorefrontreport_6302018.pdf

⁶ <https://www.arts.gov/exploring-our-town/project-storefronts>

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are engines of community development and community cohesion. Thus, these programs can serve as larger, community building efforts apart from their economic and visual benefits.⁷

Successful implementation of these programs necessitates strong partnerships with local businesses and artists in order to create contracts that provide artists temporary, free spaces to display their art while ensuring that business owners retain control of the space in the event that they find a tenant. Municipalities which have created these initiatives have found business owners hesitant to participate, largely due to concerns of their property not being “show-ready” for potential tenants. Any similar initiative would require communication on the part of the city with these landlords in regards to the potential benefits they may see from the program, in addition to the low risk nature of the art installations themselves.

There are multiple levels of art installations that could be placed in empty storefronts. The simplest method is placing 2D paintings or images in storefront windows, as these take up the least amount of space and are easy to remove if the business owner leases the building. A slightly more complex installation would be placing 3D projects, such as sculptures, near the windows and entryways of empty storefronts. The final, and most complex option, would be to utilize vacant buildings as pop-up spaces for local art galleries, individual artist studios, coffee shops, or for any pop-up retail concept such as temporary store locations for local entrepreneurs. This effort may foster the most community engagement with vacant buildings, however it is also the most difficult to organize logistically and business owners may feel that it results in a loss of their control of the space and increased liability. Any of these initiatives additionally may or may not provide monetary incentives for artists who participate in the program. Doing so can help to generate revenue for local artists and increase participation in the program, however it requires additional resources from the city.

There are advantages and disadvantages to each level of activation. Pop-ups, whether they are focused on art or retail, are the most engaging, and can bring about additional revenue for the building owner and those who occupy the space temporarily. However, this is also the most complicated option, as there are several costs involved including insurance, utilities payment, and set-up. Additionally, these options require building owners to give up significant control of their space without receiving rent payment from the pop-up tenants, which may bring about a lack of desire to participate in the program. Placing art in windows is the cheapest and easiest option, as there are no costs for utilities or rent and very little insurance and set-up costs, however that option may have the least impact on the building itself. Window activation brings in no revenue for the owners of the vacant storefronts, and additionally draws less community engagement than the pop-up option, decreasing the likelihood that owners are able to attract tenants through the initiative.

While temporary art installations are successful at improving the appearance of vacant storefronts, and while they can be helpful at providing space for artists and attracting tenants to empty storefronts, they do not combat or solve the root causes of these vacancies. Some cities that implemented similar

⁷ <https://www.xn--prnewswire-75a.com/news-releases/developers-join-newark-arts-to-transform-empty-storefronts-into-art-exhibits-300926244.html>

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programs have reported that buildings which host local artwork have been able to gain more community attention and thus find tenants, however this has not been the case for all business owners.

City of Gainesville

Many vacant storefronts, specifically in the downtown Gainesville area, have recently featured showcases of art by private citizens and institutions. If financial assistance is needed to help tenants display art or revitalize the space, the City of Gainesville could help with funding. Funding may be used to provide financial incentives to artists who participate in programs, for cleaning fees of participating storefronts, or for covering insurance costs for the businesses or artists.

City departments could also work closely with businesses owners to find additional ways to brighten their empty storefronts. Additionally, the City of Gainesville could partner with local nonprofits or schools to have local artists or students submit their artwork to be displayed in the storefronts.

PRELIMINARY RESEARCH AND FINDINGS

Art Installation – San Francisco, California

In 2010, with funding from the National Endowment for the Arts, the San Francisco Arts Commission started an Art in Storefronts program, designed to reinvigorate commercial corridors that were hit by the economic downturn. The program ran successfully for roughly three years, and was discontinued after storefront vacancies declined. While the Arts Commission no longer has a funding source to continue the program, they have developed the Art in Storefront Toolkit to help cities in replicating the program.

To recruit property owners to participate in the program, the Arts Commission worked with economic development nonprofits within four neighborhoods, with a goal of installing art work in 26 vacant storefronts. The group reported significant difficulties getting property owners to participate for several reasons. In many instances, the owner of the property did not live in the neighborhood or city, and thus declined to participate. Additionally, many owners were hesitant to sign a contract, specifically when asked to carry general liability insurance. Finally, many business owners did not trust the commission with their space, despite offers to clean up properties in return for use of the space. Due to these difficulties, the Arts Commission expanded their initial concept and included underutilized storefronts and businesses where display windows were not utilized. Additionally, they included the creation of two murals running along the busiest commercial corridor.

With this program, property owners were not paid to participate, although they did receive a deep clean in exchange for providing use of their storefront. In addition, property owners noted a decrease in graffiti on the exterior of their properties, and the increased attention did lead to the rental of two properties. In addition to requiring property owners to carry general liability insurance, the City of San Francisco and the individual artists were also named as insured. The City used its own self-insured policy to cover the value of the art if it was damaged or stolen from the storefront, valued at \$500.

Recruiting artists was not an obstacle in San Francisco, as they received over 200 applications for 26 slots. The Arts Commission issued a press release in conjunction with the Mayor's office to announce the project and posted guidelines online to coincide with the media announcement. The Arts Commission prioritized selecting artists who lived and worked in the neighborhood, and whose work celebrated the surrounding community.

The entire project was created for \$55,000, which covered project management, design and printing of marketing material, web design, artist stipends of \$500 each, cleaning fees to prepare the windows for installation, and minimal installation and de-installation expenses. The project budget did not include City staff time.⁸ The Arts Commission additionally shares samples of their artist agreements and their property owner agreements in their toolkit.

VPRO and Art Installation – Arlington, Massachusetts

Arlington, Massachusetts passed legislation in late 2016 which required landlords to register with the city and charged them \$400 annually for each vacant storefront.⁹ The legislation defined a vacancy as any commercial or industrial property (not including residential property) either not reasonably occupied, abandoned, not used for a period of at least 90 consecutive days or longer, or intermittently occupied but, in the opinion of the building inspector, would fail to prevent trespassers from entering the property for more than 7 days. The program is administered by the city's Economic Development and Planning Departments, and landlords are required to register and pay the fee within seven days of a storefront going vacant.¹⁰

In addition to paying the fee, landlords must show that they are making an effort to fill their vacancies, listing their property online and proving they are looking for businesses and renters to fill the space. The city follows up with storefronts that appear vacant but do not register, and the city has a \$100/day fine for violating the bylaw by failing to register or pay the original fee. If landlords chose, they can have the \$400 fee waived if they allow public art to be displayed in their storefronts until the property is filled. This initiative, referred to as Art Revitalizing Town Storefronts, is coordinated by the Arlington Commission on Arts and Culture. The Commission puts out a call for local artists to submit their artwork which, if chosen, is then placed in empty storefront windows.

When Arlington's policy was first put in place, there were 17 empty storefronts in the downtown region, and by the end of 2017 those vacancies were reduced to 6. The city has reported that the majority of property owners are making good faith efforts to comply with the policy and fill their storefronts. However, landlords in the area have stated that they do not feel the registry helps to fill vacancies any quicker, as the process can take anywhere from three to six months even when actively making an effort

⁸ <https://www.sfartscommission.org/resources/art-in-storefronts-toolkit>

⁹ <https://www.arlingtonma.gov/departments/planning-community-development/economic-development/commercial-property-information>

¹⁰ <https://www.mma.org/arlington-targets-vacant-commercial-properties-downtown/>

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to fill the storefront. Some argue that property owners should get a waiver if they are able to prove they are trying to market potential tenants.¹¹

Similar programs have emerged in municipalities throughout Massachusetts, such as an initiative in Boston where the city held a competition for local artists to have their work displayed in local vacant retail properties, with five chosen winners each receiving \$1000. In response to increased state-wide vacancies, the State of Massachusetts created the Massachusetts Vacant Storefront Program in the spring of 2019, which gives out tax breaks to businesses that move into vacant storefronts.¹² Businesses could receive up to \$10,000 in tax credits from the state's Economic Development Incentive Program if the municipality agrees to give its own award. According to the guidelines, businesses are eligible for the tax break for ground-floor properties vacant for at least a 1 year period prior to occupancy. These credits are refundable, meaning that businesses can take some or all of the credits in cash depending on their tax liability.¹³

VPRO – New York City, New York

In New York City, reports estimate that the average rate of empty storefronts citywide is anywhere from 9 to 20%. In August of 2019, in response to these high rates of vacancy, the New York City Council passed Intro 1472, also known as a “storefront tracker” bill. The ordinance requires all commercial storefront and second floor spaces citywide to register, creating a vacancy database which will help city officials better understand where vacancies lie and what areas are most at risk.¹⁴ Unlike Arlington's VPRO, New York City's ordinance does not require any fees be paid by business owners when they have a vacancy.

As part of the ordinance, owners of ground floor or second floor commercial spaces are required to submit information including their address and whether their property is vacant to the Department of Finance as part of the annual income and expense statement submission. The city then collects additional information, such as their lease history, from premises that become vacant.¹⁵ Intro 1472 is part of a larger effort from the New York City Council to address struggling small businesses, with other bills including categorization for microbusinesses (businesses with fewer than 10 employees), training for small business owners in the age of business empires such as Amazon, better guidance on city permits, and strengthened data collection. The largest, and most high profile, attempt on behalf of the city is the Small Business Jobs Survival Act (SBJSA), which would provide commercial rent control for small businesses, has not yet passed.

Intro 1472 has seen few public challenges, especially in comparison to SBJSA which has faced significant opposition by the Real Estate Board of New York City and other small business advocacy groups, which claim that the rent control places undue burdens on landlords. Instead, supporters of the database

¹¹ <https://arlington.wickedlocal.com/news/20171013/vacant-storefront-by-law-in-effect>

¹² <https://www.wgbh.org/news/local-news/2019/10/15/how-massachusetts-is-tackling-the-scourge-of-vacant-storefronts-across-the-state>

¹³ <https://www.lexology.com/library/detail.aspx?g=3ce99d35-c69b-40d7-ab06-6161f1fabe77>

¹⁴ <https://www.amny.com/news/nyc-vacancies-1-34233507/>

¹⁵ <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3877885&GUID=C0D2361D-766A-42E3-A5CD-F8DBB1C52E8B&Options=&Search=>

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believe that it will help to reveal and then alleviate the causes of vacancy, in addition to providing more data for city planners, who will be able to correlate neighborhood vacancy with factors like nearby transit to detect patterns or phenomena.¹⁶

Pop-Up Exhibit – Newark, New Jersey

In 2019, Newark Arts, a nonprofit arts council in the city, established partnerships with real estate developers to convert seven vacant downtown spaces into temporary art exhibits to showcase local arts and culture during their city's arts festival. This effort is part of the city's larger cultural plan, "Newark Creates", which found one of the greatest needs for artists to be affordable live, work, exhibit, and performance space. The pop-up solution helps to chip away at the heart of that issue, providing artists spaces to show their work in the downtown urban environment.

The spaces themselves are donated by developers to the project to be used free of cost, but they have required additional investments to be made exhibit ready. Conversion expenses have ranged from \$5,000-\$10,000 depending on square footage, lighting, and painting requirements, and these costs have been covered by several sponsors, the primary being the Prudential Foundation, and the provision of volunteer work. Developers have participated in the program for the opportunity to showcase their spaces and enhance marketability. This strategy is additionally more attractive for developers because their space will only be used by artists up through the weekend of the arts festival, after which artists and their work will vacate the building, leaving it open for potential tenants.¹⁷

The Newark Community Economic Development Committee additionally supports the initiative, as the partnership enables area arts and small business to benefit from the city's growth and for developers to further enhance real estate. Additionally, the festival's pop-up exhibits generate economic activity for those same artists and small businesses.¹⁸

This initiative was not led by the City of Newark, although the city did initiate and create the "Newark Creates" cultural plan which prompted the initiative, indicating that community wide partnerships are very important for the success of this sort of program.

Art Installation - Fort Lauderdale, Florida

While some art installation programs, such as Arlington and San Francisco's are run by the municipal government, many non-profits have started implementing these initiatives on their own. Zero Empty Spaces, a non-profit initiative created in Fort Lauderdale in 2019, invites artists to move in to empty stores, acting as an intermediary between artists and property owners. The initiative started in Las Olas Boulevard, and it is intended to benefit both artists and business owners, as artists get affordable studios and property owners are able to make their space more appealing, attract new renters, and increase foot traffic in the area.

¹⁶ <https://www.citylab.com/life/2019/08/vacant-storefront-tracker-law-nyc-retail-rent-control/595294/>

¹⁷ <https://www.prnewswire.com/news-releases/developers-join-newark-arts-to-transform-empty-storefronts-into-art-exhibits-300926244.html>

¹⁸ <https://njbiz.com/developers-join-newark-arts-transform-empty-storefronts-art-exhibits/>

This initiative is slightly different than San Francisco and Arlington, because artists are able to rent the inside of vacant buildings, rather than just the windows/store front. Through the initiative, artists rent their section of the building for \$2 per square foot, well below market value, however leases are set on a month-to-month basis. Generally, several artists will share the same building, renting out different sections. Additionally, each artist is given their own page on the Zero Empty Spaces website to display images, contact information, and links to their independent websites.¹⁹

If a business comes along that wants to pay market rate for the storefront, they will get priority over the artists. If that happens, the Zero Empty Spaces team will move the artists to the next available storefront in the program.

Zero Empty Spaces additionally sees the program as a way to mitigate gentrification of spaces and prevent artists from being priced out of neighborhoods.²⁰ Currently, 13 artists are participating in the program.

PRELIMINARY COST/BENEFIT ANALYSIS

Cost

- VPROs and their accompanying fees will likely be opposed by local businesses.
- Local business owners/landlords may be hesitant to provide their stores to artists at the risk of losing control of the space.
- Temporary art installations have been successful at improving the appearance of empty storefronts, however they are not a solution for the root causes of empty storefronts.

Benefit

- Art in empty storefronts can enhance the appearance of the otherwise negative space.
- The art, and its accompanying increased foot traffic, may bring more attention to the area, making it easier for businesses to attract new tenants.
- VPROs can help cities to understand the root causes of vacancies, to create policies which are beneficial in the long-term for tenants and landlords.

PRELIMINARY AND ILLUSTRATIVE LIST OF POTENTIAL STAKEHOLDERS

- 352Arts
- Gainesville Chamber of Commerce
- Gainesville Community Redevelopment Agency
- Gainesville Parks Recreation and Cultural Affairs
- Gainesville Art in Public Places Trust
- Gainesville Cultural Affairs Board
- University of Florida and Santa Fe Art Programs
- Local high school art classes

¹⁹ <http://www.zeroemptyspaces.com/artists-zes01.html>

²⁰ <https://news.wjct.org/post/zero-empty-spaces-fills-empty-storefronts-broward-artist-studios>

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- Space Us (national program)
- Culture House (national program)

RECOMMENDED POINTS FOR FURTHER RESEARCH/DISCUSSION

- This initiative will require significant collaboration with local businesses, artists, and non-profits. A discussion of who these partners will be would be necessary to move forward.
- Should artists be allowed to rent out the inside of vacant buildings for studio space, or solely the window displays?
- Would artists be monetarily rewarded for their participation in this program?
- Who would be liable for damages in property? The business owner, the artist, the city, or a combination thereof?