

**ORDINANCE NO. 2024-11-\_\_\_\_\_**

**AN ORDINANCE ESTABLISHING THE REGISTRATION OF NEGLECTED BUILDINGS IN THE CITY OF ARKANSAS CITY, KANSAS.**

**WHEREAS**, Neglected buildings are a major cause and source of blight in both residential and non-residential neighborhoods, especially when the owner of the building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood; and

**WHEREAS**, Neglected buildings and/or substandard or unkempt buildings discourage economic development and retard appreciation of property values. It is the responsibility of property owners to prevent buildings from becoming a burden to the neighborhood and community and a threat to the public health, safety, and welfare. A neglected building that is not well maintained and managed can be the core and source of spreading blight.

**WHEREAS**, such buildings also constitute a nuisance, and to adequately protect public health, safety and welfare, the establishment and enforcement of a registration system to monitor such buildings and to develop a means to decrease the number of neglected buildings within the city is necessary.

**NOW THEREFORE, IN CONSIDERATION OF THE AFORESTATED PREMISES, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ARKANSAS CITY, KANSAS:**

**SECTION 1. Neglected Buildings are Strictly Prohibited in the City of Arkansas City.**

- a. It is unlawful for any person to own a residential and/or non-residential property building of any type and fail to maintain such building occupied or unoccupied, that is not in a good state of repair thus causing a nuisance and health concern, discouraging economic development.
- b. It shall be at the discretion of the Building Official to deem a building as neglected and properly notify the legal building owner of the need to register in alignment with the terms of this ordinance.
- c. Violation of this Ordinance and refusal to comply may result in an issued court warrant for being in infringement of Chapter 14, or Chapter 18 of the Code of the City of Arkansas City, Kansas.

**SECTION 2. Definitions.**

**Bordered** means that some or all of the building's doors or windows have been covered with plywood, wood or metal sheeting, paneling, or other similar materials, for the purpose of preventing entry into the building by persons, animals, or the elements of weather.

**Building** means a building, accessory structure or other structure adapted to permanent or continuous occupancy or use for residential, public, institutional, business, industrial or storage purposes.

**Building Official** means building inspector in charge of the Neighborhood Services Division of the City or designated authorized representative, responsible for enforcing building codes and regulations.

**City** means the City of Arkansas City, Kansas, encompassing the City Limits thereof.

**Deterioration** means the condition or appearance of a building characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, excessive use, or lack of maintenance.

**Dwelling** means any building, apartment building, mobile home or manufactured home which is wholly or partly used or intended to be used for living or sleeping by human occupants.

**Dwelling unit** means any room or group of rooms located within a building and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking, and eating.

**Good state of repair** means sound, stable, free of deterioration, and performing the function for which intended.

**Good working condition** means the item is fully operable for the use for which it was intended.

**Neglected building** means a 'neglected occupied building' and a 'neglected unoccupied building'.

**Neglected occupied building** means an occupied building in which one or more of the following events have occurred within the preceding eighteen months:

- a. The building is the subject of two or more notices of violation of the provisions of Chapter 14, Chapter 18 or the provisions of this chapter of the Code of the City of Arkansas City and the owner has failed to demonstrate that due diligence is being exercised in abating the violation;
- b. The building has been declared to be a criminal nuisance pursuant to K.S.A. 22-3901, *et seq*;
- c. The owner has failed to appear, and a warrant has been issued in municipal court for a violation of Chapter 14, Chapter 18, or the provisions of this chapter of the Code of the City of Arkansas; or
- d. The owner has refused to accept service of notices of violations of Chapter 14, Chapter 18, or the provisions of this chapter of the Code of the City of Arkansas City.
- e. The building has sustained substantial deterioration due to lack of maintenance.

**Neglected unoccupied building** means an unoccupied building (whether or not boarded) in which one or more of the following events have occurred:

- a. Within the last eighteen months, the property is the subject of two or more notices of violation of the provisions of Chapters 14, Chapter 18 or the provision of this chapter of the Code of the City of Arkansas City and the owner has failed to demonstrate that due diligence is being exercised in abating the violation;
- b. The building is unsecured;
- c. The building has sustained significant fire, wind or water damage and is uninhabitable.
- d. The building has been declared a criminal nuisance pursuant to K.S.A. 22-3901, *et. seq*.
- e. The building has been boarded for a period of more than ninety days.
- f. The building has sustained substantial deterioration due to lack of maintenance.
- g. The owner has failed to appear, and a warrant has been issued in municipal court for a violation of Chapter 14, or Chapter 18, of the Code of the City of Arkansas City; or
- h. The owner has refused to accept service of notices of violations of Chapter 14, or Chapter 18, of the Code of the City of Arkansas City.

**Occupancy** the purpose for which a building or portion thereof is utilized or occupied.

**Operator** means any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

**Owner** means any person who is a holder of any legal or equitable interest in the premises, and alone or jointly or severally with others.

- a. Has record legal title to any dwelling or dwelling unit with or without accompanying actual possession thereof;  
or
- b. Has charge, care or control of any dwelling or dwelling unit which may include all persons who have an interest in a structure and any who are in possession or control thereof as owner or agent of the owner, contract purchaser, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

- i. In the absence of substantial evidence to the contrary, records of the Cowley County Clerk's Office, Registrar of Deeds, certified copies of court records or judgments of any court, copies of lease agreements, contracts for deed, mortgages, tax records, rental agreements and other financial documents related to the property shall be conclusive evidence of the ownership of the property.

**Person** as used in this chapter, means any individual, firm, association, company, syndicate, partnership, or other legal entity, or a natural person for the purposes of the occupancy standards hereof.

**Premises** shall mean a lot, plot or parcel of land including the buildings and structures located thereon.

**Resident Agent** means a natural person residing within Cowley County, Kansas, or a company or agency with a manager or agent who resides in Cowley County, Kansas, who is authorized to make or order repairs, to order or oversee service to dwellings and dwelling units, and to receive notices on behalf of the owner.

**Safe and Sanitary** for purposes of this chapter shall mean free from conditions that are dangerous or could cause injury and free from elements such as filth or bacteria that endanger health.

**Structurally Sound** means free of imperfections and/or deterioration that affect the intended use of a structure or the integrity of the footing, foundation, wall, roof, chimney, arch, window, door, or porch/deck support systems.

**Supplied** means paid for, furnished, or provided by or under the control of the owner or operator.

**Unoccupied building** means a structure that is not currently being used or inhabited by any individuals or businesses, often unsecured or open so that unauthorized admittance may be gained.

**Unsecured** means a building that lacks adequate protection or measures to prevent unauthorized access or entry that may be obtained through unlocked, broken, or missing locks, doors, walls, or windows putting the building at risk of being vandalized, burglarized, or used to illicit activities by trespassers.

**Workmanship like manner** means installation or repair which meets the minimum recommended installation and maintenance requirements of the product manufacturer and meets all applicable code requirements.

### **SECTION 3. Compliance and Enforcement.**

- a. Duty to register neglected building. The owner or operator of a neglected building shall be required, after written notification from the Building Official, to apply for registration of such building with the Office of Neighborhood Services within thirty days of the date of notification. Such notification shall be served to the owner or resident agent by personal service or by certified mail, return receipt requested. If the owner is a non-resident, such notice shall be sent by certified mail, return receipt requested, to the last known address of the owner.
- b. The registration shall include the following information:
  - A description of the premises;
    - i. Address of the building in violation;
    - ii. The names and addresses of the owner or owners;
    - iii. The names and addresses of all known lienholders and all other parties with a legal or equitable ownership interest in the building;
    - iv. The name of the resident agent designated to act on the behalf of the owner to accept legal processes and notices and to authorize repairs as required; and
    - v. If such building is unoccupied, the period of time the building is expected to remain unoccupied and/or a plan and timetable to comply with applicable city codes.
- c. Registration fee. A one-time registration fee of twenty-five dollars (\$25.00) per building shall be collected, at the time of application, by the City Treasurer. The fee shall be valid for the building under current ownership at the time of application issuance and void if changed to new ownership whereafter new owners would need to apply.

**SECTION 4. Resident Agent.**

The owner or operator of any neglected building which is subject to the registration requirements of Section 3 of this chapter, shall designate a resident agent for the building that resides in Cowley County, Kansas. Any owner who lives within Cowley County (or surrounding area) may designate himself or herself as the resident agent. Those who reside outside Cowley County must elect a resident agent.

**SECTION 5. FAILURE TO REGISTER.**

- a. Any owner or operator who fails to register a neglected building, as required by this chapter, may be liable for a civil penalty not to exceed two hundred dollars (\$250.00).
- b. If the building continues to meet the definition of a neglected building for a period of ninety (90) calendar days, and the owner fails or refuses to register such building, the Building Official may continue to assess a penalty of two hundred fifty dollars (\$250.00) for each ninety (90) calendar the building continues to be unregistered. At no time may the amount of the assessment exceeds one thousand dollars (\$1,000.00) per building in a calendar year.
- c. All penalties assessed shall be payable directly to the City Treasurer.

**SECTION 6. Repeal of Conflicting Ordinances.**

All ordinances or parts of ordinances in conflict herewith are repealed. However, any section or provision of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

**SECTION 7. Severability.**

If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision of this ordinance that can be given effect without the invalid provision or application. Each invalid provision or application of this ordinance is severable.

**SECTION 8. Effective Date.**

This ordinance, or a summary thereof, shall be published one time in the official City newspaper, and shall take effect and be in force from and after said publication.

**PASSED AND ORDAINED** by the Governing Body of the City of Arkansas City, Kansas, this 5th day of November 2024.

(Seal)

\_\_\_\_\_  
Jay Warren, Mayor

ATTEST:

\_\_\_\_\_  
Tiffany Parsons, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry R. Schwartz, City Attorney

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 2024-10-\_\_\_\_\_ of the City of Arkansas City, Kansas adopted by the governing body on October 1, 2024, as the same appears of record in my office.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Tiffany Parsons, City Clerk