

ORDINANCE NO. 2362

AN ORDINANCE PROVIDING FOR THE REGISTRATION OF ABANDONED and VACANT BUILDINGS AND PROVIDING PROCEDURES RELATED TO INCENTIVES, MAINTENANCE AND MARKETING OF THE SAME.

WHEREAS, the Governing Body finds that abandoned and vacant commercial buildings adversely affect quality of life, creates blight, and impacts local property values; and

WHEREAS, abandoned and vacant buildings are known to attract vandalism, become havens for drug use and other crime, and require expenditure of public funds for police protection, fire protection and housing inspection; and

WHEREAS, the Governing Body finds that public health, safety and welfare are adversely affected by abandonment and prolonged vacancies in commercial buildings within the city limits;

BE IT ORDAINED by the Governing Body of the City of Blue Rapids, Kansas:

SECTION 1. The Governing Body of the City of Blue Rapids, Kansas, hereby adopts an abandoned and vacant building ordinance as follows:

(a) Purpose:

Recognizing that abandoned and vacant buildings contribute to blight in commercial geographies, discourage economic development and impede appreciation of property value, endanger public health and safety, attract criminal activity, and create fire hazards, it is the responsibility of property owners to prevent 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 buildings result in increased expenditures for police, fire, and code services inspections and calls. Maintenance of the public health, safety, and welfare thus requires the City to maintain an accurate registration of all abandoned and vacant buildings.

(b) Definitions:

For purposes of this ordinance, certain phrases and words are defined below. Words or phrases not defined in this ordinance but defined in applicable state law or the Code shall be given that meaning. All other words or phrase shall be given their common ordinary meaning. The following words, terms and phrases, when used in this ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

Abandoned Building means a building that is vacant and/or unsecured so that unauthorized admittance may be gained.

Commercial Building means a building, or other structure adapted to permanent occupancy for commercial purposes.

City means the City of Blue Rapids, Kansas.

Occupy means to conduct a lawful business or reside in all or any part of the building or structure as the business occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this Article, evidence offered to prove that a person occupies a building or structure may include, but shall not be limited to, the regular receipt of regular mail through the U.S. Postal Service and proof of liability insurance at minimum, and proof of 6 month continuous electric, water, sewer and trash services.

Owner means the person, persons or entity identified as the owner of the parcel with the Marshall County Appraiser's Office; or any agent identified by a nonresident owner; or any mortgagee of a property in foreclosure.

Unsecured means access to the building may be obtained through openings, unlocked, broken or missing doors or windows of such building.

Vacant means any building intended for commercial use which is not currently occupied or in use wherein no person or persons actually, currently conduct a lawful business or lawfully reside or live in any part of the building as the legal or equitable owners(s) or tenant-occupants(s) or tenant(s) on a permanent, non-transient basis or that is unoccupied. The code enforcement officer may also take into consideration whether there are delinquent taxes and if the property is using utility services.

## SECTION 2. Public Officer.

The city council shall designate a code enforcement officer to be charged with the administration and enforcement of this Article.

## SECTION 3. Inquiry and Inspection.

The code enforcement officer shall make inquiry and inspection of premises upon receiving information that a building may be abandoned or vacant for a period of sixty (60) days or more. Upon making such inquiry and inspection the code enforcement officer shall make a written report by filing the "Vacant Building Inquiry Form," and returning to the City Clerk.

## SECTION 4. Service of Notice.

If the code enforcement officer determines that a building is abandoned or vacant then such officer shall give notice of the finding to the owner by:

- (1) Delivering written notice to the owner personally, or
- (2) By first class mail through the U.S. Postal Service and by posting the notice on the building in a conspicuous place.

- (3) Findings will also be given to the City Council

## SECTION 5. Notice Content - Vacant Building.

The notice issued by the City for a vacant building shall be in writing and shall contain the common street address, description of the building, advise the owner that the building has been determined to be vacant, and needs to be registered as a *vacant building* within thirty (30) days of that notice by completing the registration form found in the City office. Advise the owner that he or she has thirty (30) days to appeal the determination from time of notice.

SECTION 6. Maintenance requirements for Abandoned and Vacant building Notice; fees

- a. The owner of an abandoned or vacant building shall register the building with the City within thirty (30) days of service of a written notice provided to the owner or agent of the existence of the abandoned or vacant building, or show cause in writing to the code enforcement officer as to why the building is not abandoned or vacant. If the owner contends that the building is neither abandoned nor vacant, then such owner shall provide the code enforcement officer with such information as the owner requests the code enforcement officer to consider in making a determination. The code enforcement officer shall render a written decision within ten (10) days of the notice that the owner challenges the initial notice that the building was abandoned or vacant.
- b. The required forms shall be provided by the City and submitted to the City, which 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 building and parcel tax identification number, and proof of liability insurance at minimum. The form shall also include a timetable for:
  - (1) Returning the abandoned or vacant building to appropriate occupancy or use;  
or
  - (2) Marketing the vacant building pursuant to the provisions of Section 7 of this Article.
- c. The initial registration period is for six (6) months. After the initial registration period has expired and for every subsequent year a building remains abandoned or vacant beyond the initial registration period, the owner of the abandoned or vacant building must:
  - (1) Re-register the building, by paying the appropriate fees, and
  - (2) Submitting an updated plan for either returning the building to appropriate occupancy or use, or marketing the property.
- d. Upon re-registration, the City shall provide the following incentives toward active marketing of the commercial building
  - (1) Waive zoning fees, if applicable;

- (2) Provide (City Utilities) water and sewer service at no cost for sixty (60) days after registration; and
  - (3) Provide a dumpster for up to 60 days, not to exceed a total cost of \$300.
  - (4) If the building requires remodeling, waive permit fees if remodeling occurs within ninety (90) days of initial registration.
- e. If the owner of an abandoned or vacant building does not reside in Marshall County or at least 45 miles from the City, then such owner must designate a resident agent with authority to act with respect to the property, including name, current mailing address, phone number and any other contact information of the owner's agent.
  - f. Any subsequent owner of a registered abandoned or vacant 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 or vacant building, but is not liable for an additional registration fee for the period for which it has been registered.
  - g. The owner of an abandoned or vacant building must keep the abandoned or vacant building maintained, in safe and secured condition in compliance with federal, state and local ordinances and regulations.
  - h. The initial registration fee for an abandoned or vacant building is one-hundred dollars (\$100.00) per commercial building, which shall be collected by the City at the time of initial registration of the building.
  - i. If a building remains abandoned or vacant more than 6 months after re-registration it shall be subject to these fees (see table below) per year for a commercial/industrial building with a 10% annual increase. Funds derived from said fee shall be used to offset the City's cost of inspections and incentives as found in Section 7(d) of this Article.

<b>Total Building Square Footage</b>	<b>Fee Amount</b>
100 square feet – 2,500 square feet	\$1,000
2,500 square feet – 5,000 square feet	\$1,500
For every additional square foot over 5,000	\$25/sq. foot

**SECTION 7. Marketing Exception to Registration Fees for Vacant Buildings.** A vacant building shall be exempt from the registration fee required pursuant to Section 6, for so long as the following marketing requirements are being met:

- a. Buildings marketed as "for rent" by signage in a conspicuous place, in a newspaper or in an online listing by organizations who provide real estate listings at a fair market value rental rate based upon market rental rates for comparable properties. The owner will show entitlement to this exemption by submitting receipts of marketing to the City. In the event that active marketing ceases, the building in question shall be immediately subject to registration fees.
- b. After a period of 6 months that the building has been actively marketed as "for rent" the City shall have authority to hire licensed professional(s) to inspect and assess the actual market value of the building at the owners cost.
- c. Buildings which are being actively marketed as "for sale" by a licensed real estate broker or by the owner and advertised as such in a newspaper or listed on a recognized online website. The owner may show entitlement to this exemption by submitting evidence and receipts of marketing to the City. In the event that active marketing ceases, the building in question shall be immediately subject to Registration.
- d. A building for which the owner executes a notarized affidavit on a form provided by the City attesting that the owner intends to resume occupancy of the building within 180 days. Failure to actually resume occupancy of the building within 180 days will result in imposition of the registration fee that was exempted under this section, as well as any re-registration fees then becoming due.
- e. After a period of one year that the building has been actively marketed as "for sale" the City shall have authority to hire licensed professional to inspect and assess the actual market value of building at the owners cost.
- f. If the building cannot be sold due to the condition and/or safety of the building the City shall have the authority to condemn or repurpose the building.
- g. A building damaged related to the removal of fire, explosion, or windstorm, refer procedure to Ordinance. #2059.

#### SECTION 8. Failure to Register; fees, procedures

- a. An owner who fails to register or re-register an abandoned or chronically vacant building under this Article after written Notice shall be in violation of this Article. The registration fee provided for in Section 6 per commercial building shall immediately become due and payable to the City.
- b. Any civil fees assessed under this section shall be billed to the owner at their registered address. Failure or refusal to pay fees after Notice and an 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

ordinance, injunction or assessment of said registration or re-registration fees on the property to be collected with the property taxes. 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. Should an owner fail to register an abandoned or vacant building as provided in this Article, the code enforcement officer may file a complaint in the municipal court of the city against such owner and upon conviction of a violation of the provision of Section 7, the owner can be fined in an amount not less than \$250 but not more than \$1,000.

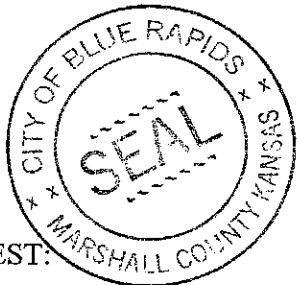
**SECTION 9. Appeal**

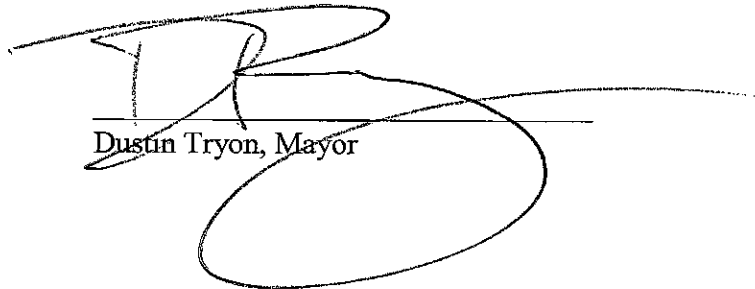
Any person aggrieved by a finding, order or decision made by the Code enforcement officer pursuant to this Article may appeal such to the Governing Body by written notice delivered to the City Clerk within ten (10) days, excluding weekends and holidays, from the final decision of the Code Enforcement Officer. The Governing Body shall provide a hearing and make a decision affirming, overruling or modifying the finding, order or decision appealed from.

SECTION 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

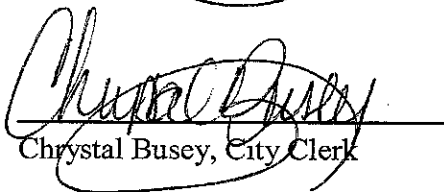
SECTION 11. This ordinance shall take effect on February 15, 2019, upon publication as provided by law in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Blue Rapids, Kansas, this 12 day of December 2018.



  
Dustin Tryon, Mayor

ATTEST:

  
Chrystal Busey, City Clerk