ORDINANCE NO. 6492

AN ORDINANCE TO AMEND TITLE 17, HOUSING OF THE 2020 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY ENACTING A NEW CHAPTER 17.15 "VACANT PROPERTY REGISTRATION".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

SECTION 1. That Title 17 Housing of the 2020 Municipal Code of Council Bluffs, Iowa, is hereby amended by enacting Chapter 17.15 "Vacant Property Registration" to read as follows:

17.15.010 Title and Purpose
This title shall be known and referred to and cited as the "Vacant Property Ordinance" of the City of Council Bluffs, Iowa and will be referred to herein as "the ordinance", the same as if the full title were stated.

The purpose of this chapter is to protect the public health, safety and welfare of Council Bluffs citizens by requiring the registration of all vacant property, as defined in this Chapter, and the payment of an annual registration fee in order to monitor, inspect and record the condition of vacant property. Further, this chapter serves to preserve property and reduce fire and life safety hazards and unlawful activities such as vandalism and temporary occupancy by transients.

17.15.020 Applicability
The requirements of this chapter shall be applicable to each owner of a vacant property that has been unoccupied for more than 120 days, unless exceptions apply under the provisions of this Chapter.

17.15.030 Definitions
Unless otherwise expressly stated or clearly indicated by the context, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section:

City: The City of Council Bluffs, Iowa.

Director: The Director of Community Development, or his/her designee, charged with the enforcement of this chapter.

Notice of Determination: The written notice by the Director to an owner that the property is a vacant property, a statement of the factual basis for the determination, and the obligations of the owner of the property to register.

Occupied: Where one or more persons actually reside in all or any part of the property as the legal or equitable owner or occupant or tenant on a permanent, non-transient basis, or any combination of the same.

Owner: Any person, agent, firm or corporation, whether one or more, having a legal or equitable interest in the property; owner or owners recorded in the public records of Pottawattamie County,

Iowa; or any person, agent, firm or corporation otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Registration Fee: The non-refundable annual fee as established by City Council resolution that an owner of a vacant property is required to remit to the Director each year the property is vacant. The registration fee is to cover the cost of the vacant property program including the cost of the City registering and inspecting the vacant property.

Registration Form: The form provided by the Director to an owner to register a vacant property with the City.

Vacant: When no person(s) actually/lawfully resides or lives in any part of the property as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent, non-transient basis.

Vacant property: A one or two-family residential dwelling that is unoccupied for 120 or more consecutive days as a dwelling or that is illegally occupied.

17.15.040 Registration

A. The owner of a vacant property located within the city shall register the property with the Director. The registration shall be submitted on forms provided by the Director and shall include the following information supplied by the owner:
    1. A description of all vacant property or vacant properties owned by the owner within the city;
    2. The names and addresses of the owner;
    3. The names and addresses of all known lienholders and all other parties with an ownership interest in the properties;
    4. The period of time each vacant property is expected to remain vacant; and a plan and timetable for returning the vacant property to appropriate occupancy or use;
    5. The owner shall also execute an authorization appointing the city police department an agent of the owner for the purpose of making a demand to depart therefrom pursuant to this article.
B. Subsequent owners of a vacant property shall register or re-register the vacant property with the Director within 30 days of any transfer of any ownership interest in a vacant property.

17.15.050 Fees

The fee for registering a vacant property and each annual renewal fee shall be set forth in CBMC 2.08, Schedule of Fees.

17.15.060 Presumption of Vacancy

Discontinuance of city trash removal and/or water service, or the designation of the property as uninhabitable for human occupancy by the Chief Building Official, shall constitute rebuttable presumptions that the property is vacant for the purposes of registration and inspection under this Chapter. It shall be the responsibility of the owner of such a property to establish that it is not a vacant property.

17.15.070 Vacant Property Determination

A. In addition to the presumption of vacancy above, the Director may use additional factors to determine the vacancy of the property including, but not limited to, the following:
    1. Whether the building meets the city's housing code as being fit for human habitation, occupancy, or use.
    2. Whether the building meets the city's building code as being fit for occupancy or use.
    3. Whether the building is exposed to the elements such that deterioration of the building is occurring.
    4. The presence of vermin, accumulation of debris, and uncut vegetation.
B. If the Director has reason to believe that a property has been vacant for at least 120 days and it is unregistered, the Director shall evaluate the property and make a determination as to whether it is vacant within the meaning of this Chapter. If the Director finds the property is vacant, the Director shall state that determination in writing and the factual basis for the determination, and shall give such written notice to the owner at the owner's address of record or by mailing, personal delivery, or verified facsimile transmission to an owner.
C. The notice shall identify the property by street address or legal description of the property; state the factual basis for the determination; and, the obligations of an owner to register the property as set forth in this Chapter.
D. Upon receipt of the notice determining the property as vacant, the owner shall be responsible for the registration of the property in accordance with the registration requirements, including payment of the appropriate fees, as required under this Chapter.

17.15.080 Maintenance/Security Requirements

A. The owner shall be responsible for maintaining the property in compliance with all applicable provisions of the Council Bluffs Municipal Code.
B. Adherence to this section does not relieve the owner of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property.
C. The owner or beneficiary of a deed of trust or the holder of a certificate of purchase or a certificate of redemption or their agents and employees may legally enter upon the property to fulfill the maintenance and security obligations imposed by this Chapter.
D. Properties subject to this Chapter shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes but is not limited to the closure and locking of windows, doors, garage doors, cellar doors, gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s).
E. In the case of broken windows, doors, entryways, garage doors or cellar doors, adequate materials such as plywood shall be used to secure the property from unwanted entry. Such materials shall be painted black, white or color matched to the aesthetics of the property and the general aesthetic theme of the neighborhood.
F. The person or entity responsible for maintenance shall inspect the property monthly to determine if the property is in compliance with the requirements of this Section.

17.15.090 Recoupment of Costs to City for Securing Property

In the event the owner does not secure the property as required under Section 17.15.080(E) above, the City shall determine the property to be vacant, and shall proceed with securing the property, in accordance with the provision of this Chapter. Any costs incurred by the City under this paragraph shall be paid by the owner prior to the City removing the vacant property designation.

17.15.100 Additional Authority

The Director shall have the authority to require the owner, any holder of a certificate of purchase or certificate of redemption of any property affected by this Chapter to implement additional maintenance and/or security measures, including but not limited to, securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, or any other measures as may be reasonably required to correct the unlawful condition of the property.

17.15.110 Penalty

At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of CBMC 1.95.

17.15.120 Exemptions and Exceptions

A. Vacant property owned by the city or the city housing and redevelopment authority (HRA) is exempt from the vacant property registration and fee requirements of this article.
B. Vacant property for which the owner possesses a valid building permit for remodeling the dwelling located thereon or for construction of a new dwelling on such vacant property is exempt from the vacant property registration and fee requirements of this article, so long as actual remodeling, repair or construction remains continuous and apparent.
C. Registration is required, but the vacant property registration fee shall be waived, for:
    1. All dwelling units that possess a valid rental license issued pursuant to this chapter that is actively marketed as "for rent" in a newspaper or in an online listing at a fair market value rental rate based upon market rental rates for comparable properties. It is the obligation of the vacant property owner to produce evidence of active marketing to claim this exemption. In the event that the rental license lapses, is suspended, or revoked, this exemption shall no longer apply, the vacant property in question shall be subject to the registration fees provided for above and shall immediately be due and owing.
    2. All homes being actively marketed as "for sale" at a price not lower than the assessed value as listed by the Pottawattamie County Assessor’s Office.
    3. Vacant properties subject to a valid development agreement or redevelopment agreement with the City.
    4. Single vacant properties for which the owner executes a valid affidavit on a form provided by the city stating that the owner intends to resume occupancy of the vacant property as a dwelling within 120 days; provided, however, that failure to actually resume use of the vacant property as a dwelling within 120 days will result in imposition of the waived registration fee.
    5. Vacant property for which the registration fee has already been paid for the current calendar year.

17.15.130 Appeal

Any aggrieved party who believes the alleged violation or penalty imposed pursuant to this Chapter is unfounded, incorrect or inappropriate may appeal the issue to the Mayor or his or her designee. Such appeal shall be in writing and shall state with specificity the grounds for the appeal. The appeal shall be filed within fourteen (14) days of receipt of the notice of violation by the aggrieved party. The Mayor or designee shall hold a hearing within thirty (30) days of receipt by the Mayor of the appeal. The Mayor shall issue a written finding on the appeal within fourteen (14) days of the hearing. The appellant may waive the hearing and request the Mayor to decide the matter on the City's records and the written documents submitted by the appellant. The Mayor's decision is final.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND May 23, 2022.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: 5-9-22
Second Consideration: 5-23-22
Public Hearing: n/a
Third Consideration: _____