

ORDINANCE NO. 1035

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEVADA, IOWA, 2005, BY ADDING CHAPTER 159, VACANT PROPERTY, TO ESTABLISH A VACANT PROPERTY CODE REGISTRATION AND MAINTENANCE PROGRAM

BE IT ENACTED by the City Council of the City of Nevada, Iowa:

SECTION 1. NEW CHAPTER. The Code of Ordinances of the City of Nevada, Iowa, 2005, is amended by adding a new Chapter 159, entitled Vacant Property Code, which is hereby adopted to read as follows:

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

159.02 DEFINITIONS. For the purpose of this chapter, the following definitions shall apply.

1. "Accessory Building" means a detached building or structure on the same lot, with and of a nature customarily incidental and subordinate to the principle building or structure or use of the land, i.e. greenhouse, garage, carport, retaining wall or shed.
2. "Building" means any structure used or intended for supporting or sheltering any use or occupancy.
3. "Building and Zoning Official" means the official who is charged with the administration and enforcement of this code, or any duly authorized representative. Third party contractors may also represent the City as needed to complete legal actions or specialized inspections or assessments.
4. "Good Repair" means free from blights and hazardous conditions, clean and sanitary, and in safe condition.
5. "Imminent Hazard" means a condition which could cause serious or life-threatening injury or death at any time.
6. "Owner" means any person who, alone or jointly and severally with others shall have legal title to the property.
7. "Structure" means anything constructed or erected, which requires location on the ground or attached to something having location on the ground.
8. "Unoccupied" means a building in which there is a lack of physical presence on a regular basis 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 and materials does not constitute occupancy unless authorized by the City.
9. "Unsecured" means a building or portion of a building that is open to entry by unauthorized persons without the use of tools.
10. "Vacant Building" means a building or structure that is unoccupied and/or no person or persons currently reside in the building or operate a lawful business open regularly for business, and 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 by the Building and Zoning Official or other authorized representative;
 - (c) Has been deemed a dangerous and/or dilapidated building by the City of Nevada;
 - (d) Persistent housing, building, fire, health and safety, nuisance or zoning code violations;
 - (e) Lacks one or more utilities (water, sewer, gas, electric) for a period of six (6) months; or
 - (f) Any unoccupied building that has been the site of unlawful activity within the last six (6) months.

11. "Weeds" means dense growth of all weeds, vines, brush or other vegetation which may constitute a health, safety or fire hazard.

159.03 APPLICABILITY. The provisions of this chapter shall apply to all buildings in the City of Nevada, Iowa vacant for one hundred eighty (180) consecutive days, and all buildings which have been partially vacant for one hundred eighty (180) days, in any zoning district.

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 City Zoning Ordinance or Building Code.

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 the current International Building Code as adopted by the City.

159.04 REGISTRATION REQUIRED. The owner of a vacant building to which this chapter applies shall be required to register the property within thirty (30) days of becoming vacant. It is the owner's burden to monitor its property and determine if it is vacant as defined by this chapter. Upon enactment of this chapter, any building vacant must register the property no later than June 30, 2022.

The owner shall submit the following information to the City and shall update the registration form annually and/or as changes occur.

- (a) Contact information for all owners. If the owner does not reside in 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, the following shall apply, as appropriate:
 - (i) If the owner is a corporation, limited liability company or general partnership, the registration statement shall provide the name and address of the registered agent.
 - (ii) If an estate, the name and business address of the personal representative of the estate.
 - (iii) If a trust, the names and addresses of the trustee or trustees.
- (b) Contact information for a responsible person who may be contacted at all times for inspections, emergency repairs, or maintenance.
- (c) Names and addresses of all known lienholders and other parties with an ownership interest in the property.
- (d) Proof of insurance coverage for the property and all structures thereon.
- (e) An acknowledgement by the owner that grass and weeds shall not be in violation of Nevada Code Chapter 151.
- (f) An acknowledgement by the owner that snow and ice shall be removed from the sidewalks in accordance with the time set forth in Nevada Code Chapter 136.

159.05 VACANT PROPERTY STANDARDS. All vacant buildings subject to registration shall be adequately protected from intrusion by trespassers and pests, and from deterioration by the weather. The buildings must also comply with the following standards":

1. All buildings or structures subject to this chapter must comply with all building, fire, property maintenance, zoning, or other application sections of this Code of Ordinances, and shall apply for all necessary building, fire and zoning permits, if any are required to bring the structure into compliance.
2. 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 or replaced with glass within six (6) months or 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.

3. 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 such as porches, carports, or other open areas.
4. 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.
5. 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.
6. The foundation walls shall be maintained structurally sound and in a 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 be vermin proof.
7. 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. 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.
9. 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.
10. 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.
11. 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 twenty-four (24) hours of a snowfall.
12. Accessory buildings and structures such as garages, sheds and fences shall be free from safety, health and fire hazards.

159.06 EXEMPTIONS.

1. 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 requirements, provided however that if, after twelve (12) months of active listing, the property remains vacant, registration is required.

2. Temporary Vacancy of Owner-Occupied Dwellings. A vacant owner-occupied residential property where the owner resides in another state for six (6) months or less per calendar year shall be exempt from the registration requirement.

159.07 INSPECTIONS. The owner shall cooperate with and facilitate inspections of the premises at reasonable times pursuant to reasonable notice to determine compliance with the requirements of this chapter. Obstructing a duly authorized inspection, including refusing entry or access to portions of the building subject to registration, shall be a violation of this chapter. The owner shall notify the Building Inspector within thirty (30) business days of any changes to the contact information of the owner or responsible person.

Upon inspection, an authorized official or his/her designee, shall issue orders to repair for work needed:

- (a) To adequately protect the building from intrusion by trespassers and from deterioration by the weather;
- (b) To comply with the vacant building maintenance standards set forth in this chapter;
- (c) To ensure that allowing the building to remain will not be detrimental to public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood; or
- (d) To eliminate any hazards to police officers or firefighters that may enter the premises in times of emergency.

When issuing Orders to Repair, the authorized official shall specify the deadline for completion of the repair required and shall mail the notice to the owner or responsible person identified in the permit. All work done pursuant to this chapter shall be done in compliance with any applicable Building, Fire, Property Maintenance and Zoning Codes and Ordinances.

159.08 RIGHT OF ENTRY. Right of entry is authorized by the International Building Code and the International Fire Code. All owners subject to registration consent to the entry of duly authorized officials of the City if such official has reason to believe than an emergency situation exists with respect to the building or structure that tends to create an imminent hazard to health, welfare or safety of the general public, in the discretion of such official, then such official may enter the building to inspect the premises, without notifying the responsible party or obtaining a warrant. If such official finds an emergency situation exists in fact, which presents an imminent hazard to the health, welfare or safety of the general public, then such official may cause any reasonable action, including the employment of necessary labor and materials, to perform emergency repairs to alleviate the hazard. City employees will confer with legal counsel prior to entering or causing entry to be made to premises and/ or performing any emergency repairs without prior owner notification and consent. Costs incurred in the performance of emergency repairs may be paid by the City and if so paid, the City may levy a special assessment against the property to recover the costs.

159.09 VIOLATION AND ENFORCEMENT.

1. If the City determines the property is in violation of this chapter, the City may notify the owner of the violation by providing a Notice of Violation sent via regular and certified mail. The Notice of Violation shall identify the sections in violation, a corrective action and a timeframe for compliance.

2. The property shall be subject to complying with other applicable City Codes including nuisance, property maintenance, zoning, building, fire, etc. Violations of other applicable codes will follow the enforcement procedures outlines within the appropriate chapter.

3. Any owner who fails to comply with the provisions of this chapter shall be subject to a fine as set forth in Chapter 4.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. 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 the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this 12th day of September, 2022.

Passed and approved this ___ day of September, 2022.

Passed and approved this ___ day of October, 2022.

Brett Barker, Mayor

Attest:

Kerin Wright, City Clerk

1st Reading – September 26, 2022

Motion by Council Member __, seconded by Council Member __, to adopt the first reading of Ordinance No. 1035.

AYES:

NAYS:

ABSENT:

2nd Reading – October 10, 2022

Motion by Council Member __, seconded by Council Member __, to approve the second reading of Ordinance No. 1035.

AYES: __

NAYS: __

ABSENT: __

3rd Reading – October 24, 2022

Motion by Council Member __ seconded by Council Member __, to approve the third reading of Ordinance No. 1035.

AYES: __

NAYS: __

ABSENT: __

The Mayor declared Ordinance No. 1035 (2022/2023) was passed on the __ day of __, 2022.

I certify that the foregoing was published as Ordinance No. 1035 (2022/2023) on the __ day of _____ 2022.

Kerin Wright, City Clerk