

## **ORDINANCE NO. 1738 (#22-2023)**

### **AN ORDINANCE ESTABLISHING REGULATIONS COVERING VACANT BUILDINGS, CREATING JACKSONVILLE MUNICIPAL CODE CHAPTER 8.06 (VACANT BUILDINGS).**

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**WHEREAS**, the public health, welfare and safety are adversely affected by vacant buildings within the City of Jacksonville; and

**WHEREAS**, vacant buildings are detrimental to surrounding buildings and neighborhoods; and

**WHEREAS**, vacant buildings hinder investment, yield a fraction of the standard property tax, and suppress proximal property values; and

**WHEREAS**, vacant buildings provide havens for drug activities and homes for vermin; and

**WHEREAS**, a significant number of vacant building owners within the City of Jacksonville do not reside in Pulaski County; therefore, the negative impact on the City is of no consequence to the vacant building owner(s); and

**WHEREAS**, under severe weather conditions and in the absence of monitoring, vacant buildings pose a threat to the utility infrastructure through potential fire, ruptured gas, and/or ruptured water pipes; and

**WHEREAS**, identifying the number and location of vacant buildings in the city is the first step in reducing imminent and future harmful effects to the structures present;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF JACKSONVILLE, ARKANSAS:**

**SECTION ONE:** Chapter 8.06 of the Jacksonville Municipal Code is to read as follows:

#### **CHAPTER 8.06 VACANT BUILDINGS**

Sections:

8.06.010	Purpose
8.06.020	Applicability
8.06.030	Definitions
8.06.040	Monitoring, Inspection, and Condition Standards
8.06.050	Agent-Responsible Person Required for Vacant Building

- 8.06.060 Registration and Registration Fee of Vacant Building
- 8.06.070 Violation and Penalties
- 8.06.080 Exemptions
- 8.06.090 Challenges

**8.06.010 Purpose**

The purpose and intent of this article is to establish a registration and identification program of vacant buildings within the city. Vacant buildings are detrimental to surrounding buildings and neighborhoods in which they exist. The article is also to ensure the public health, safety and welfare insofar as they are affected by vacant buildings within the city. The health, safety and welfare of the neighborhoods in which vacant buildings are located are of the utmost importance to the city, as is the general community character in which the vacant buildings are located.

**8.06.020 Applicability**

The provisions of this article shall apply to all matters relating to vacant buildings. When or if the provisions of this article conflict with other provisions of the Code of Ordinances or a technical code adopted by the city, then the more restrictive provision shall govern.

**8.06.030 Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

- A. *Vacant building* means a building, structure or dwelling that has been unoccupied for more than six (6) consecutive months, or a commercial tenant space greater than ten thousand (10,000) square feet in an otherwise occupied building, that has been left unoccupied for more than six (6) consecutive months with the following determinant criterion utilized to verify property vacancy:
  - i. Overgrown or neglected vegetation;
  - ii. The accumulation of hazardous, noxious or unsafe substances or materials on property;
  - iii. The accumulation of newspapers, circulars, flyers or mail on the property;
  - iv. Windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
  - v. Doors to the property that are broken off, unhinged or continuously unlocked;
  - vi. Statement of neighbors regarding lack of activity;
  - vii. Disconnection of gas, electric or water utility services to the property.
- B. *Actively for sale or lease* means the building is being actively marketed through a licensed real estate broker or the owner who is regularly advertising the property in newspapers circulated in and around Jacksonville or actively marketing the property on the internet, social media sites, etc., it being offered for sale or lease at a cost of no more

than twenty-five (25) percent over market rate as determined by the Pulaski County Assessor, and the building is in reasonable condition for sale or lease, including, but not limited to: no trash has collected inside or outside the building, the utilities are functional, and it is not being used as storage that is unrelated to the former use.

- C. *Third party inspector* means a private business or firm including, but not limited to, real estate agencies, appraisers, title companies, lawyer, general contractors, insurance adjusters with expertise for inspection of vacant buildings.

**8.06.040 Monitoring, Inspection, and Condition Standards.**

- A. The Code Enforcement Department or authorized city designee may inspect any premises in the city for the purpose of enforcing and assuring compliance with the provisions of this article. Upon consent of the owner, or owner's designee, the Code Official, shall inspect all interior portions of a vacant building. If consent is not granted, the premises may only be entered in the event of an emergency or upon the issuance of an administrative warrant.
- B. Once a building/structure/unit or residence (hereafter referred to as building) is registered as a vacant building, the vacant building may be inspected annually for as long as it is considered vacant, with consent of the owner, if an emergency situation is declared, or upon the issuance of an administrative warrant.
- C. The vacant building shall be secured; the exterior building and premises shall be maintained in accordance with all City requirements.
- D. The vacant building shall be in reasonable condition and not be a safety or health hazard to the public.

**8.06.050 Agent-Responsible Person Required for Vacant Building**

- A. *Property manager.* Any owner of a vacant building residing outside of Pulaski County, shall be required to have a licensed property manager residing or having an office located in the county, or a family member or other designated individual who does not manage any other real estate for a fee and who resides in Pulaski County acting as a property manager. The property manager, including family members or designated individuals, shall have charge, care and control over the vacant building.
- B. *Corporate or partnership owners.* Any corporation or partnership owning a vacant building shall have a designated member, partner, or employee having charge, care and control over the vacant building. The designated member, partner or employee shall reside in or have an office located in Pulaski County, or shall be required to have a licensed property manager residing or having an office located in Pulaski County, or other designated individual who does not manage any other real estate for a fee, and who resides in Pulaski County, acting as a property manager. The property manager or other designated individual shall have the charge, care and control over the vacant building.

**8.06.060 Registration and Registration Fee of Vacant Building**

- A. *Registration of building.* There are two (2) ways to register a building as vacant.

1. The owner shall register with the Jacksonville Code Enforcement Department not later than thirty (30) days after the building becomes vacant, as defined.

The registration of the building shall include, (a) the site address, (b) the name of the current owner or owners, current address of the owner(s), (c) tax parcel number, (d) a description of the condition of the building, (e) plans for future use (intended to eliminate the vacancy), (f) the responsible person or agent and the contact information for same, and (g) other applicable information as the code enforcement department may require. If any information changes the registrant is responsible for informing the Code Enforcement Department of the changes in a prompt manner.

2. The Code Enforcement Department shall investigate any property that may be subject to registration. Based upon the investigation, the Code Enforcement Officer may register the property as a vacant building subject to this article.
  - a. *Notice of registration.* Within five (5) business days of registration by a Code Enforcement Officer, he shall notify the record owner(s) of the property of the registration by certified and regular delivery mail to the last known address for the owner(s) listed in the deed records of Pulaski County, Arkansas. If notice by mail cannot be accomplished, notice of the registration shall be by publication in a newspaper with circulation in the city.
  - b. When it appears a property registered by a Code Enforcement Officer as provided in paragraph (a) is no longer vacant, the inspector will so indicate in the Code Enforcement Department records.
  - c. All vacant structures shall be registered by October 15<sup>th</sup>, 2023.
- B. *Registration fee.* An annual registration fee of one hundred dollars (\$100.00) for each residential vacant building and two hundred fifty dollars (\$250.00) for each commercial vacant building shall be assessed, which is due and shall be paid at the time of registration. If Code Enforcement registers the building as vacant, the fee shall be due no later than thirty (30) days after the building is registered as vacant or the owner(s) receives notice, whichever is later. All vacant building registration fees are due on or before October 15<sup>th</sup> as long as the building remains vacant; not to exceed one (1) vacancy registration payment per calendar year.

#### **8.06.070 Violation and Penalties.**

- A. If the registration fee is not paid on or before October 15<sup>th</sup>, the owner(s) shall be in violation of this article, and may be summoned before the Jacksonville District Court, where, upon a finding of guilt, the court shall impose a fine not less than five hundred dollars (\$500.00) or more than one thousand dollars (\$1,000.00).
- B. A lien for the unpaid registration fee shall be placed against the property on which the vacant building is sited. The Code Enforcement Department, through the City Attorney, shall cause to be filed, in the deed records of Pulaski County, a notice of the lien in the amount of the past due and unpaid registration fee, with instructions on how the lien may be discharged.

- C. The unpaid registration fee shall constitute a debt owed to the City of Jacksonville and may be collected by the City through civil action filed in a court of competent jurisdiction, or by foreclosure of the lien created in subsection (b).

**8.06.080 Exemptions.**

- A. The following are exempt from registration:

1. Buildings owned by another government entity.
2. Buildings which are vacant due to fire damage, or by act of God, or other casualty rendering the structure unsafe for occupancy. The owner(s) shall promptly take steps to repair or demolish the structure in accordance with JMC § 8.01.037.

- B. The following properties shall be registered as vacant, but are exempt from paying a registration fee:

1. A building actively being marketed for sale or lease,
2. A building under reconstruction or renovation with a current permit, or
3. A building involved in probate, or the owner is incapacitated. After a period of twelve (12) months, this exemption sunsets and the property registered unless another exemption applies.

**8.06.090 Challenges.**

A challenge to Code Enforcement's decision to register a building or the twenty-five (25) percent over market rate (from the "actively for sale or lease" definition) may be challenged before the Board of Adjustment, in accordance with JMC § 8.01.050, et al.

**SECTION TWO:** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION THREE:** This Ordinance shall take effect immediately upon passage and publication, as provided by and subject to the requirements of applicable law.

**APPROVED AND ADOPTED THIS 6<sup>TH</sup> DAY OF JULY, 2023.**

**CITY OF JACKSONVILLE, ARKANSAS**

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**JEFF ELMORE, MAYOR**

**ATTEST:**

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**SUSAN L. DAVITT, CITY CLERK**

**APPROVED AS TO FORM:**

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**STEPHANIE FRIEDMAN, CITY ATTORNEY**