

ORDINANCE NO. _____
AN ORDINANCE TO ADD TITLE 3, CHAPTER 9 TO THE MUNICIPAL CODE
ESTABLISHING A VACANT BUILDING REGISTRATION; AND MODIFY CHAPTER 6 IN ACCORDANCE
WITH THIS NEW CHAPTER 9

Be it enacted by the City Council of the City of Fort Madison, Iowa:

Section 1. The City Council of the City of Fort Madison does hereby amend Title 3 “Building” of the Fort Madison Municipal Code by adding:

CHAPTER 9: Vacant Building Registration

WHEREAS, The City Council finds that a significant relationship exists between vacant buildings and increased calls for police services, higher potential for fires, both accidental and intentional, and decline and disinvestment in neighborhoods, and;

WHEREAS, The City Council finds that registering of vacant buildings is essential for the proper enforcement of the city’s building, fire and zoning code and to safeguard persons, property and general welfare, and;

WHEREAS, The City Council finds that registration, inspection and monitoring of vacant properties helps stabilize and improve impacted neighborhoods and helps in the development of code enforcement efforts and public safety.

NOW THEREFORE, The City Council adopts Title 3 “Building”, Chapter 9, “Vacant Building Registration” as follows:

Chapter 9: Vacant building registration.

- A. *Purpose.* Registering of vacant buildings, including, but not limited to, vacant or partially vacant buildings occupied or in business for manufacturing, industrial, storage, commercial, or residential uses is essential for the proper enforcement of the city's building, fire and zoning code and to safeguard persons, property and general welfare.
- B. *Other Ordinances:* This chapter shall not be construed to prevent the enforcement of other applicable ordinances, codes, legislation, and regulations which prescribe standards other than are provided herein. When a provision of this chapter conflicts with any other provision of the code regulating the same subject matter, the more stringent or restrictive provision shall apply.
- C. *Definitions.* In this section:
 - (1) “BUILDING OFFICIAL” Means the Fire Chief or his or her designee.
 - (2) “HABITABLE SPACE” Means a space in a building for living, sleeping, eating or cooking. A previously occupiable residential unit that includes these spaces, shall be considered habitable space in its entirety for the purpose of calculating total habitable space of a building.
 - (3) "OWNER" means the person(s) or entity of record at the Lee County Recorder’s Office as both the deed holder and the contract holder.

- (4) "SECURED" means a building that has all permanent doors and windows in each appropriate building opening that are secured to prevent unauthorized entry, and has all its door and window components intact and unbroken.
- (5) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.
- (6) **VACANT BUILDING: A building or fifty percent (50%) or more of a building** as measured by total square footage of all floors above grade and including previously habitable below grade spaces that are unoccupied and meets one or more of the following conditions:
 - a. Records of the Lee County Recorder show the property is in lien foreclosure;
 - b. Windows or entrances to the building are boarded up or closed off, or one or more doors or windows are broken and unrepaired;
 - c. Doors to the building are damaged, smashed through, caved in, broken off, unhinged, or continuously unlocked;
 - d. The building is without gas, electric, or water service;
 - e. Trash service has been discontinued;
 - f. Water service fails to use a minimum of one hundred (100) gallons per month;
 - g. Rubbish, trash, putrescible materials or debris has accumulated on the property;
 - h. Law enforcement agencies have received at least two reports of trespass, vandalism or other illegal acts being committed on the property within 12 months;
 - i. The yards on the property exhibit grass, lawn, weeds, and other vegetation which are not maintained to a minimum as required by code or to the standards prevailing in the neighborhood.
 - j. The structure meets any or all of the criteria which would support an action by the City under Iowa Code 657A.10B to obtain title to the property.
- (7) "VIOLATION" means that a lawful order has been issued by the city, or a department thereof, and the conditions forming the basis for the order have not been fully abated.
- (8) "UNSECURED" means any building that does not meet the definition of secured.

D. Unlawful to Occupy

(1) Any building or structure that does not have active water or electric utility service connected for a period of 30 consecutive days shall be considered unlawful to occupy. The City, after becoming aware of said disconnected service, may request the building be condemned and rendered unoccupiable through District Court and request to evict occupants of said building or structure.

E. Registration required.

(1) The owner of any building that has become vacant shall, within ninety (90) days after the building becomes vacant or within thirty (30) days after assuming ownership of a building that has already been vacant for sixty (60) days, whichever is later, file a registration statement for each such building on forms provided by the city's building department. The registration and provisions of this section shall remain in effect for that period the building remains vacant.

a. Properties in foreclosure shall further be required to file registration paperwork within 30 days of filing a "Notice of Default" or "Intent to Foreclose" with the District Court.

(2) *Exemptions.* The following are exempt from the provisions of this section:

a. Property that is undergoing an active renovation or rehabilitation, and where a permit for same has been secured from the city building department and has not expired.

b. Properties that are part of an estate that is in probate and are not subject to bankruptcy shall be exempt from registration for a period of 12 months.

c. Properties that are publicly and in good faith being actively marketed as "for sale" for a reasonable price shall not be required to be registered as a vacant property for the first six (6) months of listing. After the property has been listed for the first six (6) months, the property must be registered as a vacant building until sold. A property which is listed with MLS (Multiple Listing Service) is presumptively being actively marketed. An asking price not greater than 150% of the taxable market value, as determined by the Lee County Property Tax Records, is presumptively a "reasonable price".

d. A building owned and occupied by persons who travel to the southern states for the winter months shall not be considered a vacant building. Any such building may be voluntarily registered as a "Snowbird" property at no cost to the owner to assist City staff and the property owner with any concerns regarding said property during the owner's absence.

- e. Properties constructed solely for the use of commercial warehouse/storage and located in a zoning district that allows such use shall be exempt from the fees required provided that utilities as designed and connected to the structures remain in tack and active (service is on), and inspections as required by this code are completed and passed with needed corrections completed within 60 days of finding non-compliance. In the event items found during inspections by the owner or City are not repaired as required, fees will become active and remain fully required for a period of not less than 2 full registration cycles.
- f. A building which has suffered substantial damage shall be exempt from registration for a period of 90 days from the date of substantial damage. After ninety days, the structure must be registered as vacant.
- g. Property owned by the City.

F. Fees:

- (1) The fee for registering a vacant structure shall be set by resolution of the City Council, and may be adjusted from time to time. Registration fees collected on or after July 1, shall be prorated to one-half the yearly registration fee but for calculating subsequent yearly fees shall be considered the full fee as set forth by resolution.
- (2) Exceptions. The following are exempt from the provisions of this section:
 - a. Properties which have active insurance policies equaling the Actual Cash Value of the property but not be less than the cost of demolition/debris removal shall be exempt from the registration fee provided the City of Fort Madison is added as a certificate holder on the insurance policy. Said insured properties shall comply with all other code requirements including inspections as required by this code. In the event violations are found during inspections by the owner or City and are not repaired as required, registration fees will become active and remain fully required for a period of not less than two (2) full registration cycles.
 - b. Residential rental buildings consisting of partially occupied rentals and partially vacant portions of buildings may be allowed to register the vacant units by paying the fee associated with additional rental units. Inspections for vacant portions of said units shall be inspected as required by this code section.
- (3) The fee for renewing the vacant building registration shall be consistent for the first two (2) years a structure remains vacant and

shall run with the property and not ownership. Any change of ownership shall not be considered newly vacant but shall continue to accrue vacancy time for the purposes of calculating registration fees.

- (4) Upon the third year of vacancy the registration fee will double from the original full year registration fee and not the prorated fee. Upon the third year of registration the registration fee will double from the original registration fee. Upon the fourth year of registration the registration fee will double from the third-year registration fee and all subsequent fees will remain consistent with the fourth-year fee.
- (5) If the property is transferred to new ownership and remains vacant, the new owner shall file an amended registration form within 30 days of transfer of ownership. If the building is already registered as vacant the new owner shall not be required to submit the registration fee for the year already paid. The new owner shall submit the previous owner's inspection log as required in the inspections section of this code. If an inspection log is not obtained from the previous owner, the owner shall schedule an inspection with the Building Official within 30 days of registration.
- (6) Payment of the applicable registration fee does not relieve or exempt the owner or other persons from paying any and all fines, penalties, costs or other such charges assessed for non-compliance with the property maintenance standards of this section or other code provisions in this section or elsewhere in the City ordinances.
- (7) Payment of any and all fines, penalties, costs or other such charges assessed for non-compliance with the property maintenance standards of this section or other code provisions in this section or elsewhere in City ordinances does not relieve or exempt the owner from paying applicable registration fees of this section.

G. Registration requirements:

- (1) The registration form shall include the following information:
 - a. A description of the premises; address, including legal description or parcel number;
 - b. The names, addresses and contact phone number(s) for all the owner(s), owner's authorized agent(s) and mortgage lender's account service representative(s);
 - c. The names, addresses and contact phone number(s) of all known lienholders and all other interested parties;
 - d. If the owner and authorized agent does not reside in Lee County, Des Moines County, Henry County, Van Buren County in Iowa, Hancock, Henderson County in Illinois, or Clark County Missouri, the name, address and contact phone number of a person

designated to act on behalf of an out-of-town owner(s) shall be submitted, to accept legal process and notices, and to authorize repairs as required (a letter/mailed form from the legal owner(s) is required to assign a designee). Said designee shall reside in Lee County;

- e. A list of all other persons allowed to be on the property;
- f. The Owner shall execute an authorization appointing the Fort Madison Police Department an agent of the Owner for the purpose of making a demand to depart therefrom pursuant to Fort Madison Ordinance 7-2-11: CRIMINAL TRESPASS.

H. *Owner's responsibilities.* The owner of any building that has become vacant shall:

- (1) Notify the office of the Building Official of any changes to the information provided in the registration or to the plan of action if one exists within thirty (30) days after making the changes. (examples: change of address, change of local contact designee or deciding to make repairs for occupancy rather than leave vacant or other changes as specified in the plan of action.)
- (2) Secure all buildings on the premises.
- (3) Maintain all buildings in a secure and closed condition until the building is again occupied or legally razed.
- (4) *Minimum requirements for vacant buildings.*

After filing a registration statement, the building owner shall provide access to the city, at the city's request, to conduct an exterior and interior inspection of the building to determine compliance with this section.

1. MINIMUM MAINTENANCE STANDARDS: A vacant building shall be considered adequately maintained if:

- a. Doors, windows, and other openings are weather-tight and secured against entry by birds, vermin, and trespassers. Broken or missing doors and windows shall be replaced with like materials. Boarding up of doors and windows shall not be considered an appropriately secured.
- b. The roof, gutters and flashing are sound and tight, will not admit moisture, vermin, or birds into the structure, and properly drain to prevent dampness or deterioration in the walls or interior and in a manner that does not create a public nuisance.
- c. The interior and exterior shall be maintained in good repair, structurally sound, free from debris, rubbish,

yard waste, garbage, and sanitary so as not to threaten public health or safety.

- d. The structural members are free of deterioration and capable of safely bearing imposed dead and live loads
- e. The foundation walls are free from open cracks and breaks, and vermin-proof.
- f. The exterior walls are free of holes, breaks, and loose or rotting materials, and exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint.
- g. All balconies, decks, stairways, cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features are safe, anchored, and in good repair, and exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint.
- h. Any plumbing fixtures, including those used for operation of lawn sprinkling system, shall be maintained with no leaking pipes, and all pipes for water shall either be completely drained, winterized, or heated to resist freezing.
- i. All existing fire detection and suppression systems in commercial and industrial buildings must remain intact and fully operational unless modification and/or decommissioning is authorized by the Building Official.
- j. Sidewalks, stairways, and driveways are free from hazardous conditions and safe for pedestrian travel including but not limited to removal of snow and ice within 12 hours of a precipitation event.
- k. Accessory and appurtenant structures such as garages, sheds, and fences are free from safety, health, and fire hazards, are secured, and are maintained as required for the primary structure or are removed.
- l. The property on which a structure is located must be safe and clean from junk, debris, trash, rodents, weeds, and tall grass. It shall be kept sanitary so that it does not threaten the public's health or safety in any way.

- m. Every owner shall be responsible for the extermination of insects, rodents and other vermin in or about the premises.
- n. Graffiti shall be removed as soon as possible and within 7 days of notification of the defacement.

l. Inspections:

- (1) All buildings registered in the Vacant Building Registration Program shall be inspected by the Building Official within 12 months of registration in the program. Yearly inspections by the City shall be made to ensure continued compliance. If in the event the property passes inspections without violations on two (2) successive yearly initial inspections, the property would be allowed a grace period of two (2) years with the follow up inspection on year three (3) from the most recent initial inspection. Subsequent passed third year inspections would allow for continued inspections every third year. If at any inspection the building(s) fail(s) to pass minimum maintenance standards, yearly inspections will be required until the building(s) pass(es) inspections for two (2) successive years.
- (2) Monthly inspections shall be required by the owner or the owner's designee to ensure the required minimum maintenance standards are being met and said person shall keep a detailed log of findings upon inspection and repairs completed post inspection. If inspections logs are submitted as checked monthly and maintained but do not match the Building Officials records of hazards or failure to maintain, the owner shall accrue a fee for failure to secure and maintain.
- (3) Copies of monthly logs shall be submitted to the office of the building official annually at the time of registration. If a property is sold, the new owner must acquire the log of previous inspections from the seller and submit them with registration.
- (4) If a property is found to be maintaining a violation of the minimum maintenance standards by the Building Official, the owner shall be given thirty (30) days to correct the violations. The Building Official may grant an extension based on the severity of work to be completed, provided the structure will not continue to deteriorate during the time allotted. If the owner fails to make adequate repairs within the time allotted, the procedure for failure to secure and maintain shall be followed.
- (5) The Building Official is authorized and directed to inspect any buildings and premises located within the City of Fort Madison for the purpose of enforcing and assuring compliance with this Chapter, with the inspection to include only those items which can be inspected by lawful means. In the event the Building Official has reason to believe

that a Code violation may exist within a building, he or she is authorized and directed to inspect the remainder of the building and premises. The owner of every building may, upon request of the Building Official, give the Building Official complete access to the building and premises at reasonable times for the purpose of inspection. In the event access to the premises is refused, the Building Official with the assistance of the City Attorney may obtain an administrative search warrant from a court of competent jurisdiction in order to gain access to the premises.

J. Consent to Emergency Inspections and Emergency Repairs:

- (1) All applicants and owners registered in the vacant property registration program consent to the entry of duly authorized officials of the City if such official has reason to believe that an emergency situation exists with respect to the building or structure that tends to create an imminent hazard to health, welfare or safety of the general public, in the discretion of such official, then such official may enter the building to inspect the premises, without notifying the responsible party or obtaining a warrant. If such official finds an emergency situation exists, which presents an imminent hazard to the health, welfare or safety of the general public, then such official may cause any reasonable action, including the employment of necessary labor and materials, to perform emergency repairs to alleviate the hazard. Costs incurred in the performance of emergency repairs may be paid by the City and if so paid, the city shall charge the cost thereof to the owner and failure to pay the city any costs shall be certified by the clerk to the county treasurer, and assessed to the property owner of record, and collected in the same manner as general property taxes.

K. *Time Restrictions.*

- (1) With respect to any structure that has been vacant for a period of over twenty-four (24) months, the Building Official may require that the property owner submit a plan of action, which shall include, without limitation, identifying an estimated date the property will be habitable, occupied, razed, or offered up for rent or sale as well as any other terms and conditions deemed appropriate by the Building Official.

L. Unsafe/Public Nuisance.

- (1) Notwithstanding the provisions of this article, the City shall retain the right afforded under relevant State or local law to declare a vacant structure unsafe and/or a public nuisance. The City may pursue whatever legal recourse afforded to it by law, including, but not limited to, action to abate a public nuisance or an action seeking the demolition of a dangerous and/or unsafe building.

M. Penalties.

- (1) *Failure to register.* Any property owner who fails to register a vacant building shall be assessed a penalty as set by resolution of the City Council, the amount of said penalty may be adjusted from time to time. Each additional month of violation after notification shall be considered a continuing violation and said penalty shall be assessed for each month of non-compliance.
- (2) *Failure to secure and maintain.* If any property owner or any entity functioning as a trustee of an owner, or identified as a responsible trustee or building manager by the owner, having a duty to register a vacant building is found to be in violation with any portion of this chapter the owner shall accrue a penalty for failure to secure and maintain the building, the penalty of which shall be set by resolution of the City Council, the amount of said penalty may be adjusted from time to time. The Building Official, shall send by first class mail a written notice of the violation and penalty to the person responsible for day-to-day supervision and management of the building or to the authorized agent for service and process and to the owner of record. Within thirty (30) days, or an amount of time deemed appropriate by the Building Official, of the mailing of the notice of violation, the owner shall be required to restore the building in compliance with this section. Failure to secure and maintain the property as required in this section shall result in revocation of registration, causing fees for failure to comply to be issued. Nothing in this section shall deny or abrogate the prerogative of the City to correct any violation of this ordinance and to assess and/or recover by judgment, liens, or other means all costs of the same from the owner or agent.

(h) Failure to Comply. Any property owner or entity functioning as a trustee of an owner or entity that fails to comply with any provisions of this section shall, after forty-five (45) days from notification by the Building Official, be charged a penalty as set by resolution of the City Council, the amount of which may be adjusted from time to time, for each month the property is not in compliance with this section. The city shall charge the costs for failure to secure and maintain and costs for failure to comply to the owner and failure to pay the city any costs shall be certified by the clerk to the county treasurer, and assessed to the property of record, and collected in the same manner as general property taxes. However, the City may, in its complete discretion, elect to seek other remedies apart from the assessment of liens.

N. Appeals:

Any owner directly affected by a decision of the Building Official or the Building Officials designee regarding this Chapter may file with the Building Official, an appeal in writing to the Construction Board of Adjustment and Appeals in accordance with Title Two (2) of the City Code. The basis of any appeal shall be limited to a claim that the true intent of this Chapter or the rules legally adopted thereunder have been incorrectly interpreted or applied, or that the requirements of this chapter are adequately satisfied by other means. Such appeal shall be filed within ten (10) days of the decision of the Building Official. Appeals filed after ten (10) days of said decision shall be deemed waived and shall be dismissed by the Building Official.

Passed and Adopted by the City Council of the City of Fort Madison, IOWA

This _____, 2021.

Mayor

City Clerk

Date Published: