

City of Minden

P.O. Box 239, 325 N. Colorado
Minden, Nebraska 68959

phone 308.832.1820
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www.MindenNebraska.org



ORDINANCE NO. 1289

AN ORDINANCE TO ADD ARTICLE XIII, SECTIONS 14-340 THROUGH 14-346 REGARDING THE REGISTRATION OF VACANT PROPERTY TO CHAPTER 14 OF THE MINDEN MUNICIPAL CODE; TO REPEAL ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR THE SEVERABILITY OF ALL PARTS HEREOF; TO ORDER THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND TO DESIGNATE THE TIME DESCRIBED WHEN THIS ORDINANCE SHALL BE IN EFFECT.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MINDEN, NEBRASKA:

Section 1. That Chapter 14 of the Municipal Code of Minden, Nebraska, be amended to add the following:

ARTICLE XIII. - VACANT PROPERTY REGISTRATION

SECTION 14-340. – Purpose.

The City of Minden finds and declares that:

1. Vacant properties have the potential to create a host of problems for Nebraska communities, including a propensity to foster criminal activity, create public health problems, and otherwise diminish quality of life.
2. Vacant properties have the potential to reduce the value of area properties, increase the risk of property damage through arson and vandalism, and discourage neighborhood stability; Vacant properties represent unrealized economic growth in Nebraska communities:
3. A vacant property registration ordinance allows a municipality to discourage property vacancy, maintain unoccupied buildings, provide a data base of vacant properties and their owners, and assess fees for the increased public costs associated with vacant properties.
4. Fees imposed under a vacant property registration ordinance have the potential to benefit the owners of vacant properties by helping to finance additional government services to protect the value and security of such properties and
5. Enactment of this vacant property registration ordinance is a proper exercise of governmental authority to protect the public health, safety, and welfare of community residents and a valid regulatory scheme.
6. The City of Minden is given the power and authority pursuant to Nebraska Revised Statute 18-1720 to define, regulate, suppress, and prevent such nuisances.

SECTION 14-341. – Definitions.

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

- A. *Evidence of vacancy* means any condition or circumstance that on its own or in combination with other conditions or circumstances would lead a reasonable person to believe that a residential or commercial building is vacant. Such conditions or circumstance may include but are not limited to:
 - i. Lack of active utility service accounts;

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- ii. Overgrown or dead vegetation including grass, shrubbery, and other plantings;
 - iii. An accumulation of abandoned personal property, trash, or other waste;
 - iv. Visible deterioration or lack of maintenance of any building or structure on the property.
 - v. Graffiti or other defacement of any building or structure on the property;
 - vi. Any other condition or circumstance reasonably indicating that the property is not occupied for residential purposes or being used for the operation of a lawful business.
- B. *Owner* means the person or persons shown to be the owner or owners of record in the records of the County Register of Deeds.
- C. *Residential building* means a housing structure or other framework, together with such land on which a dwelling or apartment buildings are located that is used or intended to support occupancy of one or more persons for non-business purposes. This included but is not limited to the following: a house, condominium, a townhouse, an apartment unit or building or a trailer house.
- D. *Commercial building* means any building with more than fifty (50%) percent of the floor space used for commercial activity. For the purposes of this section, floor space shall be designated as the area on the main or street level of the building. For purpose of this section, commercial activity means having the objective of supplying commodities (goods and services), industrial uses, industrial manufacturing and ancillary business functions.
- E. *Vacant* means that a residential or commercial building exhibits evidence of vacancy for 180 days or longer.

SECTION 14-342. – Vacant Building Registration.

1. The City shall create a vacant property registration database, and the Development Services Director is designated as the program administrator. The program administrator may utilize additional City employees as may be necessary to administer the program.
2. The owner of a vacant building shall register the building with the Development Services Director (within thirty calendar days (30) of written notice) if the property has been vacant for one hundred eighty (180) days or longer. A vacant property registration form shall be provided by the city and the following information shall be required:
 - a. The name, street address, mailing address, telephone number and email address of the property owner and his or her agent;
 - b. The street address and parcel identification number of the vacant property;
 - c. The transfer date of the instrument conveying the property to the owner;
 - d. The date on which the property became vacant; and
 - e. A plan for occupancy of the property.
3. The owner shall notify the city of any changes in information supplied as part of the vacant building registration within thirty (30) days of the change. Removal of the property from the vacant property registration database shall occur when the property is no longer vacant.
4. If the owner of the vacant property does not reside in the City of Minden or Kearney County for at least one hundred eighty (180) days in a calendar year, then the owner must provide information for a resident agent with authority to act with respect to the property, including

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the name, current mailing address, phone number, and any other contact information of the owner's agent. Any subsequent owner of a vacant property must register or re-register the building with the City within thirty (30) calendar days of any transfer of any ownership interest in the vacant property. The new owner shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted by the new owner and meet the approval of the City.

5. An owner who acquires a vacant property for which a registration fee has already been paid for a particular period is not liable for any additional registration fee for that period; however, the new owner must register the change of ownership with the City.

SECTION 14-343. – Vacant Building Fees.

1. Residential Property: There is no fee for initial registration of vacant residential property. However, if the owner fails to remedy the vacant property and successfully have it removed from the vacant property registration list within 180 days from the initial registration date, or within 180 days from the initial registration date deadline if the owner fails to register the property, then the owner of vacant residential property shall be assessed a fee of \$250, payable to the City of Minden. In addition, a supplemental fee of \$500 will be assessed to the owner of the vacant property for every 180-day period thereafter, until the vacant property is removed from the registration list.
2. Commercial Property: There is no fee for the initial registration of vacant commercial property. However, if the owner fails to remedy the vacant property and successfully have it removed from the vacant property registration list within 180 days from the initial registration date, or within 180 days from the initial registration date deadline if the owner fails to register the property, then the owner of the vacant commercial property shall be assessed a fee of \$500, payable to the City of Minden. In addition, a supplemental fee of \$1,000 will be assessed to the owner of the vacant property for every 180-day period thereafter, until the vacant property is removed from the registration list.
3. Registration fees may be refundable for the year preceding the date on which the property is no longer vacant. Unpaid registration fees shall become a lien on the premises, as well as a liability of the responsible party. Additionally, the City attorney may institute appropriate action against the owner for the recovery of such costs.

SECTION 14-344. – Inspections.

The Development Services Director or his or her designee may inspect the interior and exterior of the vacant property upon registration and at one-year intervals thereafter for so long as the property remains on the vacant property registration database. A report will be provided to the owner noting code deficiencies, if any. The owner will be required to make necessary repairs based upon a reasonable timetable to allow the property to become occupied. Follow-up inspections will be made by the Development Services Director or his or her designee to ensure that repairs have been timely completed.

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SECTION 14-345. – Exemptions.

The following vacant properties shall be exempt from registration and fee requirements:

1. A vacant property that is advertised in good faith for sale or lease shall be exempt from registration and fee requirements. Any building advertised for sale at a price not exceeding one hundred and twenty-five (125) percent of the assessed valuation as documented by the Kearney County Assessor's office shall be deemed to be advertised in good faith for sale. Any building advertised for lease at an amount of rent comparable to other comparable buildings shall be deemed to be advertised in good faith for lease. The burden of proving this exemption shall be on the owner and the standard of proof shall be by clear and convincing evidence.
2. A vacant property under construction or renovation pursuant to a validly issued building permit or plan of renovation submitted to and approved by the program administrator;
3. A vacant property which is subject to ongoing divorce, probate, or estate proceedings;
4. A vacant property which is owned by the federal government, the State of Nebraska, or any political subdivision thereof.
5. Only considered to be a season resident and property is following current building code/property maintenance code.
6. Where the Owner is temporarily absent, but who has demonstrated his or her intent to return and property is in compliance with current building code/property maintenance code.
7. Such exemptions may be granted upon the affirmative vote of the City Council for a period up to, but not exceeding one (1) year.

SECTION 14-346. – Due Process.

Upon receiving notice declaring that a building is vacant or remains vacant, the owner of the building may appeal such decision within twenty (20) calendar days of receipt of the notice. Such an appeal shall be in writing to the Development Services Director. Such appeal shall request a hearing before the City Council to present reasons why the building should not be declared vacant. The Mayor shall set such a hearing within twenty (20) business days from the date of receipt of the written request.

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

Source: Ord No. 1289, 03-04-2024

Section 2. That any other ordinance or section passed and approved prior to the passage, approval and publication or posting of this ordinance and in conflict with its provisions is hereby repealed.

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Section 3. This ordinance shall be known as Ordinance No. 1289 and shall be in full force and effect from and after its passage, approval and publication according to law.

Passed and approved this 4th day of March, 2024.

/s/ Larry Evans
Larry Evans, Mayor

ATTEST:

/s/ Abbey Jordan
Abbey Jordan, City Clerk
(SEAL)