

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF THE CITY OF HERINGTON, KANSAS, TO AMEND CHAPTER ____, ARTICLE __, TO ADD SECTION _____ ESTABLISHING REGULATION FOR ABANDONED COMMERCIAL BUILDINGS AND VACANT COMMERCIAL BUILDINGS; REQUIRING REGISTRATION AND MAINTENANCE; AND REPEALING ANY OTHER CURRENT AND REPEALING ANY OTHER CURRENT ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HERINGTON, KANSAS:

Section 1. PURPOSE. Recognizing that abandoned and vacant commercial buildings contribute to the blight of neighborhoods, discourage economic development and retard 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 commercial buildings from becoming a burden to the neighborhood and community and a threat to the public health, safety and welfare. The governing body finds that abandoned and vacant commercial buildings result in increased expenditure for police, fire and code services inspection calls. Maintenance of the public health, safety and welfare thus requires the City to maintain an accurate registration and set maintenance standards for all abandoned and vacant commercial buildings.

Section 2. DEFINITIONS.

A. "Abandoned Commercial Building": For purposes of this article: 1) a commercial building that is open or unsecured so that unauthorized admittance may be gained; or 2) a commercial building that does not have electrical service provided by the City.

B. "Commercial Building": A building, accessory structure, or other structure adapted to commercial purposes.

C. "Chronic Vacancy": 1) Abandoned commercial building; or 2) vacant commercial building which continues for six (6) months after initial notification by the City without meeting the marketing requirements under Section 6 of this ordinance.

D. "City": The City of Herington, Kansas.

E. "Commercial": Used or intended for use in commerce or business.

F. "Owner": The person, persons or entity identified as the owner of the parcel with the Dickinson County appraiser's office; or any agent identified by a nonresident owner.

G. "Resident Agent". A person residing in Dickinson County or any contiguous county authorized to accept notices and legal process for another.

H. "Unsecured": Access to the building may be obtained through open, unlocked, broken or missing doors or windows of such building.

I. "Vacant Commercial Building": A commercial building that is unattended or unoccupied and is not actively used as a place of business for a period of less than six months or is being utilized solely for storage.

Section 3. INCIDENTAL OR TEMPORARY USES. For purposes of calculating time of vacancy or occupancy under this ordinance, incidental or temporary uses for less than thirty (30) days shall be disregarded.

Section 4. EXEMPT BUILDINGS. Any buildings that were built primarily for storage purposes; any buildings deemed by the City Commission as storage buildings, are exempt from the requirements of this ordinance.

Section 5. REGISTRATION AND MAINTENANCE REQUIREMENTS; FEES.

A. The owner of an abandoned commercial building, or chronic vacant commercial building shall register the building with the City within twenty (20) days of service of a written notice provided to the owner or agent of the existence of an abandoned or chronic vacant commercial building, or show cause in writing as to why the commercial building is not abandoned or chronic vacant. The notice issued by the City shall be in writing and shall contain the legal description of the property and shall apprise the owner of the facts available to the City which resulted in the finding of abandoned commercial building or vacant commercial building. The notice shall state the steps which an owner may take to claim an exemption from registration. Notice shall be served on the owner or agent by personal service or by certified mail, return receipt requested to the address of the owner as identified in the ownership records of the Dickinson County appraiser's office. Failure or refusal of the owner to their agent to accept certified mail at the address provided to the Dickinson County appraiser's office shall be deemed sufficient service of the notice under this article. The time period of registration of an abandoned commercial building or chronic vacant commercial building may be extended for good cause.

B. The City may accept notifications in writing or electronic transmissions, with the identity of the reporting party clearly identified, of a building that meets the definition of "abandoned commercial building" or "vacant commercial building" as defined in this ordinance and shall investigate said building to determine if it is vacant or abandoned.

C. The required registration shall be submitted on a form provided by the City. Such form shall include the name, current mailing address, phone number and any other contact information of the owner; the names and addresses of all known lienholders and all other parties with a legal or equitable ownership interest in the building; the common address of the commercial building, as well as the legal description, parcel tax identification, and the name and address of any liability insurer. The form shall also include a timetable for: (i) Returning the abandoned commercial building or chronic vacant commercial building to appropriate use; or (ii) Marketing the abandoned commercial building or chronic vacant commercial building pursuant to the requirements of this ordinance.

D. Pursuant to the registration requirements of this subsection, for every subsequent year a commercial building remains abandoned or chronically vacant beyond the initial registration, the owner of the building must: (i) Reregister the building, including payment of appropriate fees, and (ii) Submit an updated plan for either returning the building to appropriate occupancy or use, or marketing thereof.

E. Upon registration, the City shall provide the following incentives toward active marketing of commercial buildings: (i) Waive zoning fees, if applicable; (ii) If the building requires remodeling, waive permit fees if remodeling commences within ninety (90) days of registration or any time extensions approved by the Code Enforcement Officer.

F. If the owner of an abandoned commercial building or chronic vacant commercial building does not reside in Dickinson County for at least six (6) months a year, then they must provide the information for a resident agent with legal authority to act with respect to the property, including name, current mailing address, residential address, phone number and any other contact information of the owner's agent.

G. Any subsequent owner of an abandoned commercial building or chronic vacant commercial building must amend the registration with the Code Enforcement Officer to include the new owner within thirty (30) days of any transfer of any ownership interest in the abandoned commercial building or chronic vacant commercial building.

H. The owner of an abandoned commercial building or chronic vacant commercial building must keep the building and any adjoining property secure, safe and maintained in compliance with all federal, state and local laws and ordinances and regulations.

I. An abandoned commercial building or chronic vacant commercial building is subject to a registration fee of five hundred dollars (\$500.00) per commercial building per year, which shall be paid by the owner and shall be collected by the City at the time of registration of an abandoned commercial building or chronic vacant commercial building.

Section 6. MARKETING REQUIREMENTS. A vacant commercial building shall be exempt from the registration fee required by this ordinance, for so long as the following marketing requirements are being met:

A. Buildings marketed as "for rent" by signage, in a newspaper or in an online listing of local nature and other organizations which provide real estate listings at a fair market value rental rate based upon market rental rates for comparable properties. If marketed by signage, the signage must be clearly displayed on the building or in the window that it is for rent with the name, address and telephone number of the owner and/or rental agent. The owner may show entitlement to this exemption by submitting evidence of marketing quarterly to the City. In the event that active marketing ceases, the vacant commercial building in question shall be immediately subject to registration;

B. Buildings which are being actively marketed as "for sale" at fair market value rate by a licensed real estate broker or by the owner and advertised as such in a newspaper or listed on a recognized online website and other local organizations which provide real estate listings. If marketed by signage, the signage

must be clearly displayed on the building or in the window that it is for sale with the name, address and telephone number of the owner and/or selling agent. The owner may show entitlement to this exemption by submitting evidence of marketing quarterly to the City. In the event that active market ceases, the vacant commercial building in question shall be immediately subject to registration;

C. Abandoned commercial buildings or vacant commercial buildings for which the owner executes a valid affidavit on a form provided by the City attesting that the owner intends to resume use of the vacant commercial building within one hundred eighty (180) days. Failure to actually resume use of the vacant commercial building within one hundred eighty (180) days will result in imposition of the registration fee that was exempted under this section;

D. An owner who acquires an abandoned commercial building or chronic vacant commercial building for which the registration fee has already been paid for the calendar year period shall register the change of ownership with the City, but is not liable for an additional registration fee for that calendar year.

Section 7. FEES PROCEDURES.

A. Any owner who fails to register an abandoned commercial building or chronic vacant commercial building under this ordinance, after written notice shall be in violation of this article. The registration fee of five hundred dollars (\$500.00) per commercial building per year shall immediately become due and payable to the City;

B. This article in no way limits the 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 Kansas;

C. Any civil fees assessed under this section shall be billed to the owner or other responsible party at their registered address. Failure or refusal to pay fees within thirty (30) days after notice and opportunity to pay shall authorize the City to use any and all available legal remedies for the enforcement and collection of such fees; including, but not limited to, suits in law or equity in any court of competent jurisdiction, abatement of nuisances maintained in violation of this article, injunction or assessment of said fees on the property to be collected with the property taxes;

D. Any person aggrieved by a finding, order or decision made by the City pursuant to this article may appeal such to the City Council in writing within ten (10) days, excluding weekends and holidays. The City Council shall provide a hearing and issue a written decision affirming, overruling or modifying the finding, order or decision.

Section 8. ANNUAL INSPECTION REQUIREMENT FOR STRUCTURES CLASSIFIED AS CHRONIC.

A. The City designated officer, or their designee, may annually inspect or cause to be inspected any premises in the City for the purposes of enforcing and assuring compliance with the provisions of this ordinance and any other ordinances of the City and safeguarding the health, safety and welfare of the general public. Upon the request of the City designated officer, an owner shall provide access to all interior portions of any chronic vacant commercial building or suspected chronic vacant commercial building in order to permit an inspection.

B. The City Code Enforcement Officer, or their designee, is authorized to enter and inspect, or cause to be inspected, all chronic vacant commercial buildings and premises for the purpose of conducting an annual fire code compliance inspection.

Section 9. EFFECTIVE DATE. This ordinance shall be effective on _____, _____ as long as it was published in the official City newspaper before that date.

PASSED AND APPROVED BY THE CITY COUNCIL FOR THE CITY OF HERINGTON, KANSAS ON THIS _____ day of _____, 20__.

Signed by the Mayor this _____ day of _____, 20__.

David Jones, Mayor

ATTEST:

Marcus Hawkes, City Clerk
(SEAL)