

ORDINANCE NO. 05-23  
OF  
THE CITY OF AUBURN, NEMAHA COUNTY, NEBRASKA

AN ORDINANCE OF THE CITY OF AUBURN, NEMAHA COUNTY, NEBRASKA REGULATING VACANT COMMERCIAL BUILDINGS; ESTABLISHING MONETARY PENALTIES; SETTING DEFINITIONS & PROCEDURES; PROVIDING A CONFLICT RESOLUTION CLAUSE; PROVIDING FOR SEVERABILITY; & PROVIDING PUBLICATION & AN EFFECTIVE DATE FOR THE ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF AUBURN, NEBRASKA, AS FOLLOWS:

**SECTION 1.** A new "Section: "*Vacant Commercial Building Registration*" shall be added to Chapter 150 "*Building Regulations: Construction*" to the City of Auburn, Nebraska, Code of Ordinances as follows:

**150.80. Purpose.** Recognizing that vacant commercial buildings and properties contribute to blight within commercial districts, discourage economic development, hinder appreciation of property values, depress the appearance of the City of Auburn, decrease municipal revenue and taxable value of surrounding properties, endanger public health and safety, attract criminal activity, and create fire hazards, it is the responsibility of owners to prevent buildings from becoming a burden to the neighborhood and community and a threat to the public health, safety, and welfare. Maintenance of the public health, safety and welfare thus requires the City to maintain an accurate registration of all vacant buildings and properties.

**150. 81. Definitions.**

- A. Building means a building, accessory structure, or other structure adapted to permanent occupancy for commercial use within the C-1 Commercial Districts & CR Commercial Residential Districts.
- B. City means the City of Auburn, Nemaha County, Nebraska.
- C. Chronic Vacancy means any building vacant and unregistered one (1) year or longer.
- D. Commercial means any structure classified as a commercial structure under the zoning ordinances of the City of Auburn, NE, within the C-1 Commercial Districts & CR Commercial Residential Districts
- E. Owner means the person, persons, or entity identified as the owner or owners on the last deed of record for the property.
- F. Unsecured means that access to the building may be obtained through open, unlocked, broken, or missing doors or windows of such building.
- G. Vacant Building means a building identified herein, that is unattended or unoccupied and is not actively used as a place of business, or the buildings primary use or intention as commercial is not being developed or utilized; or without active

and routine development towards retail business use/occupation, or the building is frequently open or unsecured so that unauthorized admittance may be gained without damaging any portion of the property, or the building is primarily being used for storage. A commercial building or property will be considered vacant when found to be in the above condition for more than six (6) months and subject to the registration requirements found in this Ordinance.

H. Good Faith shall be defined as being advertised for sale or lease.

- a. For Sale: at a price no more than 125% of the assessed value as listed for the most recent year posted by the Nemaha County Assessor unless a higher market value is established by a certified realtor or licensed appraiser. The owner shall accept any bona fide offer for that amount or more.
- b. For Lease: at a rate that is determined to be fair market rental value by a licensed appraiser or certified realtor that does regular business in Southeast Nebraska.

**150.82. Registration and Maintenance Requirements; Fees.**

- A. The owner of a vacant building shall register the building with the City Building Inspector/Code Enforcement Officer ("CBICEO" herein) within one hundred and eight (180) days of written notice provided to the owner or the owner's resident agent of the vacant building unless the vacancy is corrected and approved by the CBICEO. Such notice shall be served on the owner or resident agent by personal service or by certified mail, return receipt requested. If the owner is a resident, such notice shall be personally served or sent by certified mail, return receipt requested. If the owner is a non-resident, such notice shall be personally served or sent by certified mail, return receipt requested, to the last known address of the owner.
- B. The City shall also accept notifications to owners by mail or electronic transmissions of a building that meets the definition of a Vacant Building as defined in this Ordinance and shall pursue registration of said building in accordance herewith.
- C. The required registration shall be submitted on the form provided by the City and available on the City's website, which form shall include the name, current mailing address, phone number, current email, and any other contact information of the owner; the names and addresses of all known lien holders and all other parties/LLC/Corporation/Business with a legal or equitable ownership interest in the building; the common address of the building, as well as the parcel identification and sale or rental price. The form shall also include the period of time the vacant building is expected to remain vacant, and a plan and timetable for either:
  1. Returning the vacant building to appropriate occupancy or use, including compliance with the minimum maintenance standard of this Ordinance; or
  2. Marketing the property in good faith.

- D. Pursuant to the registration requirements of this subsection, for every subsequent 6-month period a building remains vacant beyond the initial registration, the owner of the vacant building must:
  - 1. Re-register the building or property, including appropriate fees, and
  - 2. Submit an updated plan for either returning the vacant building to appropriate occupancy or use, or marketing thereof.
- E. If the owner of the vacant building does not reside in Nemaha County for at least six (6) months a year, then they shall provide information for a resident agent with authority to act with respect to the property, such resident agent residing in Nemaha County at least six (6) months per year, including name, current mailing address, phone number, current email address, and any other contact information of the owners agent. Failure to identify a resident agent is grounds for rejection of the registration application without refund of the application fee as well as the penalties herein.
- F. Any subsequent owner of a vacant building must register or re-register the building with the City within the thirty (30) days of any transfer of any ownership interest in the vacant building.
- G. The owner of a 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. One hundred & eighty days after registration, a registration fee of Five Hundred Dollars (\$500.00) per building shall be collected by the City Clerk/Treasurer at the time of registration. A re-registration fee of One Thousand Dollars (\$1,000.00) per building shall be collected, thereafter the re-registration fee will increase by five hundred (\$500.00) dollars, with a maximum supplemental registration fee of ten (10) times the initial registration fee amount (\$5,000.00 max). Registration fees may be refundable for the year preceding the date on which the property is no longer vacant upon approval by the City Council.
- I. A vacant building shall be exempt from the registration and fee requirements herein if it is advertised in good faith (as identified herein) for sale or lease.
- J. This Ordinance shall be subject to and include the requirements of Neb. Rev. Stat. § 19-5407 of the Vacant Property Registration Act.

**150.83. Inspections; Minimum Maintenance Standards; Ongoing Obligation.**

- A. Upon the request of the CBICEO, an owner shall provide access to all interior portions of any vacant building or suspected vacant building to permit a complete inspection of the same by a representative of the City of Auburn, NE.
- B. No registration application under this chapter shall be accepted unless the vacant building meets a minimum maintenance standard as assessed by the City's designated officer, with or without the advice and assistance of any third party professional(s) with specialized knowledge necessary to conduct such assessment, including structural integrity, a roof in adequate condition to repeal moisture and the elements, intact walls, windows and doors which allow for securing the

building or property such that it will not deteriorate, attract pests, or pose a safety risk to the public.

- C. The owner of a vacant building will make the property available for an initial inspection within seven (7) days of submitting the registration application, and again within fourteen (14) days of the City's request of subsequent inspections in order to ascertain the ongoing condition of the building and compliance with this Ordinance, as well as the City's Building Codes/Ordinances. Such inspections shall take place at reasonable times during business hours. Failure to permit an inspection hereunder is grounds for rejection of the registration application without refund of the application fee as well as the penalties identified herein.

#### **150.84. Penalties; Procedures.**

##### **A. Penalties**

1. Any owner who fails to register a vacant building under this article shall be liable for a civil penalty of five hundred dollars (\$500.00) per 24-hour period that said vacant building is unregistered.
2. If the building continues to meet the definition of a vacant building for a period of thirty (30) calendar days beyond the required re-registration date, and the owner fails to re-register such building, the City Clerk shall assess a penalty of five hundred dollars (\$500.00) for each thirty (30) calendar day period the building continues to be un-reregistered.
3. If a building or property is vacant and unregistered more than one (1) year and remains unregistered it shall be classified as a chronic vacancy, and as a chronic vacancy a building shall be subject to a fee of \$5,000.00 per year of chronic vacancy with a 10% annual increase.
4. All penalties and fees assessed shall be payable directly to the City of Auburn, NE. Funds derived from said fee shall be used to offset the City's costs of annual inspections as provided in this Ordinance.
5. Any and all civil penalties assessed under this section shall be billed to the owner or other responsible party. Failure or refusal to pay any and all such penalties permits the City to pursue any and all available legal remedies for the enforcement and collection of such penalties; including but not limited to, civil actions being filed in any court of competent jurisdiction, abatement of nuisances maintained in violation of this chapter, institution of injunction, mandamus, or other appropriate action or proceedings to enforce the penalty provisions of this chapter.
6. When penalties assessed under this Ordinance have gone unpaid for one (1) year, they shall be added to the county's tax rolls as special assessments.

##### **B. Procedures**

1. Upon failure to register a vacant building a Notice of Registration Penalty shall be issued to the owner(s).
2. A separate Notice of Registration Penalty shall be issued for each subsequent penalty that may be assessed.

3. The Notice of Registration Penalty shall be served upon the owner by certified mail, personal service, mail, or email, as is accessible to the City and the owners.
4. This chapter in no way limits the penalties, actions or abatement procedures which may be taken by the city for violation of any other ordinance of the city or statute of the state of Nebraska.

**SECTION 2.** Any conflicting provisions in the City of Auburn Code of Ordinances are hereby repealed All other provisions within shall remain in full force and effect except as revised herein.


**SECTION 3.** This ordinance shall be published in book or pamphlet form and posted in three (3) public locations in the City of Auburn, NE. This Ordinance shall take effect and be in full force from and after its passage, approval, and publication in accordance with City Code § 35.07 and Nebraska Law.


SUSPEND  
READINGS \_\_\_\_\_  
(3/4 VOTE)

FIRST READING July 10, 2023  
SECOND READING August 21, 2023  
THIRD READING September 11, 2023

PASSED AND APPROVED THIS 11<sup>TH</sup> DAY OF SEPTEMBER 2023 AS FOLLOWS:

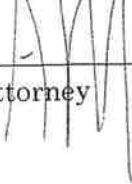
Tom Clark (Ward 1) Aye: X Nay: \_\_\_\_\_ Absent: \_\_\_\_\_ Abstain: \_\_\_\_\_  
 Shawn Clark (Ward 1) Aye: \_\_\_\_\_ Nay: \_\_\_\_\_ Absent: X Abstain: \_\_\_\_\_  
 Katy Billings (Ward 2) Aye: X Nay: \_\_\_\_\_ Absent: \_\_\_\_\_ Abstain: \_\_\_\_\_  
 Rick Janssen (Ward 2) Aye: X Nay: \_\_\_\_\_ Absent: \_\_\_\_\_ Abstain: \_\_\_\_\_  
 Nathan Seitz (Ward 3) Aye: X Nay: \_\_\_\_\_ Absent: \_\_\_\_\_ Abstain: \_\_\_\_\_  
 Jeff Jeanneret (Ward 3) Aye: X Nay: \_\_\_\_\_ Absent: \_\_\_\_\_ Abstain: \_\_\_\_\_  
 Chris Erickson, Mayor  
 (Tiebreaker vote) Aye: \_\_\_\_\_ Nay: \_\_\_\_\_  
*(Mayor votes as Council only  
 As needed on a tiebreaker)*

  
Chris Erickson, Mayor  
City of Auburn, Nebraska

ATTESTED:  
  
Sherry Heskett, Municipal Clerk  
City of Auburn, Nebraska



APPROVED AS TO FORM & LEGALITY:

 - 9/11/2023  
City Attorney Date