

ORDINANCE NO. 1581

**AN ORDINANCE ENACTING
VACANT PROPERTY/BUILDING REGISTRATION**

WHEREAS, the City of La Junta contains many structures that are vacant in whole or large part; and

WHEREAS, in many cases the owners or other responsible parties of these structures are neglectful of them, and are failing to maintain them or secure them to adequate standard, or restore them to productive use; and

WHEREAS, many of these structures are in violation of state and local housing and property maintenance codes; and

WHEREAS, it has been established that vacant and abandoned structures cause severe harm to the health, safety and general welfare of the community, including diminution of neighboring property values, loss of property tax revenues, accumulations of trash and debris, increased risk of fire, and potential increases in criminal activity and public health risk; and

WHEREAS, the City incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, including but not limited to police calls, fire calls and property inspections and maintenance calls; and

WHEREAS, it is in the public interest for the City to establish minimum standards of accountability on the owners or other responsible parties of vacant and abandoned structures in order to protect the health, safety and general welfare of the residents of the City; and

WHEREAS, it is in the public interest for the City to impose a fee in conjunction with a registration ordinance for vacant and abandoned structures in light of the disproportionate costs imposed on the city by the presence of these structures;

WHEREAS, it is the intention of this Ordinance to establish and codify said process.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LA JUNTA:

SECTION I. That Sections 5.50.010 through 5.50.080 of the Municipal Code of the City of La Junta is hereby enacted to read as follows:

SECTION 5.50.010 PURPOSE.

The purpose of this ordinance is to establish a program for identifying and registering vacant residential and commercial buildings; to determine the responsibilities of owners of vacant buildings and structures; and to speed the rehabilitation of the vacant buildings. Shifting the cost of burden from the general citizenry to the owners of the blighted buildings will be the result of this ordinance.

SECTION 5.50.020 DEFINITIONS.

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

- A. Secured by other than normal means - A building secured by means other than those used in the design of the building.
- B. Unoccupied - A building which is not being used for the occupancy authorized by the owner.
- C. Unsecured - A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.
- D. Vacant building. A building (excluding government owned buildings) which is:
 - 1) Unoccupied and unsecured; or
 - 2) Unoccupied and secured by other than normal means; or
 - 3) Unoccupied and an unsafe building as determined by the Engineering Department; or
 - 4) Unoccupied and having utilities disconnected; or

- 5) Unoccupied and has housing or building code violations; or
- 6) Illegally occupied which shall include loitering and vagrancy; or
- 7) Unoccupied for a period of time over ninety (90) days and having an existing code violation issued by the Engineering Department; or
- 8) Unoccupied with a mortgage status of abandonment (deceased or foreclosed); or
- 9) Unoccupied and abandoned by the property owner.

E. 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 include but are not limited to: significantly below standard utility usage, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, accumulation of trash, junk, and/or debris, broken or boarded up windows, abandoned vehicles, auto parts or materials, the absence of window coverings, such as curtains, blinds, and/or shutters, the absence of furnishings and/or personal items consistent with habitation or occupation, statement(s) by governmental employee(s) that the property is vacant.

SECTION 5.50.030 VACANT PROPERTY BUILDING REGISTRATION.

- A. The owner shall register with the Engineering Department not later than ninety (90) days after any building located in an area zoned for, or abutting an area zoned for, residential or commercial use in the City becomes a vacant building or not later than thirty (30) days of being notified by the Engineering Department of the requirement to register based on evidence of vacancy, whichever event first occurs.
- B. The registration shall be submitted on forms provided by the Engineering 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 in Otero County or within 10 miles of La Junta City limits, the name and address of any third party who the owner has entered into a contract or agreement with for property management. By designating an authorized agent under the provisions of this section, the owner is consenting that the third party is authorized to receive any and all notices relating to the property and conformance of any and all ordinances;
 - 3) The names and addresses of all known lien holders and all other parties with an ownership 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
- C. The owner shall submit a vacant building plan which must meet the approval of the City Manager. The plan, at a minimum, must contain information from one of the following two choices:
- 1) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition which includes starting within thirty (30) days of acceptance of the proposed demolition timeline and does not exceed one year in accordance with the La Junta Building Code; or
 - 2) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the building and grounds. The rehabilitation plan shall not exceed twelve months from the time they obtain permits, unless the City Manager 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 any applicable zoning, housing, 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 Engineering

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 City Manager.

- E. The owner and subsequent owners shall keep the building secured and safe and the building and grounds properly maintained in accordance with all applicable property.
- F. A new owner(s) shall register or re-register the vacant building with the Engineering Department within thirty (30) days of any transfer of an ownership interest in the vacant building if the building continues to remain vacant after transfer. 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 Manager.
- G. 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 & Recorder shall not excuse the property owner from registering the property.
- H. Failure of the owner or any subsequent owners to maintain the building and premises that results in remedial action taken by the City shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by the law.
- I. The City Manager shall include in the file any property specific written statements from community organizations, other interested parties, or citizens regarding the history, problems, status, or blighting influence of a vacant building.
- J. The registration and all associated processes must be completed in its entirety annually for as long as the property remains vacant.

SECTION 5.50.040 ESCROW.

- A. Each demolition of a vacant building requires that the owner hold in escrow with the City a deposit of:

- 1) An amount equal to the actual value as set forth on the most recent Otero County Assessor's Valuation Notice; or
 - 2) The actual cost of demolition removal and asbestos removal;
- B. If the amount to be set up in escrow cannot be paid in full, the City will place a lien on the property for the amount previously specified. The City will use these funds to complete the plans submitted by the owner in the event that the owner does not comply with the deadlines as previously submitted in the owner's vacant building plan.
- C. Escrow funds will be released upon completion of the work or transfer of ownership, provided that all fees have been paid in full.
- D. New owners must sign a form accepting responsibility for completing the demolition.

SECTION 5.50.050 INSPECTIONS.

The Engineering Department shall inspect any premises in the City for the purpose of enforcing and assuring compliance with the provisions of this Ordinance. Upon the request of the City Manager, an owner may provide access to all interior portions of an unoccupied building in order to permit a complete inspection. Nothing contained herein, however, shall diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the City Manager or his designee in order to enable such inspection. The City Manager shall be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises. The following shall apply:

- A. Vacant properties will be externally inspected by the Engineering Department a minimum of twice per year to ensure the compliance of property maintenance codes;
- B. Vacant properties will be both internally and externally inspected at the start of each registration period (new and renewal) and when the registration is terminated by the property owner;

- C. Vacant properties will be both internally and externally inspected upon acquisition of the property by a new owner and prior to an issuance of an Occupancy Permit;
- D. Any inspection that is to take place within thirty (30) days of a previous inspection may or may not be conducted at the discretion of the City Manager.

SECTION 5.50.060 VACANT BUILDING FEES.

The fees shall be reasonably related to the administrative costs for registering and processing the vacant building owner registration form and for the costs incurred by the city in monitoring the vacant building site. The annually increased fee amounts shall be reasonably related to the costs incurred by the City for demolition and hazard abatement of or repairs to vacant buildings, as well as the continued normal administrative costs stated above.

- A. The owner of a vacant building shall pay an annual fee of \$250.00 for the first year the building remains vacant. The owner of a vacant building shall pay an annual fee of \$500.00 for the second year the building remains vacant. The owner of a vacant building shall pay an annual fee of \$750.00 for the third year the building remains vacant. The owner of a vacant building shall pay an annual fee of \$1,000.00 for the fourth year and each subsequent year the building remains vacant.
- B. The annual fee shall be paid in full prior to the issuance of any building permits unless the property is granted an exemption. The fee shall be prorated and a refund may be issued if the building is no longer deemed vacant under the provisions of this article within one hundred eighty (180) days of its registry.
- C. All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant building. A lien may be placed on the property to collect delinquent fees.
- D. Late fees shall be paid in addition to the annual registration and will be equal to the annual fee or one thousand (\$1,000) dollars, whichever is less.

SECTION 5.50.070 EXEMPTIONS.

- A. A building under active construction/renovation and having a valid building permit(s) at the time of initial inspection shall be exempt from registration until the expiration of the longest running, currently active building permit.
- B. A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of ninety (90) days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Engineering Department. This request shall include the names and addresses of the owner or owners, and a statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.
- C. A building that is for sale and listed with a licensed realtor shall be exempted for a period of twelve (12) months from the start of vacancy, provided that the owner submits proof to the City Manager of such listing and for sale status.
- D. A building that has been granted an exemption pursuant to the following provisions. Any owner of a vacant building may request an exemption from the provisions of this Chapter by filing a written application with the Engineering Department who shall timely consider same. In determining whether a request for exemption should be granted the Director shall consider the following: the applicant's prior record as it pertains to City Housing Code, Building Code, or Property Maintenance Code violations; the amount of vacant property the applicant currently has within the City and the length of time that the building for which the exception is sought has been vacant.

SECTION 5.50.080 APPEALS.

Any owner who is served a notice of vacant property registration may, within ten (10) calendar days of receipt of such notice, apply for an exemption or appeal the findings of the Engineering Department as set forth in the Building Code.

PASSED on first reading this 18th day of September, 2017.

ADOPTED AND APPROVED this 2nd day of October, 2017.

CITY OF LA JUNTA

Lynn Horner, Mayor

ATTEST:

Melanie R. Scofield, City Clerk