ORDINANCE NO. 6526

AN ORDINANCE TO AMEND CHAPTER 17.15 VACANT PROPERTY REGISTRATION BY AMENDING SECTION 17.15.030 "DEFINITIONS"; SECTION 17.15.040 "REGISTRATION"; SECTION 17.15.120 "EXEMPTIONS AND EXCEPTIONS" AND SECTION 17.15.130 "APPEAL".

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

SECTION 1. That Chapter 17.15 Vacant Property Registration is hereby amended by amending the following sections to read as follows:

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, as designated in this Chapter, 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.
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.

17.15.070 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 and 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.

17.15.120 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. Construction of a new dwelling on vacant property until a certificate of occupancy is granted, at which time such registration requirements shall follow the provisions provided for “for sale” or “for rent” as described herein.

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 property for which the owner possesses a valid building permit for remodeling the dwelling located thereon, so long as actual remodeling, repair or construction remains continuous and apparent.
4. Vacant properties subject to a valid development agreement or redevelopment agreement with the City.
5. 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.
6. 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 Building Board of Appeals. 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 Board shall hold a hearing within thirty (30) days of receipt by the Board of the appeal. The appellant may waive the hearing and request the Board to decide the matter on the City’s records and the written documents submitted by the appellant, this too shall be accomplished within thirty (30) days of receipt by the Board. Within 14 days of the hearing or its review of the records and documents the Board shall make a recommendation of finding which will be presented to the Mayor in writing for a final administrative decision. The Mayor will make the decision to either approve, reject or modify the recommendation of the Board within fourteen (14) days of receipt of the Board’s recommendation.

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 October 26, 2022.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: 9-26-22
Second Consideration: 10-10-22
Public Hearing: n/a
Third Consideration: 10-26-22