

ORDINANCE NO. 2021-02

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 5 OF THE CITY CODE RELATING ABANDONED AND VACANT BUILDINGS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NICKERSON, KANSAS;

Chapter 8, Article 5B, Sections 8-5B01 through 8-5B11 of the Code of the City of Nickerson, Kansas, shall be added to the City Code:

Article 5B. Abandoned and Vacant Buildings

8-5B01. Purpose.

Recognizing that abandoned and vacant buildings contribute to blight in both residential and non-residential neighborhoods, discourage economic development and retard appreciation of property values, endanger public health and safety, attract criminal activity, and create fire hazards, it is the responsibility of property owners to prevent buildings from becoming a burden to the neighborhood and community and a threat to the public health, safety, and welfare. The Governing Body finds that abandoned and vacant buildings result in increased expenditures for police, fire, and code services inspections and calls. Maintenance of the public health, safety, and welfare thus requires the city to maintain an accurate registration of all abandoned and vacant buildings.

8-5B02. Definitions.

For purposes of this article, certain phrases and words are defined below. Words or phrases not defined in this article but defined in applicable state law or the Code shall be given that meaning. All other words or phrase shall be given their common ordinary meaning. The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

Abandoned Building means a building that is vacant and is open or unsecured so that unauthorized admittance may be gained.

Building means a building, or other structure adapted to permanent occupancy for residential or commercial purposes.

City means the City of Nickerson, Kansas.

Chronic Vacancy or Chronically Vacant means a VACANT building which continues to remain vacant for six (6) months after initial notification by the City to the owner.

Occupy means to conduct a lawful business or reside in all or any part of the building or structure as the business occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this Article, evidence offered to prove that a person occupies a building or structure may include, but shall not be limited to, the regular receipt of regular mail through the U.S. Postal Service or proof of continual electric, water, sewer, and trash services.

Owner means the person, persons or entity identified as the owner of the parcel with the Reno County Appraiser's Office; or any agent identified by a nonresident owner; or any mortgagee of a property in foreclosure.

Unsecured means access to the building may be obtained through open, unlocked, broken or missing doors or windows of such building.

Vacant means any building intended for residential or commercial use which is not currently occupied or in use wherein no person or persons, currently conduct a lawful business or lawfully reside or live in any part of the building as the legal or equitable owners(s) or tenant-occupants(s) or tenant(s) on a permanent, non-transient basis or that is unoccupied.

8-5B03. Public Officer.

The mayor shall designate a public officer to be charged with the administration and enforcement of this Article.

8-5B04. Inquiry and Inspection.

The public officer shall make inquiry and inspection of premises upon receiving information that a building may be abandoned or vacant. Upon making such inquiry and inspection the public officer shall make a written report of his or her findings.

8-5B05. Service of Notice.

If the public officer determines that a building is abandoned or vacant then such officer shall give notice of the finding to the owner by:

(a) delivering written notice to the owner personally, or

(b) by first class mail through the U.S. Postal Service and by posting the notice on the building in a conspicuous place.

8-5B06. Notice Content; Vacant Building.

The notice issued by the City for a vacant building shall be in writing and shall contain the common street address, description of the building, advise the owner that the building has been determined to be vacant, and will be subject to registration as a Chronically Vacant building after a period of six (6) months, and advise the owner that he or she has twenty (20) days to appeal the determination.

8-5B07. Notice Content; Abandoned or Chronically Vacant Building.

The notice issued by the City for an Abandoned or Chronically Vacant building shall be in writing and shall contain the common street address, legal description of the property, registration requirements, and shall apprise the owner of the facts available to the City which resulted in the determination that the building is an abandoned or chronically vacant building and advise the owner that he or she has twenty (20) days to appeal the determination. The Notice shall state the steps which an owner may take to claim an exemption from registration fees. The time for registration of an abandoned or chronically vacant building may be extended by the public officer for good cause.

8-5B08. Registration and maintenance requirements for Abandoned and Chronically Vacant buildings fees.

(a) The owner of an abandoned or chronic vacant building shall register the building with the City within twenty (20) days of service of a written Notice provided to the owner or agent of the existence of the abandoned or chronic vacant building or show cause in writing to the public officer as to why the building is not abandoned or chronically vacant. If the owner contends that the building is neither abandoned nor chronically vacant then such owner shall provide the public officer with such information as the owner requests the public officer to consider in making his or her determination. The public officer shall render his or her written decision within ten (10) days of the notice that the owner challenges the initial notice that the building was abandoned or chronically vacant.

(b) The required registration shall be submitted on the form provided by the City, which form shall include the name, current mailing address, phone number and any other contact information of the owner, the names and addresses of all known lienholders and all other parties with a legal or equitable ownership interest in the building, the common address of the building and parcel tax identification number. The form shall also include a timetable for:

(1) Returning the abandoned or chronically vacant building to appropriate occupancy or use; or

(2) Marketing the chronically vacant building pursuant to the provisions of Section 8-5B09.

(c) The initial registration period is for one (1) year. After the initial registration period has expired and for every subsequent year a building remains abandoned or chronically vacant beyond the initial registration period, the owner of the abandoned or vacant building must:

(1) re-register the building, by paying the appropriate fees, and

(2) submitting an updated plan for either returning the building to appropriate occupancy or use or marketing the property.

(d) Upon registration, the City shall provide the following incentives toward active marketing of the residential or commercial building:

(1) Waive zoning fees, if applicable.

(2) Provide solid waste removal, water, and sewer service at no cost for sixty (60) days if the building is leased within ninety (90) days of initial registration within the guidelines adopted by the City Council and effective at the date of occupancy. Should the property remain vacant following the ninety (90) days the property owner will be required to pay the minimum utility rates going forward until such time as the property is rented or sold; and

(3) If the building requires remodeling, waive permit fees if remodeling occurs within ninety (90) days of initial registration.

(e) If the owner of an abandoned or chronically vacant building does not reside in Reno County for at least six (6) months a year, then such owner must designate a resident agent with authority to act with respect to the property, including name, current mailing address, phone number and any other contact information of the owner's agent.

(f) Any subsequent owner of a registered abandoned or chronically vacant building must amend the registration with the public officer to include the new owner within thirty (30) days of any transfer of any ownership interest in the abandoned or chronic vacant building but is not liable for an additional registration fee for the period for which it has been registered.

(g) The owner of an abandoned or chronically vacant building must keep the building and any adjoining property secure, safe, and maintained in compliance with all federal, state, and local ordinances and regulations.

(h) The initial registration fee for an abandoned or chronic vacant building is fifty dollars (\$50.00) per residential building, and one-hundred dollars (\$100.00) per commercial building, which shall be collected by the City at the time of initial registration of the building.

(i) If a building remains abandoned or chronic vacant more than 1 year after initial registration it shall be subject to a re-registration fee of \$250 per year for a residential building and \$500 per year for a commercial/industrial building. Funds derived from said fee shall be used to offset the City's cost of inspections and incentives as found in subsection (d).

8-5B09. Marketing Exception to Registration Fees for Chronically Vacant Buildings.

A chronically vacant building shall be exempt from the registration fee required pursuant to Section 8-5B08, for so long as the following marketing requirements are being met:

(a) Buildings marketed as “for rent” by signage, in a newspaper or in an online listing by organizations who provide real estate listings at a fair market value rental rate based upon market rental rates for comparable properties. The owner may show entitlement to this exemption by submitting evidence of marketing to the City. If active marketing ceases, the building in question shall be immediately subject to registration fees.

(b) Buildings which are being actively marketed as “for sale” by a licensed real estate broker or by the owner and advertised as such in a newspaper or listed on a recognized online website. The owner may show entitlement to this exemption by submitting evidence of marketing to the City. If active marketing ceases, the building in question shall be immediately subject to Registration.

(c) A building for which the owner executes a valid affidavit on a form provided by the city attesting that the owner intends to resume occupancy of the building within 180 days. Failure to resume occupancy of the building within 180 days will result in imposition of the registration fee that was exempted under this section, as well as any reregistration fees then becoming due.

8-5B10. Failure to Register, fees, procedures.

(a) An owner who fails to register or re-register an abandoned or chronically vacant building under this Article after written Notice shall be in violation of this Article. The registration fee provided for in Section 8-5B08 per residential building and per commercial building shall immediately become due and payable to the City.

(b) Any civil fees assessed under this section shall be billed to the owner or other responsible party at their registered address. Failure or refusal to pay fees after Notice and an opportunity to pay shall authorize the City to use all available legal remedies for the enforcement and collection of such fees; including but not limited to suits in law or equity in any court of competent jurisdiction, abatement of nuisances maintained in violation of this article, injunction, or assessment of said registration or re-registration fees on the property to be collected with the property taxes. This Article in no way limits the actions or abatement procedures which may be taken by the city for a violation of any other ordinance of the city or statute of the State of Kansas.

(c) Should an owner fail to register an abandoned or chronically vacant building as provided in this Article, the public officer may file a complaint in the municipal court of the city against such owner and upon conviction of a violation of the provision of Section 8-5B08, be fined in an amount not less than \$250 and not more than \$500.

8-5B11. Appeal.

Any person aggrieved by a finding, order or decision made by the Public Officer pursuant to this Article may appeal such to the Governing Body by written notice delivered to the City Clerk within ten (10) days, excluding weekends and holidays, from the final decision of the Public Officer. The Governing Body shall provide a hearing and decide affirming, overruling or modifying the finding, order or decision appealed from. (Code 1987, 4-604)

All other provisions of Chapter 8, Article 5 of the Code of the City of Nickerson, Kansas, not modified by this amendment shall remain in full force and in effect.

This ordinance shall take affect from and after its passage by the City council and after its publication once in the official Nickerson newspaper.

Passed by the governing body this 15th day of November 2021.

Peggy Ruebke

Mayor

ATTEST:

April Beshears

City Clerk