

ORDINANCE NO. 473

AN ORDINANCE OF THE CITY OF TERRYTOWN, NEBRASKA, TO PROVIDE FOR VACANT PROPERTY REGISTRATION WITHIN THE CITY LIMITS PURSUANT TO THE VACANT PROPERTY REGISTRATION ACT PURSUANT TO NEB. REV.STAT. NE § 19-5405, TO PROHIBIT VACANT PROPERTIES AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

SECTION 1: Purpose. Recognizing that vacant commercial and residential buildings (hereinafter referred to as “vacant properties”) contribute to blight, discourage economic development, hinder 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 vacant properties from becoming a burden to the community and a threat to the public health, safety and welfare. Maintenance of public health, safety, and welfare thus requires the City to maintain an accurate registration of all vacant properties. Any fees imposed under a vacant property registration ordinance have the potential to benefit the owners of vacant properties by helping to finance additional government services to protect the value and security of such properties.

SECTION 2: Public Nuisance. Vacant properties shall constitute a public nuisance. The City is given the power and authority pursuant to define, regulate, suppress and prevent such nuisances. A vacant property registration ordinance places a duty on the owner of vacant properties to assist the City in preventing public nuisance. The City Clerk shall be the program administrator for the vacant property registration and said registration applies to any and all vacant properties within City limits.

SECTION 3: Section 10-101: VACANT PROPERTY REGISTRATION: DEFINITIONS is hereby enacted as follows:

As used in this article, unless the context otherwise requires, the following definitions shall apply:

- (1) Evidence of vacancy shall mean any condition or circumstance that on its own or in combination with other conditions or circumstances would lead a reasonable person to believe that a residential building or commercial building is vacant. Such conditions or circumstances may include, but are not limited to:
 - a. Overgrown or dead vegetation, including grass, shrubbery, and other plantings;
 - b. An accumulation of abandoned personal property, trash, or other waste;
 - c. Visible deterioration or lack of maintenance of any building or structure on the property;
 - d. Graffiti or other defacement of any building or structure on the property; or
 - e. Any other condition or circumstance reasonable indicating that the property is not occupied for residential purposes or being used for the operation of lawful business;

- (2) Owner shall mean the owner of record on the records of the Scotts Bluff County Register of Deeds;

Commercial building shall mean a building with more than fifty (50) percent of its floor space used for commercial activity. For purposes of this section, commercial activity means having the objective of supplying commodities (goods and services), industrial uses, industrial manufacturing, and ancillary business functions.

Residential building means a housing structure or other framework, together with such land on which the dwelling and appurtenant buildings are located, that is used or intended to support occupancy of one or more persons for non-business purposes. This includes, but is not limited to the following: a house, a condominium, a townhouse, an apartment unit or building, or a trailer house.

- (3) Vacant shall mean the property has been vacant for 180 days or longer and during such time, has continuously exhibited evidence of vacancy as described in subsection (1).

SECTION 3: Section 10-102: VACANT PROPERTY REGISTRATION; APPLICABILITY AND ADMINISTRATION is hereby enacted as follows:

- (1) This article shall apply to any type of either residential or commercial building or both, located within the corporate limits of the City of Terrytown, except any property owned by the federal government, the State of Nebraska, or any political subdivision thereof or any property specifically referenced in Section 10-104.

The City of Terrytown shall maintain a data of vacant property within the corporate limits of the City of Terrytown, Nebraska.

SECTION 4: Section 10-103: VACANT PROPERTY REGISTRATION: PROCEDURE AND FEES is hereby enacted as follows:

- (1) Owner(s) of vacant property, as defined in this article, shall voluntarily register such property with the City Clerk. Registration shall be completed by the completion of a vacant property registration form in either paper or electronic form, upon which the following information shall be required:
- a. Name, street address, mailing address, telephone number, and, if applicable, the facsimile number and email address of the property owner and his or her agent;
 - b. Street address and parcel identification number of the vacant property;
 - c. Transfer date of the instrument conveying the property to the owner, and
 - d. Date on which the property became vacant;
 - e. Owner plan of occupancy, which sets out the time period that the vacant property is expected to remain vacant and a plan and timetable for the following:
 - i. Returning the vacant property to the appropriate occupancy or use;

- ii. Marketing the property for sale or lease;
- iii. Making any necessary repairs; or
- iv. Demolition of the property, or removal in the case of a mobile home.

The owner shall notify the City of any changes in information supplied as part of the vacant property registration within thirty (30) calendar days of the change.

- (2) Owners of vacant property shall be required to pay an initial registration fee one hundred eighty days after initial registration of the vacant property pursuant to subsection (1) of this section or three hundred sixty days after the property becomes vacant, whichever is sooner. The initial registration fee for residential properties shall be \$250.00. the initial registration fee for commercial properties shall be \$1,000.00.
- (3) Owners of vacant property shall be required to pay an additional supplemental fee each year for as long as the property remains on the vacant property registration data base. The supplemental fee shall be \$500.00. The maximum supplemental fee charged shall not exceed \$2,500.00.

Should the property be identified by the City as vacant, the owner must register said property with the City Clerk within thirty (30) calendar days of written notice provided to the owner or the owner's resident agent of the existence of the vacant property. Such notice shall be served on the owner or resident agent by personal service or by certified mail, return receipt requested. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the City or by conspicuously posting the notice on the commercial building or residential building which is vacant.

SECTION 5: SECTION 10-104: VACANT PROPERTY REGISTRATION EXEMPTIONS is hereby enacted as follows:

Property that is "for sale," "for rent," or "for lease" and where the owner can produce sufficient good faith evidence of active marketing of sale, rent or lease shall be exempt from the vacant property registration and fee requirements.

SECTION 6: Section 10-105: VACANT PROPERTY REGISTRATION: INSPECTION is hereby enacted as follows:

The City Clerk or his or her designee shall inspect the interior and exterior of the vacant property upon registration and at one-year intervals thereafter for so long as the property remains on the vacant property registration date base.

SECTION 7: Section 10-106: VACANT PROPERTY PENALTIES FOR FAILURE TO REGISTER:

Any person upon whom a duty is placed by the provisions of the ordinance who shall fail, neglect, or refuse to perform such duty, or who shall violate a provision of this ordinance shall be deemed guilty of an infraction and upon conviction thereof shall be fined in any sum not to exceed five hundred dollars (\$500), except that each person so convicted shall be fined in a sum of not less than two hundred dollars (\$200.00) for the first offense, not less than three hundred dollars (\$300.00) for the second offense, and not less than four hundred dollars (\$400.00) for the third offense and each offense thereafter. The penalty herein provided shall be cumulative

with and in addition to the revocation, cancellation, or forfeiture of any license, permit, or right elsewhere provided for or as provided by law. Each day a violation of this ordinance continues shall constitute a separate and distinct offense and shall be punishable as such.

Section 8: Section 10-107: VACANT PROPERTY REGISTRATION: COLLECTION OF FEES AND FINES is hereby as follows:

- (1) Any and all civil penalties or fees assessed under this ordinance 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 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. 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 Nebraska.
- (2) Unpaid vacant property registration fees and unpaid fines for any violation of this Article shall become a lien on the applicable property upon the recording of a notice of such lien in the office of the Scotts Bluff County Register of Deeds. The lien created under this subsection shall be subordinate to all liens on the applicable property recorded prior to the time the notice of such lien under this subsection is recorded.

SECTION 9: Section 10-108: VACANT PROPERTY REGISTRATION: OTHER PROVISIONS is hereby as follows:

- (1) If vacant property changes ownership the subsequent owner or owners of the vacant property shall assume the obligation of the previous owner or owners.
- (2) If at any time vacant property that has been registered with the data base ceases to be classified as vacant or subsequently meets one of the exemptions, the owner or owners shall notify the City Clerk who shall upon proof of such change in circumstances remove said property from the data base.
- (3) If the owner or owners of any property subject to this article object to any determination made by the City or City Clerk pursuant to this article, they may appeal said determination to the City Council.
- (4) Notice of any determination made pursuant to this Article shall be sent by certified mail to the registered owner at the address maintained in the Register of Deed's office. Any determination shall not take effect until ten days after the sending of said notice.

SECTION 10: Section 10-109: EMERGENCY REPAIRS: unsafe building or structure poses an immediate danger to the health, safety, or general welfare of any person or persons, and the owner fails to remedy the situation in a reasonable time after notice by the City Clerk to do so, the City may summarily repair such building or structure.

SECTION 11: Section 10-110: APPEAL: Upon receiving notice from the City declaring a that a property is vacant or remains vacant, the owner of the building may appeal such decision within twenty (20)

calendar days of receipt of the notice. Such appeal shall be in writing to the City Clerk. Such appeal shall request a hearing before the Board of Health to present reasons why the building should not be declared vacant. The Board of Health shall set such hearing within twenty (20) business days from the date of receipt of the written request. A written notice of the Board of Health decision following the hearing shall be sent to the property owner by certified mail or shall be provided at the conclusion of the meeting. If the Board of Health rejects the appeal, the owner shall have thirty (30) calendar days from the decision to register the vacant building; provided, the owner may appeal such decision, within ten (10) calendar days of the Board of Health decision, to the City Council during which proceedings the decision of the Board of Health shall be stayed. Any appeal of a decision from the City Council shall be made within 30 days of the decision to an appropriate court for adjudication.

SECTION 12: This ordinance shall go into full force and effect upon publication of the same. This ordinance shall be published in pamphlet form and made available at the city offices.

Passed this _____ day of November, 2022

City of Terrytown, Nebraska

Mayor

ATTEST:

City Clerk