

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE REGISTRATION OF VACANT BUILDINGS AND PROPERTIES PROVIDING PROCEDURES RELATED TO INCENTIVES, MAINTENANCE, MARKETING AND ANNUAL INSPECTIONS.

WHEREAS, the Governing Body finds that vacant residential and commercial real estate adversely affects quality of life, creates blight, and impacts local property values; and

WHEREAS, vacant buildings are known to attract vandalism, become havens for drug use and other crime, and require expenditure of public funds for police protection, fire protection and housing inspection; and

WHEREAS, the Governing Body finds that public health, safety and welfare are adversely affected by prolonged vacancies in residential and commercial real estate;

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

SECTION 1. The City Commission of Emporia, Kansas, hereby adopts a vacant building ordinance as follows:

Section 1.

(a) Purpose

Recognizing that vacant buildings and properties 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. Maintenance of the public health, safety, and welfare thus requires the City to maintain an accurate registration of all vacant buildings and properties.

(b) Definitions

- (1) **‘Building’** means a building, accessory structure, mobile or modular structure, or other structure adapted to permanent occupancy for residential or commercial purposes;
- (2) **‘City’** means the City of Emporia;
- (3) **‘Chronic Vacancy’** means any building or property vacant 1 year after initial registration
- (4) **‘Commercial’** means any “nonresidential structure or property” as defined in the

Emporia Building and Construction Regulations, Article XIV, § 2;

(5) **‘Owner’** means the person, persons or entity identified as the owner of the parcel with the Lyon County Appraiser’s Office; or any agent identified by a nonresident owner;

(6) **‘Residential’** means any “residential structure or property” as defined in the Emporia Building and Construction Regulations, Article XIV, § 2;

(7) **‘Unsecured’** means that access to the building may be obtained through open, unlocked, broken or missing doors or windows of such building;

(8) **‘Vacant Building’** means a building or property that is unattended or unoccupied and is not actively used as a place of residence or business, or the building is frequently open or unsecured so that unauthorized admittance may be gained without damaging any portion of the property. A residential or commercial building or property will be considered vacant when found to be in the above condition for more than twelve (12) months and subject to the registration requirements found in Section 2.

Section 2.

(a) Registration and maintenance requirements; fees

(1) The owner of a vacant building or property must register the building with the City designated officer within twenty (20) days of written notice provided to the owner or the owner’s resident agent of the existence of the vacant building. 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 non-resident, such notice shall be sent by certified mail, return receipt requested, to the last known address of the owner;

(2) The City shall also accept notifications by mail or electronic transmissions of a building or property that meets the definition of a Vacant Building or Property as defined in Section 1-(b) -8 and shall pursue registration of said building/property in accordance with the provisions of this ordinance.

(3) The required registration shall be submitted on the form provided by the City available on the City’s website or from Code Services, 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 lien holders and all other parties with a legal or equitable ownership interest in the building; the common address of the building, as well as the tax map, map block, parcel tax 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:

(i) returning the vacant building or property to appropriate occupancy or use;

or

- (ii) marketing the property pursuant to the requirements of subsection (d) of this ordinance;
- (4) Pursuant to the registration requirements of this subsection, for every subsequent year a building remains vacant beyond the initial registration, the owner of the vacant building must:
 - (i) re-register the building or property, including appropriate fees, and
 - (ii) submit an updated plan for either returning the vacant building or property to appropriate occupancy or use, or marketing thereof;
- (5) Upon registration, the City shall provide the following incentives toward active marketing of residential or commercial buildings or properties:
 - (i) Waive any zoning fee, if applicable;
 - (ii) Provide solid waste removal, water, and sewer services at no cost for ninety (90) days if building is leased within ninety (90) days of registration within guidelines adopted by the City Commission and effective at the date of occupancy.
 - (iii) If the building requires remodeling, waive permit fees if remodeling occurs within ninety (90) days of registration;
- (6) If the owner of the vacant building or property does not reside in Lyon County for at least six (6) months a year, then they must provide the information for 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;
- (7) Any subsequent owner of a vacant building or property must register or re-register the building with the City designated officer within thirty (30) days of any transfer of any ownership interest in the vacant building;
- (8) The owner of a vacant building or property must keep the building and any adjoining property secure, safe and maintained in compliance with all federal, state and local ordinances and regulations;
- (9) A registration fee of twenty-five dollars (\$25.00) per residential building, and one-hundred dollars (\$100.00) per commercial building, shall be collected by the City designated officer at the time of registration or re-registration.

(b) Marketing requirements

The following vacant buildings or properties shall be exempt from the registration *fee* required pursuant to Section 2(a)(7), but must still comply with all other registration requirements under this section:

- (1) All buildings which are actively marketed as “for rent” in a newspaper or in an recognized online website listing at a fair market value rental rate based upon market rental rates for comparable properties. It is the obligation of the vacant building owner to produce evidence of active marketing to claim this exemption. In the event that active rental marketing ceases, the vacant building in question shall be subject to the registration fees provided for above and shall immediately be due and owing;
- (2) All buildings or properties 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 vacant building owner has the obligation to produce evidence of active marketing in order to obtain this exemption. In the event that the active “for sale” marketing ceases, the vacant building in question shall be subject to the registration fees provided for above and shall immediately be due and owing
- (3) Any vacant residential 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 vacant building as a dwelling within 180 days. Failure to actually resume use of the vacant building as a dwelling within 180 days will result in imposition of the registration fee that was exempted under this section;
- (4) An owner who acquires a vacant building or property for which the registration fee has already been paid for the calendar year period shall register the change of ownership with the City, but is not liable for an additional registration fee for that calendar year.

Section 3.

Penalties; procedures

- (1)(a) Any owner who fails to register a vacant building under this ordinance, as required by Section 2, may be liable for a civil penalty not to exceed fifty dollars (\$50.00).
- (b) If the building continues to meet the definition of a vacant building for a period of ninety (90) calendar days beyond the required registration or re-registration date, and the owner fails to register or re-register such building, the City designated officer may assess a penalty of one-hundred dollars (\$100.00) for each ninety (90) calendar day period the building continues to be unregistered. At no time may the amount of the

assessment exceed four-hundred dollars (\$400.00) per building in a calendar year.

(c) If a building or property is vacant more than 1 year after initial registration it shall be classified as a chronic vacancy and shall be subject to a fee of \$250.00 per year for residential and \$500.00 per year for commercial/industrial with a 10% annual increase for each category. Funds derived from said fee shall be used to offset the city's cost of annual inspections and incentives as found in Section 2 of this ordinance.

(d) All penalties assessed shall be payable directly to the City.

(e) 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 district court, suits or actions being maintained in any court of competent jurisdiction, abatement of nuisances maintained in violation of this Ordinance, institution of injunction, mandamus, or other appropriate action or proceedings to enforce the penalty provisions of this Ordinance.

(2)(a) Upon failure to register a vacant building, as required by Section 2, a Notice of Registration Penalty may be issued to the owner;

(b) A separate Notice of Registration Penalty shall be issued for each subsequent penalty that may be assessed pursuant to Section 3(1);

(c) The Notice of Registration Penalty shall be served upon the owner by certified mail or personal service.

(d) This ordinance in no way limits the penalties, 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

Section 4

Annual inspection requirement for structures or properties classified as chronic

(1) The City designated officer or their appointee may inspect or cause to be inspected any premises in the City for the purposes of enforcing and assuring compliance with the provisions of this chapter and safeguarding the health, safety and welfare of the general public. Upon the request of the City designated officer, an owner shall provide access to all interior portions of any vacant building or suspected vacant building in order to permit a complete inspection;

(2) The City Fire Marshall is authorized to enter and inspect, or cause to be inspected, all vacant buildings and premises for the purpose of conducting an annual fire code

compliance inspection.

Section 5. Should any paragraph, section or subsection of this ordinance be declared to be invalid by a court of competent jurisdiction, the decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 2. The provisions of this ordinance shall be included and incorporated in the Code of the City of Emporia, Kansas, 1983, as an addition or amendment thereto, and shall be appropriately numbered to conform to the Uniform Numbering System of the Code.

SECTION 3. This ordinance shall take effect upon its publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas, this 6th day of July, 2014.

Jon Geitz, Mayor

ATTEST:

Kerry Sull, City Clerk