

**ORDINANCE NO. 1461****AN ORDINANCE ESTABLISHING A VACANT BUILDINGS CODE**

**WHEREAS**, the Oskaloosa City Council has identified a desire to adopt a Vacant Buildings Code as part of its comprehensive planning outreach and strategic planning efforts; and

**WHEREAS** the City Council finds that there are now, and may be in the future, vacant buildings which are dilapidated, unsafe, unsanitary, unfit for human habitation, occupancy, or use, and/or inadequately maintained so as to constitute public and/or private nuisances and create or contribute to blight and decline, thereby jeopardizing public health, safety, prosperity, and welfare; and

**WHEREAS** the City seeks to facilitate the identification and inspection, and to assure the proper maintenance of, vacant buildings for the purpose of preserving and promoting public health, safety, prosperity and welfare, and to abate and prevent public and private nuisances and potential fire hazards.

**NOW, THEREFORE BE IT ENACTED** by the City Council of the City of Oskaloosa, Iowa:

SECTION 1: Revise Chapter 15, "Building Code", Section 15.04.150, "Board of appeals", of the Oskaloosa Municipal Code, as follows:

"In order to determine the suitability of alternate materials and methods of construction, and to provide for reasonable interpretations of the provisions of this chapter, there shall be and is created a board of appeals, consisting of five members who are qualified by experience and training to pass upon matters pertaining to building construction. The board of appeals also serves as the appeals board for disputes regarding notices of violations issued under the City of Oskaloosa, Iowa, Rental Housing Inspection Program, as described in Section 15.60.090, and the Vacant Buildings Code, as described in Section 15.34.090. The building official shall be an ex officio member, and shall act as secretary of the board. Two additional ex officio members shall be appointed to represent the perspective of rental housing property owners and of rental housing tenants. The board of appeals shall be appointed by the mayor and shall hold office at the pleasure of the mayor. The board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the building official, with a copy to the appellant and a copy to the State Building Code Commissioner."

SECTION 2: Add a new Chapter 15.34, "VACANT BUILDINGS", to the Oskaloosa Municipal Code, as follows:

"15.34.010 – TITLE

This chapter shall be known as the Vacant Buildings Code of the City of Oskaloosa.

#### 15.34.020 – PURPOSE

It is the purpose and intent of this ordinance to establish a vacant buildings registration and maintenance program as a mechanism for preserving and promoting public health, safety, prosperity, and welfare; to abate and prevent public and private nuisances and potential fire hazards; and to provide for administration, enforcement, and penalties. This ordinance applies to all property types in the City of Oskaloosa.

#### 15.34.030 – DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; and the word "shall" is mandatory, the word "may" is permissive.

**ACCESSORY BUILDING/STRUCTURE.** A subordinate building the use of which is incidental to that of the dominant use of the main building or land. (e.g. a garden house, greenhouse, garage, carport or shed).

**AGENT.** A designated representative of the property owner who may act on behalf of and make decisions for the owner with regard to the vacant property.

**AUTHORIZED OFFICIAL.** The Development Services Director and the Director's designees, including but not limited to, members of the City staff such as the Building Official, Building Inspector, Rental Housing Inspector, Code Enforcement Inspector or independent contractors appointed by the Director alike, shall oversee the administration and enforcement of this code. Work may include but is not limited to completion of administrative work, inspections or assessments, and/or other necessary actions in order to ensure compliance.

**BUILDING.** Any Structure used or intended for supporting or sheltering any use or occupancy.

**DANGEROUS BUILDING.** A building is deemed to be dangerous if it meets any of the definitions set forth in Chapters 8.08 or 15.30.020.

**EXTERIOR PREMISES.** The open space on the premises or the portion of the premises upon which there is not a structure.

**GOOD REPAIR.** "Good Repair" shall mean free from blight and hazardous conditions, clean, sanitary, and safe.

**ILLEGALLY OCCUPIED.** Shall include any occupancy in violation of City ordinances.

**IMMINENT HAZARD.** A condition which could cause serious or life-threatening injury or death at any time.

**JUNK.** Scrap metals or scrap materials, abandoned, dismantled or partially dismantled machinery, motor vehicles, other vehicles or appliances.

**MIXED OCCUPANCY.** Occupancy of a building in part for residential use and in part for some other use not accessory thereto.

**OCCUPANT.** An occupant is any person other than the record owner who leases or otherwise lawfully resides in a building or premises, or a portion of a building or premises.

**OWNER.** Any person holding title to the premises, or with a legal or equitable interest in the property, as recorded in the Office of the Recorder for Marshall County, or as recorded on the Marshall County assessment rolls.

**PARTIALLY VACANT.** A building that has one (1) or more stories or dwelling units vacant.

**RESPONSIBLE PERSON.** A natural person who is the owner, operator, agent or manager of any building, structure, or premises and is responsible for the property's maintenance and/or management.

**REFUSE.** All garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health, or detrimental to the best interests of the community.

**STRUCTURE.** Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.

**UNOCCUPIED.** A building which lacks physical presence of an occupant for at least 180 consecutive days for the purpose for which it was erected or a building unfit for occupancy due to a failure to meet minimum standards set out by City ordinances. The storage of products, materials, equipment, or other personal property does not constitute occupancy unless authorized by the Oskaloosa zoning ordinance as determined by the zoning administrator.

**UNSECURED.** A building or portion of a building that is open to entry by unauthorized persons without the use of tools.

**VACANT.** A building shall be deemed to be vacant if it is unoccupied and/or no

person currently resides in the building or operates a lawful business open regularly for business (with the exception of holidays and seasonal businesses) or if it meets one or more of the following:

- A. Unsecured or secured by means other than those used in the design of the building;
- B. Declared unfit for occupancy as determined by the Building Official or other authorized representative;
- C. Been deemed a dangerous and/or dilapidated building by the City of Oskaloosa;
- D. Subject to housing, building, fire, health and safety, nuisance or zoning code violations; or
- E. Lacks one or more utilities for a period of at least one hundred eighty (180) consecutive days. Vacant buildings do not include any buildings under construction pursuant to a valid building permit issued by the City of Oskaloosa and progressing in accordance with timelines authorized under the issuance of the permit.

VACANT LOT. A parcel of ground that does not contain a building or structure and not owned by the owner of an adjoining parcel containing a principal building or structure.

VACANT PROPERTY. Includes both vacant lots and vacant buildings.

WASTE. Shall mean garbage, ashes, rubbish, refuse, or trash.

WEEDS. Dense growth of all weeds, vines, brush, or other vegetation which may constitute a health, safety, or fire hazard.

#### 15.34.040 – APPLICABILITY

- A. General. The provisions of this Chapter shall apply to all buildings in any zoning district in the City of Oskaloosa vacant or partially vacant for one hundred eighty (180) consecutive days or more.
- B. Conflict. In any case where a provision of this Chapter is found to be in conflict with a provision of any other provisions of the Code of Ordinances, the provision which established the higher standard for the protection of the public health, safety, and welfare shall prevail.
- C. Application of Other Ordinances. Nothing contained herein shall be deemed to authorize the use of a structure or premises contrary to any other provision of the Code of Ordinances. Repairs, additions, or alterations to a structure shall be done in accordance with the procedures and provisions of State and local laws. Nothing in this Section shall be construed to cancel, modify, or set aside any provision of the Oskaloosa Zoning Ordinance or Building Code.
- D. Existing Remedies. The provisions in this Chapter shall not be construed to

abolish or impair existing remedies of the City, or its officers or agencies, under State laws or this Code of Ordinances, including the Zoning Ordinance, relating to the removal or demolition of any structure which is dangerous, unsafe, and/or unsanitary, or the abatement of public nuisances.

- E. Historic Buildings. The provisions of this Chapter shall apply to structures designated by the Federal Government, State, or City as historic buildings. Any work to said structures shall also comply with current International Building Code or International Existing Building Code as applicable and as adopted by the City.

#### 15.34.050 – REGISTRATION REQUIRED

All vacant properties within the corporate limits of the City of Oskaloosa shall be registered with the City by the owner or the owner's representative in accordance with the following.

- A. Vacant Property Registration Required.
  1. Vacant Lot. The owner of any vacant lot to which this Chapter applies shall not be required to register the property with the city.
  2. Vacant Building. The owner of a vacant building to which this Chapter applies shall be required to register the property within ninety (90) days of becoming vacant or any change of ownership.
  3. Enactment. Upon enactment of this chapter, any vacant property subject to this ordinance must register on or before November 17, 2023.
- B. Vacant Property Registration Form. The required form, as provided by the City, shall be completed by the property owner or agent and submitted to the Development Services Department. The owner/agent is responsible for submitting an updated registration form annually and as changes occur. The registration form shall require information including, but not limited to, the following:
  1. Contact information for all owners. If the owner does not reside within the State of Iowa, the owner shall provide the name, address, telephone number, and email address of an agent who is available for service of process within the State of Iowa. If the owner is other than a natural person or persons, the following shall apply, as appropriate:
    - (a) If the owner is a corporation, limited liability company, or limited or general partnership, the registration statement shall provide the names and addresses of all responsible persons and the name and business address of the registered agent for service of process appointed pursuant to the Iowa Code.
    - (b) If an estate, the name and address of the executor of the estate.
    - (c) If a trust, the names and addresses of the trustee or trustees.
    - (d) If a partnership, the names and address of the partner or partners.
  2. Contact information for a responsible person, as defined by this Chapter,

- who is a natural person who may be contacted at all times for inspections, emergency repairs, or maintenance, and who can respond to the vacant property when requested.
3. Proof of insurance coverage for the property including the following minimum amounts.
    - (a) \$100,000 in general liability coverage, and
    - (b) Fire and casualty coverage for all structures equal to no less than their replacement value, as determined by the applicant's insurance provider, or a minimum of \$50,000, or
    - (c) If insurance is not able to be obtained a Bond in the amount of \$50,000 can be secured in the City's favor to ensure all structures on the property can be properly demolished and removed in the event of destruction without burdening public resources.
    - (d) If neither insurance nor bond is secured an Uninsured Property Fee will be charged annually.
  4. Proposed plans for the property and corresponding timeline for action. This may include any new construction, redevelopment, rehabilitation, or demolition plans for the property.
  5. An acknowledgement by the owner/agent that grass and weeds shall not exceed the height established by Section 8.20.040 and a plan for how the owner will comply with this requirement including, if applicable, the name and telephone number of any company or individual engaged to manage grass and weeds at the property.
  6. An acknowledgement by the owner that snow and ice shall be removed from the public right-of-way within the period of time established by Section 12.12.140, and a plan for how the owner will comply with this requirement including, if applicable, the name and telephone number of any company or individual engaged to provide snow and ice removal services at the property.
  7. An acknowledgement by the applicant that the owner is aware of and understands the vacant property standards set forth at Section 15.34.060 of this chapter.
- C. Vacant Property Registration Fee. A Registration Fee shall be collected at the time of registration and annually thereafter. Failure to register a vacant property may result in the City charging an Unregistered Property Fee. All fees will be established by resolution of the council.

#### 15.34.060 VACANT PROPERTY STANDARDS

- A. All vacant buildings subject to registration shall comply with the following standards:
  1. Building Openings. Doors, windows, and other openings shall be weathertight and secured against entry by birds, vermin, and trespassers. Missing or broken glass in doors, windows, and other such openings shall be repaired and/or replaced with glass within twelve (12) months of becoming

vacant. No building opening shall be boarded for more than twelve (12) months. All first floor or ground level windows, doors, and openings shall be free of any posters, paper, or fabric coverings.

2. Waste Removal. All waste, debris, rubbish, and garbage shall be removed from the exterior of the property and from areas visible from the public right-of-way and adjacent properties such as porches, carports, or other open areas.
3. Roofs. The roof and flashings shall be sound and tight, not admit moisture, or have defects which might admit moisture, rain, or roof draining and shall allow for sufficient drainage to prevent dampness or deterioration in the interior of the building.
4. Building Structure. The building shall be maintained in good repair and structurally sound. The building shall be maintained in a sanitary manner and in a manner that does not pose a threat to the public health, safety, and welfare.
5. Structural Members. The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
6. Foundation Walls. The foundation walls shall be maintained in a structurally sound and sanitary condition so as not to pose a threat to the public health, safety, and welfare, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and resistant to vermin.
7. Exterior Walls. The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials such as paint or similar surface treatment.
8. Decorative Features. The cornices, belt courses, corbels, terracotta trim, wall facings, and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.
9. Overhanging Extensions. All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts, and similar features shall be in good repair, anchored, safe, and sound. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.
10. Appurtenance. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof shall be of sufficient strength or stability, and anchored so as to be capable of resisting wind pressure of one-half (1/2) of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.
11. Chimneys and Towers. Chimneys, cooling towers, smokestacks, and similar

appurtenances shall be structurally safe and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.

12. Walkways. Public walkways shall be in good repair, shall be safe for pedestrian travel, and shall be free of snow and ice. Snow and ice removal shall be completed within the period of time established by Section 12.12.140.
13. Accessory Building/Structures. Accessory buildings and structures such as garages, sheds, and fences shall be free from safety, health, and fire hazards; and, shall comply with these Vacant Building Maintenance Standards.
14. Exterior Premises. The surrounding premises upon which the structure or building is located shall be clean, safe, sanitary, free from waste, rubbish, garbage, excessive vegetation, shall not be used for exterior storage unless specifically authorized by Title 17 (zoning), and shall not pose a threat to public health, welfare, or safety.

#### 15.34.070 EXEMPTIONS

- A. Property under construction. A vacant property that is actively under construction or renovation with a valid permit shall be exempt from the registration requirement.
- B. Property actively listed for sale or lease. A vacant property that is actively listed and offered for sale or lease shall be exempt from the registration requirement subject to the following conditions.
  1. A sign, legible from the nearest street, is continuously posted at the property notifying the public of the offered sale or lease and a phone number, email address, or website to contact for more information.
  2. The property is offered for sale at a price not to exceed twenty-five percent more than the assessed value as documented by the Mahaska County Assessor's Office unless the owner submits a qualified appraisal or recent comparable market data which justify a higher value.
  3. The property is offered for lease at a proposed rent that is comparable with the rental market throughout the community.
  4. If after twelve (12) months of active listing, the property remains vacant, registration shall be required.
- C. Temporary Vacancy of Owner-Occupied Dwellings. A vacant owner-occupied residential property where the owner resides elsewhere for less than six (6) months per calendar year shall be exempt from the registration requirement.

#### 15.34.080 VIOLATION AND ENFORCEMENT

- A. Inspection and Assessment. The City is authorized to inspect and assess the property for compliance. Access to the interior of any building shall be with



- owner consent or pursuant to an administrative search warrant.
- B. Violations of this Chapter. If the City determines the property is in violation of any provision of this Chapter, the City may notify the owner of the violation by providing a Notice of Violation via regular and certified mail and posting at a conspicuous place on the property. The Notice of Violation shall identify the sections in violation, required corrective action, and a time frame for compliance.
  - C. Violations of other applicable City Codes. Registered properties shall remain subject to compliance with other applicable City Code provisions including but not limited to those pertaining to nuisances, property maintenance, zoning, building, and fire. Violations of other applicable code provisions will follow corresponding enforcement procedures.
  - D. Failure to Comply. If the owner fails to take corrective action within the specified time frame the City may pursue any and all remedies otherwise existing at law, including but not limited to municipal infraction, civil suit for abatement of nuisance, or proceedings to acquire title under Iowa Code §657A.10B.

#### 15.34.090 APPEALS

The owner shall have the right to appeal a Notice of Violation by the authorized official to the Building Code Board of Appeals as outlined in Section 15.04.150.

- A. Written Request for Appeal. A written request for an appeal must be submitted within ten (10) calendar days from the date on the Notice of Violation to the Development Services Director. The written request shall include the following:
  1. Date
  2. Owner's name,
  3. Owner's address,
  4. Owner's phone number,
  5. Property address or parcel number,
  6. Information supporting the owner's position.
- B. Setting the Hearing. As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time and place of hearing. Said hearing shall be not more than 30 days from the date the written notice of appeal is filed.
- C. Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this subchapter shall constitute a waiver of rights to an administrative hearing and adjudication of the notice and order or any portion thereof.
- D. Matters of Consideration. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
- E. Decision. After hearing all testimony, the Board of Appeals shall have 10 days to issue a decision. The decision may contain findings of fact, a determination of the issues presented, and any requirements to be complied with."

SECTION 3: REPEALER. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4: SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or party thereof not adjudged invalid or unconstitutional.

SECTION 5: WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.


Passed and approved by this Council on the 19<sup>th</sup> day of June 2023.

  
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David Krutzfeldt, Mayor

ATTEST:

  
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Amy Miller, City Clerk

I certify that the foregoing was published as Ordinance No. 1461 on the 1<sup>st</sup> day of ~~June~~ July 2023.

  
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Amy Miller, City Clerk