

## ORDINANCE NO. 242

### AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROLFE, IOWA, 2008, BY ADDING A NEW CHAPTER. CHAPTER 161 ABANDONED/VACANT BUILDINGS

#### CHAPTER 161

#### ABANDONED/VACANT BUILDINGS

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**161.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. Abandoned/Vacant Building: Any building or portion of a building which is: a) unoccupied and unsecured; or b) unoccupied and secured by means other than those used in the design of the building; or c) declared a dangerous building by the enforcement officer ; or d) unoccupied and unfit for occupancy as determined by a government agency; or e) unoccupied and has housing and building code violations; or f) unoccupied for a continuous period of time over one hundred eighty (180) calendar days.

2. Dangerous Building or Structure: Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or its occupants are endangered.

- A. Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- B. Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- C. Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half (1 ½) times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose, or location.

- D. Whenever any portion thereof has been damaged by fire, earthquake, tornado, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the building code for new buildings of similar structure, purpose or location.
- E. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or collapse and thereby injure persons or damage property.
- F. Whenever any portion of a building, or any member, appurtenance or Ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a 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.
- G. Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- H. Whenever the building or structure, or any portion thereof, because of: 1) dilapidation, deterioration or decay; 2) faulty construction; 3) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; 4) the deterioration, decay or inadequacy of its foundation; or 5) any other cause, is likely to partially or completely collapse.
- I. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- J. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third (1/3) of the base.
- K. Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- L. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become: 1) an attractive nuisance to children; 2) a harbor for vagrants, criminals or immoral persons; or as to 3) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
- M. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulation, as specified in the building code or housing code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
- N. Whenever any building or structure which, whether or not erected in accordance with

all applicable laws and ordinances, has in any non-supporting part, member or portion less than fifty percent (50%), or in any supporting part, member or portion less than sixty six percent (66%) of the: 1) strength, 2) fire resisting qualities or characteristics, or 3) weather resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

- O. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the building official officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- P. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
- Q. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
- R. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

3. Enforcement Officer/City Building Inspector: The Mayor or designee.

4. Owner: The person or persons who are the record owners of real property, together with any person having a property interest in the property, including legal or equitable interests.

5. Property: Includes real property, such as land or buildings, as well as personal property, such as vehicles and appliances.

6. Responsible Party: Any person having possession or control of real or personal property, including, but not limited to, any one or more of the following:

- A. Agent.
- B. Assignee or collector of rents.
- C. Contract seller or contract purchaser.
- D. Holder of a deed.
- E. Mortgagee or vendee in possession.
- F. Receiver, executor, administrator, or trustee.
- G. Lessee and lessor.

H. Other person, firm, partnership, corporation, or entity exercising apparent control over a property.

7. Unoccupied: 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 failure to meet minimum standards set out by city ordinance. The storage of products, materials, or other goods does not constitute occupancy unless authorized by ordinance of the City of Rolfe.

8. Unsecured: Access to the building or a portion of the building that may be obtained through open, unlocked, broken, or missing doors or windows of such building or otherwise which allows the entry by unauthorized persons or animals.

**161.02 PUBLIC NUISANCE.** Public nuisance shall include, but not be limited to, the following:

A. Abandoned, Vacant or Dangerous Buildings:

1. Vacant buildings, or vacant portions of buildings.
2. Abandoned buildings.
3. Dangerous buildings or structures.

**161.03 ABANDONED/VACANT BUILDING REGISTRATION.**

A. Abandoned/Vacant Building Registration:

1. The owner shall register a vacant or abandoned building with the city not later than thirty (30) calendar days after any building in the city becomes an "abandoned/vacant building" as defined in this chapter or not later than thirty (30) calendar days after the effective date of this ordinance. Failure to register an abandoned/vacant building or providing false information to the city shall be a violation of this chapter and punishable as a municipal infraction as provided for in this code.
2. The registration shall include the following information:
  - a. A description of the premises.
  - b. The names and addresses of the owner or owners.
  - c. The names and addresses of all known lien holders and all other parties with an ownership interest in the building.
  - d. The name of the agent designated to act on the behalf of an out-of-town property owner to accept legal processes and notices, and to authorize repairs as required; and

- e. The period the building is expected to remain vacant and a plan and timetable to comply with applicable city codes.

B. Abandoned/Vacant Building Registration Fees:

1. The owner(s) of a vacant building shall pay an annual registration fee as established by a resolution adopted by the City Council for the period the building remains a vacant building to cover the administrative cost of registering and processing the vacant building and the costs of the city in monitoring and inspecting the vacant building site. It is up to the discretion of the City Council whether this fee will increase annually in order to discourage chronic vacancies. This fee includes at least one annual inspection of the property by the City Building Inspector. This fee shall be paid in full prior to the issuance of any permits or acceptance of the registration form for the subject property.
2. The first annual fee shall be paid no later than thirty (30) days after the building becomes vacant. If the fee is not paid within thirty (30) days of being due, the owner(s) shall be in violation of this section.
3. The fee shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit.
4. Any owner(s) who acquires a vacant 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.

C. Inspections: Prior to the City accepting the registration of a building, the owner shall allow an inspection of the interior and exterior of the premises for the purpose of enforcing and assuring compliance with the provisions of this chapter and housing and building codes.

D. All applicable laws and codes shall be complied with by the owner(s). The owner(s) shall notify the City of any changes in information supplied as part of the vacant building registration within thirty (30) calendar days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the City.

E. Pursuant to the registration requirements of this section, for every subsequent calendar year a building remains vacant beyond the initial registration, the owner(s) of the vacant building must:

- (a) re-register the building, including appropriate fees no later than January 31; and
- (b) submit an updated plan for either returning the vacant building to appropriate occupancy or use, marketing thereof, making necessary repairs, or demolition of the building.

F. Any subsequent owner(s) of an abandoned/vacant building shall register or re-register the vacant building with the City within thirty (30) calendar days of any transfer of any ownership interest in the vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the City.

#### **161.04 EXEMPTIONS.**

The owner(s) of an abandoned/vacant building that meets one of the exceptions set forth below shall be required to have the building inspected and to register the building with the City, but the registration fee is waived.

- (a) A building that has suffered significant fire damage shall be exempt from the registration requirement for ninety (90) calendar days after the date of the fire if the property owner(s) submits a request for exemption in writing to the City.
- (b) All abandoned/vacant buildings which are being actively marketed in good faith 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 listing. The owner has the obligation to produce evidence of active marketing to obtain this exemption. If the active "for sale" marketing ceases or if a majority of the City Council determine the marketing efforts are illusory or in bad faith, the vacant building in question shall be subject to the registration fees provided for above and shall immediately be due and owing.
- (c) All abandoned/vacant buildings which are being actively marketed in good faith as "for rent" in a newspaper or in a recognized online website listing. The owner has the obligation to produce evidence of active marketing to obtain this exemption. If the active "for rent" marketing ceases or if a majority of the City Council determine the marketing efforts are illusory or in bad faith, the vacant building in question shall be subject to the registration fees provided for above and shall immediately be due and owing.
- (d) All buildings owned by government entities, including the United States Federal Government, State of Iowa, and any political subdivisions thereof shall be exempt from all requirements of this section.
- (e) All abandoned/vacant buildings which are in good faith abandoned/vacated due to the owner: (1) being admitted to a nursing home or assisted living facility; (2) being deployed in the armed services; or (3) temporarily residing at another residence during the winter months. The owner has the obligation to produce evidence of active marketing to obtain this exemption. If the owner ceases to qualify for this exemption or if a majority of the City Council determine the efforts to qualify for this exemption are illusory or in bad faith, the vacant building in question shall be subject to the registration fees provided for above and shall immediately be due and owing.

### **161.05 INSPECTIONS.**

- (1) The City shall inspect an abandoned/vacant building during each registration period to ensure compliance with the provisions of this section, the current adopted version of the International Property Maintenance Code, and all other applicable building codes legally adopted by the City. Upon inspection, the City Building Inspector shall prepare a report to be provided to the owner(s) noting code deficiencies, if any. The owner(s) will be required to make necessary repairs based upon the requirements of the relevant City building codes.
- (2) The City is not limited to one annual inspection and reserves the right to inspect an abandoned/vacant building at any reasonable time as conditions warrant.
- (3) The City Building Inspector or their appointee may inspect or cause to be inspected any premises in the City for the purposes of enforcing and assuring compliance with the provisions of this section and safeguarding the health, safety, and welfare of the general public. Upon the request of the City, the owner(s) shall provide access to all interior portions of any abandoned/vacant building or suspected abandoned/vacant building in order to permit a complete inspection.
- (4) The State Fire Marshall or their designee is authorized to enter and inspect, or cause to be inspected, all abandoned/vacant buildings and premises for the purpose of conducting routine fire code compliance inspections.

### **161.06 EMERGENCY REPAIRS.**

Where any abandoned/vacant building poses an immediate danger to the health, safety, or general welfare of any person or persons, and the owner(s) fails to remedy the situation in a reasonable time after notice by the City to do so, the City may take all steps necessary to repair such building or structure. The owner(s) shall be responsible for reimbursing the City for all reasonable costs incurred in performing emergency repairs.

### **161.07 APPEAL HEARING.**

- (1) Upon receiving notice from the City declaring a building abandoned/vacant, the owner(s) of the building may appeal such decision within twenty (20) calendar days of receipt of the notice. Such appeal shall be in writing to the City Clerk. Such appeal shall request a hearing before the City Council to present reasons why the building should not be declared abandoned/vacant. The City Council shall set such hearing within twenty (20) business days from the date of receipt of the written appeal request.

- (2) A written notice of the City Council's decision following the hearing shall be sent to the property owner(s) by certified mail or shall be provided at the conclusion of the hearing. If the City Council rejects the appeal, the owner(s) shall have thirty (30) calendar days from the decision to register the abandoned/vacant building; provided, the property owner(s) may appeal such decision, within thirty (30) calendar days of the City Council's decision, to a court of competent jurisdiction for adjudication during which the decision of the City Council shall be stayed.

#### **161.08 PENALTIES.**

- (1) Any owner(s) who fail to register an abandoned/vacant building pursuant to the timeline requirements established in this section shall pay a late registration fee as established by a resolution adopted by the City Council.
- (2) Any person upon whom a duty is placed by the provisions of this Chapter who shall fail, neglect, or refuse to perform such duty, or who shall violate a provision of this section shall be deemed guilty of a municipal infraction. The penalty provided herein shall be cumulative with and in addition to the revocation, cancellation, or forfeiture of any license, permit, or right elsewhere provided for or as provided by law. Each day that a violation of this section continues shall constitute a separate and distinct offense and shall be punishable as such.
- (3) Any and all civil penalties assessed under this section shall be billed to the owner(s) or other responsible party. Failure or refusal to pay any and all such penalties permits the City to pursue any and all available legal remedies for the enforcement and collection of such penalties; including but not limited to, civil actions being filed in any court of competent jurisdiction, abatement of nuisances maintained in violation of this Ordinance, institution of an injunction, mandamus, or other appropriate action or proceedings to enforce the penalty provisions outlined above.
- (4) This Ordinance in no way limits the penalties, 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 Iowa.

#### **161.09 SAVINGS CLAUSE.**

Should any paragraph, section or subsection of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional.



**161.10 ALTERNATIVE PROCEDURES.**

Nothing in this section shall be deemed to abolish or impair existing remedies of the city authorized by its Ordinances.

**REPEALER:** All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SEVERABILITY CLAUSE:** If any section, provision, or part of the 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.

**WHEN EFFECTIVE:** This Ordinance shall be in affect from and after its final passage, approval and publication as provided by law.

Passed approved and adopted by the Council this  8th  day of  July , 2024.

Mayor, Jim Pentico

ATTEST:  
City Clerk, Angela Montag