

ORDINANCE NO. 21-773

AN ORDINANCE TO AMEND CHAPTER 98: NUISANCES OF THE MUNICIPAL CODE OF THE CITY OF FRIEND, NEBRASKA TO REGULATE THE REGISTRATION OF VACANT PROPERTY; TO COLLECT FEES FOR VACANT PROPERTIES; TO PLAN FOR REHABILITATION OF VACANT PROPERTIES; TO ENCOURAGE OCCUPANCY OF VACANT PROPERTIES; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR THE POSTING OR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND TO PROVIDE FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

Section 1. Chapter 98 of the Municipal Code of the City of Friend, Nebraska is amended as follows:

§ 98.06 REGISTRATION OF VACANT PROPERTY

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL BUILDING. Commercial building means any building used for commercial purposes. Examples of commercial buildings include, but are not limited to, offices, retail spaces, warehouses, and factories.

OWNER. Owner means the person or persons shown to be the owner or owners of record on the records of the register of deeds.

PROGRAM ADMINISTRATOR. The program administrator means the City Clerk or his or her designee.

PROPERTY. Property means either a residential building or a commercial building located within the corporate limits of the City of Friend, but does not include the property owned by the federal government, the State of Nebraska, or any political subdivision thereof.

RESIDENTIAL BUILDING. Residential building means a house, condominium, townhouse, an apartment unit or building, a trailer house, or any other structure used or designed for use as a residence.

VACANT. A property is vacant if any condition or circumstance that on its own, or in combination with other conditions or circumstances, would lead a reasonable person to believe that the property is vacant. Such conditions or circumstances may include, but are not limited to:

- (1) Overgrown or dead vegetation, including grass, shrubbery, and other plantings;
- (2) An accumulation of abandoned personal property, trash, or other waste;

- (3) Visible deterioration or lack of maintenance of any building or structure on the property;
- (4) Graffiti or other defacement of any building or structure on the property;
- (5) Any other condition or circumstance reasonably indicating that the property is not occupied for residential purposes or being used for the operation of a lawful business.

(B) The city shall create a vacant property registration database. The program administrator may utilize the Chief of Police and such additional city employees as may be necessary to administer the program with the approval of the employee's supervisor.

(C) The owner of a vacant property must register such property with the program administrator if the property has been vacant for one-hundred eighty (180) days or longer. At the time of registration, the owner must submit a plan for occupancy for the property detailing how and when the property will be occupied or used.

(D) The program administrator is hereby authorized and directed to make complaint-initiated inspections to determine the condition of property located within the corporate limits of the City, in order to safeguard the welfare and safety of the general public and to ascertain that property as set forth in this title is maintained as required herein. Personnel authorized to enforce this section may also initiate inspections to determine the condition of property based on their own personal observations which are not complaint-initiated.

(E) The program administrator may, but is not obligated to, determine a property is vacant. The program administrator will provide written notice to the owner of any such determination by personal service or certified mail to the owner at the address maintained in the register of deeds' office at least ten days prior to registration of such property on the registration database. 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 property or building which is vacant.

(F) Each registration shall expire at the end of one hundred eighty (180) days unless removed from the registration database. If the building has not been removed from the registration database at the expiration of a registration herein, the owner or the City shall re-register the building pursuant to this section.

(G) One hundred eighty (180) days after the initial registration of a vacant property, or three-hundred sixty (360) days after the property becomes vacant, whichever is earlier, the owner must pay a fee of two-hundred fifty dollars (\$250) for a residential building or one-thousand (\$1,000) for a commercial building.

(H) Every six months following the assessment of the initial registration fee, the owner of a vacant property must pay a supplemental registration fee of five-hundred dollars (\$500) for a residential building or two-thousand (\$2,000) for a commercial building as long as the property remains vacant. Unpaid vacant property registration fees shall become a lien on the applicable property upon the recording of a notice of such lien in the Saline County Register of Deeds Office. The lien created under this section shall be subordinate to all liens on the applicable property recorded prior to the time the notice of such lien under this section is recorded. Interest as allowed by applicable Nebraska law shall also accrue unless reduced, waived or stayed by the program administrator.

(I) An owner who, in good faith, advertises a vacant property for sale or lease is exempt from the above registration and fee requirements.

(J) The following exemptions may apply to the vacant property registration and fee requirements:

- a. A residential building used on as seasonal residence is exempt provided the building is seasonally occupied;
- b. A property damaged by fire, weather, explosion, act of God, or vandalism within six months prior to becoming vacant is exempt from the requirements. Such damaged properties are no longer exempt after the six-month period;
- c. A property under construction or renovation is exempt to the extent the construction or renovation is ongoing with measurable progress and in compliance with all relevant building permits and codes;
- d. A residential building where the owner is temporarily absent, but who has demonstrated his or her intent to return is exempt unless it is subsequently determined the owner does not intend to return; and
- e. Property which is subject to divorce, probate, or estate proceedings is exempt until the end of the respective proceeding.

(K) Any subsequent owner of a vacant property subject to this ordinance assumes the obligations of the previous owner.

(L) The program administrator may annually inspect the interior and exterior of a registered vacant property so long as the property remains on the vacant property registration database. An owner will be provided at least ten (10) days' notice prior to an annual inspection.

(M) Upon written notice from the owner of a registered vacant property to the program administrator that the property is no longer vacant, the program administrator will within thirty (30) days inspect the interior and exterior of the property to confirm the property is no longer vacant. The owner must pay any supplemental registration fee that comes due during the period

between the owner's written notice and the program administrator's inspection, but upon the program administrator's confirmation the property is no longer vacant, the program administrator may refund the supplemental registration fee so occurring.

(N) After the program administrator confirms a property is no longer vacant, the program administrator will remove the property from the vacant property registration database within seven (7) days. No supplemental registration fee will be assessed after confirmation a property is no longer vacant irrespective of the property's presence on the registration database.

(O) Owners have the right to prior notice and to appeal decisions of the program administrator to the City Council. Such appeal shall be taken by filing with the City Council, within ten (10) days after a notice of the decision has been mailed to the owner's last known address, a written statement setting forth the grounds for the appeal. The City Council shall set the time and place for a hearing on such appeal, and notice shall be given to the owner by personal service or certified mail, postage prepaid, at the owner's last known address. Any order of the City Council on such appeal may be appealed as permissible under law.

(P) Failure to comply with the requirements of this ordinance is a violation of this Code and is subject to the penalties found in section 98.999.

(Q) The requirements and remedies in this section are supplemental and in addition to any other laws of the State of Nebraska and the ordinances of this Code relating to vacant property.

Section 2. All ordinances or parts of ordinances passed and approved prior to the passage of this ordinance and which are in conflict with the provisions of this ordinance are hereby repealed.

Section 3. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof, not adjudged invalid or unconstitutional.

Section 4. This ordinance shall be in full force and effect and after its passage, approval and either posting or publication in pamphlet form as provided by law.

Passed and approved this 13th day of April, 2021.

CITY OF FRIEND, NEBRASKA



Attest:

Kimberly Soren
CITY CLERK/TREASURER

By: Judith K. Inoke
MAYOR