

City of Bayard

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CITY OF BAYARD, GRANT COUNTY, NEW MEXICO
ORDINANCE No. 1-2023

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AN ORDINANCE CONCERNING THE REGISTRATION AND MAINTENANCE OF
NEGLECTED VACANT RESIDENTIAL AND COMMERCIAL STRUCTURES WITHIN THE
CORPORATE LIMITS OF THE CITY OF BAYARD,

WHEREAS the City of Bayard requested the City Council to enact an ordinance pursuant to their statutory authority under N.M.S.A. 1978, Section 3-17-1, which ordinance would require the registration and payment of an annual fee where a vacant residential or commercial structure is certified in writing by the City Police Chief or Fire Chief to be neglected;

WHEREAS the Clerk of the City of Bayard published timely notice in the Silver City Daily Press, a newspaper of general circulation in Grant County, and gave timely notice to interested parties in accordance with the provisions of N.M.S.A. 1978, Section 3-17-3; and

WHEREAS the City Council conducted public meetings on June 28, 2023, July 3, 2023, and July 7, 2023, and duly considered all statements presented as well as written commentary provided.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYARD, GRANT COUNTY, NEW MEXICO, THAT:

SECTION 1. PURPOSE. The purpose of this ordinance is to help protect the health and safety of the residents of the City of Bayard so that vacant structures do not constitute a public nuisance, by ensuring appropriate maintenance of vacant residential and commercial structures to prevent the development of insanitary conditions, unsafe deterioration of the structure, and unauthorized entry. This ordinance will help promote the City's public welfare by preventing blight and protecting property values and neighborhood integrity and safety.

SECTION 2. DECLARATION OF PUBLIC NUISANCE. It is declared a public nuisance for any owner to cause, permit, or fail to maintain any vacant residential or commercial structure in a manner contrary to the provisions of this ordinance.

SECTION 3. APPLICABILITY. The provisions of this ordinance shall apply to all vacant residential and commercial structures within the corporate boundaries of the City of Bayard, as those boundaries may be altered from time to time by annexation.

SECTION 4. DEFINITIONS. For purposes of this ordinance, the following terms are defined as follows.

- LOT** A measured parcel of land having fixed boundaries designated on a survey under one ownership as shown on the last assessor's roll of Grant County or the records of the City, whichever is the most recent.
- NEGLECTED VACANT STRUCTURE** A structure which is vacant and is not maintained in accordance with the provisions of this ordinance and certified in writing to be neglected by the City Police Chief or Fire Chief.
- OCCUPANCY** The act of residing in the structure with full utilities service or conducting a legal business, properly registered, from the structure with full utilities service.
- OWNER:** The owner of record based on the public records of the Grant County clerk and office of the Grant County assessor and any person with legal, financial, or equitable interest in the structure, land, or premises at the time of the determination that the vacant structure is a neglected structure under the provisions of this ordinance.
- REGISTRATION** The process of providing name, present address, and other contact information of the owner of a vacant structure for protection of the subject premises and the owner's investment.
- STRUCTURE:** A combination of any materials fixed to the ground and having a roof, enclosed within exterior walls, and constructed as a dwelling for the shelter of persons, including a building for the conduct of a legal business. A structure shall include any mobile home or manufactured home, as those homes are defined in NMSA. 1978, Section 3-21A-2(A) and -(B) (2001), whether used for residential or commercial purposes.
- VACANT STRUCTURE:**
- (1) A residential or commercial structure that has remained unoccupied for a period of more than thirty (30) days.
 - (2) A structure is not deemed to be vacant for purposes of this ordinance if any of the following circumstances exist:
 - a. Any unit or portion of the structure is occupied by authorized persons;
 - b. Any other structure on the same lot is occupied by authorized persons; or
 - c. Construction or alteration of the structure is in progress, and where a state permit is required such unexpired permit must be posted. If a required state permit is not posted or

has expired, then the structure shall be considered a vacant structure and subject to the requirements of this ordinance.

SECTION 5. REGISTRATION OF NEGLECTED VACANT STRUCTURE.

- A. Notification of Determination of Neglect and Required Registration. When a vacant structure is determined to be neglected, and certified in writing, the City Clerk shall notify the owner by certified mail, return receipt requested, of the neglect determination and the requirement to register the neglected vacant structure with the City. Said notice shall contain a registration form.
- (1) The owner must register the neglected vacant structure within thirty (30) calendar days of receipt of the notice.
 - (2) The owner must pay the neglected vacant structure fee with the registration.
- B. Registration Information. Registration shall be on a form available from the City Clerk, which includes but is not limited to the following information:
- (1) Name, address (physical and mailing), and contact telephone number of the owner;
 - (2) Name, address (physical and mailing), and contact telephone numbers of the local agent or representative for the structure /property, if other than the owner.
- C. Keep Registration Information Current. Upon any change in the facts provided in the initial registration, the owner shall file up-dated information within ten (10) business days of such change.
- D. Neglected Vacant Structure Fee. Upon notification of the neglected vacant structure determination, the owner must pay a prorated fee as established below, and continue to pay an annual fee on or before July 1 of each calendar year the vacant structure continues to be classified as a neglected vacant structure.
- (1) Initial fee shall be prorated from the month following the receipt of notice of the neglected vacant structure determination, which shall be based on a first year annual fee of \$300.00 (\$25.00/month).
 - (2) First full calendar year annual fee, where the structure is still designated as a neglected vacant structure, shall be \$300 (three hundred dollars).
 - (3) For each additional full calendar year the premises remains designated as a neglected vacant structure, the fee shall increase an additional \$100.00 (one hundred dollars) per year up to a maximum of \$500.00 (five hundred dollars) per year.
- E. Owner Not Exempt from Complying with Standards Upon Payment of Fee. Payment of the neglected vacant structure fee does not exempt the owner from complying with this ordinance and other applicable laws. Upon a showing that the vacant structure and lot are in full compliance with this ordinance, the City will

vacate the neglected vacant structure fee. No further fee will be due provided the vacant structure and lot continue to be in compliance with this ordinance.

SECTION 6. REQUIREMENTS AND STANDARDS.

- A. Maintenance in Accordance with all Applicable Laws. The owner of a vacant structure shall maintain it and its lot(s) in accordance with all applicable local ordinances and the state sanitary codes, building codes, and fire codes pertaining to the lot and the external (visible) parts of the structure.
- B. Security Standards. The owner shall maintain the vacant structure in a way that secures the structure from any unauthorized entry and shall comply with the following minimum security standards:
- (1) Promptly cover, secure, or repair all broken windows, doors, other openings, and any unsafe conditions at a vacant structure. Boards or coverings must be fitted and sized to the exterior opening.
 - (2) There shall be at least one operable door into each vacant structure, secured with a suitable lock.
 - (3) The lot(s) upon which a vacant residential or commercial structure is located shall be appropriately secured based on the conditions and surroundings, and maintained in a manner that eliminates any public safety hazard. Said lot(s) must be free of all combustible materials.
- C. Appearance Standards. The owner of a vacant structure shall comply with the following minimum appearance standards:
- (1) All vacant structures must be maintained in a manner that minimizes the appearance of neglect and deters unauthorized occupation. Owners shall promptly remove graffiti from the vacant structure and any fencing and immediately repair damage from attempted or actual intrusions into the vacant structure.
 - (2) All exterior surfaces, including any boarded windows or doors, shall be applied with sufficient paint, siding, stucco, or other finishes in the same color or similar color to blend with the structure's existing exterior color scheme. All exterior surfaces, including roofs, shall be of sufficient construction to weatherproof the vacant structure.
 - (3) The lot(s) upon which the vacant structure is situated, including all landscaping, shall be kept in such condition as not to create the appearance of an unsecured, unoccupied structure. Said lot(s) shall be free of litter, which includes debris and garbage.

SECTION 7. PARTIAL OR COMPLETE DESTRUCTION OF STRUCTURE. An owner of a structure rendered vacant as a result of catastrophic fire or act of

nature shall: (i) immediately secure the premises with appropriate fencing and no trespass signs, (ii) within two calendar weeks from the catastrophic event clear the premises of all litter and debris; and (iii) within four calendar weeks from the catastrophic event demolish any remaining parts of the structure and clear the site or show proof to the Code Enforcement Officer of completed and filed application for appropriate state permits for rebuilding the partially destroyed structure.

SECTION 8. PENALTIES.

- A. **Penalties:** It is unlawful for any person who owns controls, or is the responsible agent of a vacant structure to fail to register and pay the requisite fee as provided in this ordinance, and to maintain, or cause or permit the maintenance of the vacant structure in a condition defined as a “neglected vacant structure” in this ordinance. Violations of this ordinance are in addition to any other violation established by law.
- B. **Penalties.** The court may impose fine of not more than \$500 (five hundred dollars) or imprisonment of more than ninety days or both upon finding any person in violation of any provision of this ordinance.
- C. **Remedies Not Exclusive.** This ordinance shall not be interpreted as limiting the penalties, actions, or summary abatement procedures that may be taken by the City under existing laws, ordinances, or rules, including perfecting a lien upon the premises and foreclosure thereof.

SECTION 9. REPEALER. All ordinances or parts of ordinances in conflict with this ordinance are repealed.

SECTION 10. SEVERABILITY. Should any provision of this ordinance be rendered invalid by a court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the City Council.

Findings:

- 1. The presence of unmaintained vacant residential and commercial structures creates a negative impression and has been shown to have an adverse economic impact on neighboring properties and businesses by depressing property values;
- 2. It is the property owner’s responsibility to maintain a vacant structure to minimize the appearance of neglect and to secure the vacant structure from unauthorized entry, and such responsibility should not be a burden placed upon the entire community;

3. Trespassers find vacant structures to be attractive places to conduct criminal activities, and unauthorized access can lead to vandalism and even fires that put the structure and surrounding area at risk;
4. Neglected vacant and unsecured residential and commercial structures can become an attractive but dangerous play area for children and can harbor wild animals, pests, and vermin;
5. Vacant structures that have deteriorated or been neglected are a threat to public safety, health, and welfare of the community.
6. The City of Bayard has an interest in identifying and registering property owners of neglected and unsecured vacant residential and commercial structures located within the corporate limits of the City of Bayard; and
7. To provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the City of Bayard and its inhabitants, it is necessary to establish a process whereby the City can identify neglected vacant structures and impose a fee upon the owners thereof in order to monitor compliance with applicable laws.

PASSED, ADOPTED, AND APPROVED by vote of the City Council of the Bayard, Grant County, New Mexico, this 10th day of July 2023.

Chon Fierro, Mayor
City of Bayard

Attest:

Tanya Ortiz
City of Bayard