

ORDINANCE 3923-A

AN ORDINANCE AMENDING THE MUSKOGEE CITY CODE CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, ARTICLE II, REGISTRATION CERTIFICATES AND FEES, PERMITS, BOND AND INSURANCE, OF THE MUSKOGEE CITY CODE; BY ADDING DIVISION 6, VACANT BUILDING REGISTRATION; BY ADDING SECTION 18-140, PURPOSE; BY ADDING SECTION 18-141, FINDINGS; BY ADDING SECTION 18-142, DEFINITIONS; BY ADDING SECTION 18-143, VACANT BUILDING REGISTRATION; BY ADDING SECTION 18-144, INSPECTIONS; BY ADDING SECTION 18-145, VACANT BUILDING FEES; BY ADDING SECTION 18-146, INSURANCE REQUIREMENTS; BY ADDING SECTION 18-147, EXEMPTIONS; BY ADDING SECTION 18-148, COMPLIANCE; BY ADDING SECTION 18-149, APPEALS; BY ADDING SECTION 18-149, PENALTY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY AND SETTING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, AS FOLLOWS:

Section 1. The City of Muskogee Code of Ordinances, Chapter 18, Buildings and Building Regulations, Article II, Registration Certificates and Fees, Permits, Bond and Insurance, is hereby amended by creating Division 6, Vacant Building Registration, with new sections to read as follows:

DIVISION 6. VACANT BUILDING REGISTRATION

Section 18-140 PURPOSE.

The purpose of this chapter is to establish a program for identifying and registering vacant commercial buildings; to determine the responsibilities of owners of vacant buildings and structures; and to speed the rehabilitation of the vacant building. Shifting the cost of burden from the general citizenry to the owners of the blighted buildings will be the result of this chapter. Further, the adoption of this Ordinance will help prevent blight and it will contribute to the preservation of public peace, health, safety and welfare of the citizens of the City of Muskogee.

Section 18-141 FINDINGS.

The City of Muskogee determines that the presence of vacant, abandoned or dilapidated structures creates blight. It is recognized that blight lowers property values, leads to deteriorated conditions, undermines the quality of life, affects the public health, safety and general welfare and also results in human injury and criminal activities. It is also determined that vacant and unoccupied structures demand an inordinate amount of City administrative and ordinance enforcement resources. As such, the City finds the prolonged presence of vacant and abandoned structures to be unacceptable to the citizens of Muskogee.

Section 18-142 DEFINITIONS.

Unless otherwise expressly stated, the following terms shall for the purpose of this chapter, have the meanings indicated in this section.

- (a) "Abandoned" means a building which is deserted and which the owner(s) have failed to maintain and upkeep in accordance with the International Code.
- (b) "Secured by other than normal means" means a building secured by means other than those used in the design of the building.
- (c) "Unoccupied" means a building which is not regularly attended by individuals on a regular and systematic basis in accordance with the operation and conducting of business.
- (d) "Unsecured" means a building or portion of a building which is open to entry by unauthorized person without the use of tools or ladders.
- (e) "Commercial building" means a building or structure that is used, or designed to be used, for any commercial purpose, and not as a dwelling, whether or not zoned for such use.
- (f) "Vacant building" means a building which is:
 - (1) Unoccupied and unsecured; or
 - (2) Unoccupied and secured by other than normal means; or
 - (3) Unoccupied and demonstrates a lack of maintenance or upkeep of the property or the exterior of the structure as evidenced by one or more visible violations of City ordinances or building codes; or
 - (4) Illegally occupied, which shall include loitering, vagrancy and squatting; or
 - (5) Unoccupied with a mortgage status of abandonment (i.e. deceased or foreclosed); or
 - (6) Unoccupied and abandoned by the property owner; or
 - (7) The structure is under a condemnation notice or legal order to vacate.
- (g) "Evidence of Vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe the property is vacant. Such conditions may include, but are not limited to: significantly below standard utility usage, overgrown and/or dead vegetation, accumulation of trash, junk, and/or debris, broken or boarded up windows or statement(s) by enforcement officer(s) that the property is vacant.
- (h) "Blighted" means a building or other structure that is so poorly maintained that its condition, directly or indirectly, represents a threat to the health or safety of the general public or to adjoining properties or properties within the area; constitutes an unsanitary condition; leads itself to habitation or infestation by rodents, termites or other vermin; or represents a threat to property values of adjoining property or other property within the area.

- (i) "Enforcement Officer" means any duly authorized City of Muskogee employee of the Planning Department, Inspection Department, Code Enforcement Division, Fire Department or the Police Department.

Section 18-143 VACANT BUILDING REGISTRATION.

- (a) The owner shall register with the Inspection Department within one hundred twenty (120) days after any commercial building located within the City becomes a vacant building calculated from the last day of regular and systematic occupation by individual(s) or within thirty (30) days of being notified by an enforcement officer of the requirements to register based on evidence of vacancy, whichever event first occurs.
- (b) The registration shall be submitted on forms provided by the Inspection Department and shall include the following information supplied by the owner:
 - (1) The name(s) and address(es) of the owner or owners;
 - (2) If the owner does not reside within the limits of the City of Muskogee, then the name and address of the owner(s) local agent.
 - (3) The names and addresses of all known lien holders and all other parties with any interest in the building;
 - (4) A telephone number where a responsible party can be reached at all times during business and non-business hours; and
 - (5) A vacant building plan as described in Subsection (c) of this section.
- (c) The owner shall submit a vacant building plan which must meet the approval of the Director of Planning or his/her designee. The plan, at a minimum, must contain information from one of the following three (3) choices:
 - (1) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition starting within thirty (30) days of acceptance of the proposed demolition timeline and does not exceed ninety (90) days in accordance with the Muskogee City Code; or
 - (2) If the building is to remain vacant, a plan for the ensuring the building is secured along with the procedure that will be used to maintain the property, and a statement of the reasons why the building will be left vacant (i.e., building for sale, etc.); or
 - (3) If the building is to be returned to an appropriate occupancy or use, a rehabilitation plan for the said building and grounds shall be submitted. The rehabilitation plan shall not exceed twelve (12) months from the time a required remodeling permit is obtained, unless the Building Official grants an extension upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with all applicable zoning, historic preservation, or building codes, and the property must be secured during the rehabilitation.

- (d) All applicable laws and codes shall be complied with by the owner. The owner shall notify the Inspection Department of any changes in information of their vacant building registration within thirty (30) days of the change. If the plan or timetable for the vacant building is revised in any way, the revision(s) must be in writing and must meet the approval of the Director of Planning or his/her designee.
- (e) The owner shall keep the building secured and free of exterior defects to the building and grounds properly maintained in accordance with all applicable City ordinances.
- (f) The failure of the owner of the vacant building to obtain a deed for the property or to file the deed with the County Clerk of Muskogee County shall not excuse the property owner from registering the property.
- (g) Failure of the owner to maintain the building and premises that result in remedial action taken by an enforcement officer shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by the law.
- (h) Upon registration, the City will post a notice on the front door of the property identifying that the structure was registered as a vacant building. Said notice will state the name and phone number of the owner or person responsible for maintaining the building and the registration number.
- (i) The registration and all associated processes must be completed in its entirety annually for as long as the property remains vacant.

Section 18-144 INSPECTIONS.

The Inspection Department shall inspect any premises in the City for the purpose of enforcing and assuring compliance with the provision of this chapter. Upon the request of the City, an owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection. Failure to provide access may result in the procurement of a search warrant in order to enable such inspection. In such a case, the Director of Planning or his/her designee shall make application for a search warrant in the District Court in and for Muskogee County, in accordance with state criminal procedure and City Code Section 1-21. . Inspections shall occur as follows:

- (a) Vacant properties may be externally inspected by the Building Inspector a minimum of twice per year to ensure the compliance of all City codes;
- (b) Vacant property will be externally inspected at the start of each registration period (new or renewal) and when the registration is terminated by the property owner;
- (c) Vacant properties will be both internally and externally inspected prior to an issuance of an Occupancy Certificate;
- (d) Additional inspections may or may not be conducted at the discretion of the Director of Planning.

Section 18-145 VACANT BUILDING FEES.

The fees imposed by this subsection shall be reasonably related to the administrative costs incurred for registering and processing the vacant commercial building owner registration form, as well as, for the costs incurred by the City in monitoring the vacant building site. The annual increase fee amounts shall be reasonably related to the costs incurred by the City for demolition and hazard abatement, as well as, the continued normal administrative cost stated above. All fees applicable to this chapter shall be set from time to time by resolution of the City Council.

- (a) The owner of a vacant commercial building shall pay an annual fee of one hundred (\$100) dollars for the first year, or part of year, the building remains vacant. For every consecutive year, or part of year that the building remains vacant, the annual fee will be assessed at double the previous year's fee amount for a maximum annual fee equaling the six (6) year fee of three thousand two hundred (\$3,200) dollars to be used for the sixth and for all consecutive, subsequent years or part of years of vacancy.
- (b) The first annual fee shall be paid at the time the building is registered. If the fee is not paid, the owner shall be deemed to be in violation of these subsections.
- (c) Renewal fees shall be paid within ten (10) business days of the expiration date of the registration.
- (d) A late fee shall be assessed for any payments not received within the time frame specified as an amount of twenty-five (25) percent of the annual fee.
- (e) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant building. Any delinquent fees, if not paid within thirty (30) days after such fees are assessed shall constitute a lien on the property.

Section 18-146 INSURANCE REQUIREMENTS

- (a) Registration of a building or structure shall be incomplete until the owner has provided evidence that the building is insured. Owners shall maintain casualty insurance on the building or a surety bond in an amount sufficient to repair or demolish it if it should be rendered unsafe.
- (b) Owner shall furnish certificates of insurance or surety bond to the City providing evidence of policies noted above for any period of time that the building remains registered.

Section 18-147 EXEMPTIONS.

- (a) A building under active construction, renovation or demolition and having a valid building or demolition permit shall be exempt for registration until the expiration of the currently active building or demolition permit.
- (b) A building which has suffered fire, flood, weather damage or act of God shall be exempt from the registration requirement for a period of one hundred twenty (120) days after the date of said event.

- (c) A building that is for sale, rent, or lease shall be exempted for a period of twelve (12) months from the start of vacancy, provided that the owner submits proof to the Building Inspector of such listing and for sale status.

Section 18-148 COMPLIANCE.

A vacant building or structure will no longer be required to register under this chapter when the following conditions are met:

- (a) Payment in full of all fees and penalties imposed pursuant to this chapter; and
- (b) The property is brought into full compliance with all property and building codes subjecting the property to this ordinance; or
- (c) The building and its premises have been free from any property code violations for a period of six (6) months after all property code violations subjecting the property to this chapter have been corrected; or
- (d) The building is occupied and a Certificate of Occupancy has been issued; or
- (e) The building complies with one of the exemptions listed in Section 18-147.

It shall be the obligation of the owner to notify the Building Official or his or her designee when any condition within this section is met.

Section 18-149 APPEALS.

Any owner who is served a notice of vacant property registration or whenever the Building Inspector fails to approve a vacant building plan as required in Section 18-143(c) may within ten (10) business days of receipt of such notice or denied vacant building plan, appeal said notice or denied plan. Such appeal shall be made by filing with the Planning Department a notice of appeal on a form created for that purpose. Said appeal will be heard by the Public Nuisance Board at their next regularly scheduled meeting. The decision of the Public Nuisance Board shall be final.

Section 18-150 PENALTIES.

Any person violating any provisions of this chapter, including but not limited to failure to register, or providing false information to an enforcement officer, will be subject to the following penalties:

Any person, including any owner, mortgagee, administrator, trustee, agent, with apparent or actual authority over such vacant or abandoned building, who is found to be in violation of any requirement of this Chapter, shall upon conviction, be subject to a fine of up to seven hundred fifty dollars (\$750), as established by the Judge of the Municipal Court.

Section 2. CODIFICATION. Chapter 18, Buildings and Building Regulations, Article II, Registration Certificates and Fees, Permits, Bond and Insurance, Division 6, Vacant Building Regulation, set forth in this ordinance is hereby codified as Chapter 18, Buildings and Building Regulations, Article II, Registration Certificates and Fees, Permits, Bond and Insurance, Division 6, Vacant Building Regulation, Section 18-140 through Section 18-149, in the City of Muskogee Code of Ordinances.

Section 3. REPEALER. All other ordinances or parts of ordinances in direct conflict herewith are repealed to the extent of the conflict only.

Section 4. SEVERABILITY. Should any part section, subsection, sentence, provision, clause or phrase hereof be held invalid, void, or unconstitutional for any reason, such holding shall not render invalid, void, or unconstitutional any other section, subsection, sentence, provision, clause, or phrase of this ordinance, and the same are deemed severable for this purpose.


PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, THIS 9th DAY OF SEPTEMBER, 2013.

CITY OF MUSKOGEE



JOHN R. COBURN, MAYOR

ATTEST:



PAMELA S. BATES, CITY CLERK

(seal)

Approved as to form and legality this 10th day of September, 2013.



ROY D. TUCKER, CITY ATTORNEY

Matthew C. Beese Acting City Attorney