

VACANT BUILDING REGISTRATION ORDINANCE

ORDINANCE NO. 1012

AN ORDINANCE PROVIDING FOR THE REGISTRATION AND REGULATION OF VACANT BUILDINGS WITHIN THE CITY OF RATON, NEW MEXICO: ESTABLISHING REGISTRATION REQUIREMENTS AND FEES AND PROVIDING THE COLLECTION THEREOF; FIXING PENALTIES FOR THE VIOLATION THEREOF AND PROVIDING FOR THE ENFORCEMENT THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RATON, NEW MEXICO:

There is hereby enacted a Vacant Building Registration Ordinance as follows:

GENERAL PROVISIONS

§ 97.01 SHORT TITLE.

Sections 97.01 through 97.99 inclusive; shall be known and may be cited as the "Vacant Building Registration Ordinance of the City of Raton."

§ 97.02 PURPOSE.

The City Commission of the City of Raton (City) finds, determines, and declares that residential, commercial and industrial buildings and structures which remain vacant and unoccupied for any appreciable period of time have a negative impact on surrounding properties and the community and contribute to blight, increase the risk of vandalism and arson in buildings, reduce community property values and tax base, and require additional public services. It is also determined that vacant buildings of relatively large area represent disproportionate adverse impacts to the community relative to smaller buildings. It is the purpose and intent of the City to protect the public health, safety and well-being by enactment of this chapter to:

- A. Establish a process to address the significant number of vacant, abandoned, foreclosed, and/or otherwise distressed buildings and structures located within the city;
- B. To identify, register, regulate and reduce the number of vacant, abandoned or dilapidated primary buildings and structures located within the City;
- C. To create conditions favorable to the general welfare, prosperity and harmonious development of the city;
- D. To establish the responsibilities of owners of vacant buildings and structures and to acknowledge community impacts resulting from long-term vacancy of buildings and structures;
- E. Reduce, minimize or eliminate the negative impacts on surrounding properties and neighborhoods from unsupervised vacant, abandoned, and foreclosed buildings and structures;
- F. Provide for administration, enforcement and imposition of fees and penalties related to this chapter.

This chapter shall apply to all vacant, abandoned, and foreclosed primary residential, commercial, and industrial buildings and structures within the City of Raton, New Mexico. This chapter shall apply to any such described building that is fully intact, partially removed, burned, demolished or destroyed, or a building in which any portion of the structure is remaining in place or on the site.

Further, it is found to be in the public interest for the City to impose a fee in conjunction with registration of vacant, abandoned, and foreclosed primary buildings and structures

to offset the disproportionate costs imposed on the City by the presence of these properties.

§ 97.03 OTHER ORDINANCES.

This chapter shall not be construed to prevent the enforcement of other applicable ordinances, statutes, codes, legislation, or regulations that prescribe standards other than are provided herein, and in the event of conflict, the most restrictive shall apply.

§ 97.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED PROPERTY. Means a parcel of real property that is vacant or unoccupied in any manner for a period of more than 180 days and is under a current notice of default or notice of trustee's sale, or has been the subject of a foreclosure sale where the title was retained by the beneficiary involved in the foreclosure, or has been transferred under a deed in lieu of foreclosure. Property will be presumed abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 180 days, and the property has been vacant for at least 180 days. A dwelling may not be considered abandoned if all appropriate permits are issued, in force, and construction is ongoing.

BUILDING. Any structure occupied or intended for supporting or sheltering any occupancy.

CODE ENFORCEMENT OFFICER. Referred to throughout this chapter as Officer, means the designated Code Enforcement Official of the City of Raton or authorized designate that may include (but not be limited to) any law enforcement officer, building official, zoning official, fire inspector or building inspector, or other person authorized by the City to enforce the applicable code(s).

EVIDENCE OF VACANCY. In determining whether a building or structure is "vacant," the City may consider the factors listed herein, among others. A building or structure may be deemed vacant if:

- A. It is unoccupied and uninhabited; is occupied or inhabited in violation of any provision of the City Code or the applicable Building Code; is subject to a declaration of condemnation; or is occupied only by trespassers or transients seeking a temporary hiding place or shelter;
- B. It is a building or structure at which lawful business, construction operation or residential occupancy is at a level of at least 95% vacant;
- C. It is unsafe, unsanitary, a fire hazard or otherwise constitutes a danger to the public health, safety or welfare in violation of the applicable Building Code, applicable Housing Code, Fire Code or other applicable code;
- D. It lacks active utilities service;
- E. It has been abandoned by the owner;
- F. It is under a condemnation notice or order to vacate;
- G. It does not receive mail service;
- H. It is not in compliance with the housing, electrical, mechanical, plumbing, or building codes;

- I. There appears to have no lawful occupant;
- J. It has one (1) or more broken or boarded windows;
- K. It is open to casual entry or trespass;
- L. It does not appear to be furnished;
- M. It is deteriorating due to a lack of maintenance or neglect;
- N. It has taxes in arrears for more than one (1) year;
- O. It is a potential hazard or danger to the safety of persons;
- P. It is structurally unsound;
- Q. It does not economically perform as a commercial structure would in generating income for the business/property owner and gross receipts tax (GRT) for the local government;
- R. It is utilized solely for personal or private storage of vehicles, equipment, machinery, supplies, parts or miscellaneous without an active residential, commercial or industrial purpose;
- S. The lawful activity that the building or structure was designed and built for or intended to be used for has ceased for a period of 180 days; or
- T. Or any other condition or circumstance observed by the Code Enforcement Officer that causes the Officer to reasonably believe the building is not lawfully occupied.

JURISDICTION. The City of Raton.

MANAGER. Means the City Manager of the City of Raton or authorized designate thereof.

OWNER. Any person, partnership, association, corporation, operator, firm, legal representative, agent or entity having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

The owner shall include, but not be limited to, a trustee, mortgagee or financial institution which is in possession (in whole or in part) of the real property, is a beneficiary under a trust deed, is identified as having or claiming a lien interest, or that is foreclosing a lien or mortgage interest in the property but may or may not have legal or equitable title.

CONSTRUCTION ACTIVITY. Construction activity conducted pursuant to a valid building permit.

STORAGE BUILDING. Means building, structure or complex that is specifically designed and intended for storage and is actively operated as a commercial storage enterprise.

VACANT BUILDING. Vacant building means any structure or building that is unoccupied by a person or occupied by unauthorized persons for 180 days.

"Vacant Building" does not include permitted warehouses; permitted storage structures; or structures being newly constructed or under substantial rehabilitation within the terms

of their building and zoning permits for a period of one (1) year from the later of the date of issuance of the building permit or the date of the issuance of the zoning permit.

"Vacant Building" includes each individual vacant mobile home (separately) located in a mobile home park, mobile home subdivision or in any other location in the city, buildings utilized for non-commercial storage or warehousing, and each discrete primary building or building unit that is vacant.

"Vacant building" does not include an accessory structure that is not intended for occupancy, such as a garage, shed, or storage building when a primary building exists on the property of record and is occupied.

WAREHOUSE. Means building, structure or complex where raw materials or manufactured goods are stored before their export or distribution for sale, and is actively operated as a commercial or industrial warehouse enterprise.

§ 97.05 SEVERABILITY.

If any section, subsection, paragraph, sentence, clause, phrase or part hereof is declared unconstitutional or invalid, the validation of the remaining portions shall not be affected, since it is the express intent of the City Commission of the City of Raton to pass each section, subsection, paragraph, sentence, clause, phrase or provisions, and every part thereof separately and independently of every other part.

§ 97.06 EXEMPTIONS.

Any government agency or entity that owns vacant property will be exempt from the requirements of this chapter. For the purposes of this chapter, any insured mortgage or financing provision from or through a federal, state or local government housing program shall not be considered a government agency or entity and shall not be exempt from the requirements of this chapter. Ownership acquired through a federal or state housing program foreclosure shall also not be exempt from the provisions of this chapter.

Residential housing and rental units will be exempt from the requirements of this chapter provided the vacancy rate of the building they are situated in does not exceed 75%.

APPLICATION OF REGULATIONS

§ 97.20 OBLIGATION OF VACANT BUILDING OWNER.

- A. The owner of a vacant building or structure shall obtain a vacant building permit in accordance with the requirements of 97.21 of this chapter for the period during which it is vacant. When a building or structure becomes vacant, as defined in this chapter, the owner of the building shall apply for and obtain a vacant building permit and pay the fee within thirty (30) days of the vacancy of the building. A separate permit is required for each vacant building. A vacant building permit issued is not transferable.
- B. Upon the expiration of a vacant building permit, if the building or structure is still vacant, the owner shall renew the permit within ten (10) days of expiration in the same manner as the expired permit. All renewed permits shall be subject to all conditions and obligations imposed by this chapter or the initial permit unless expressly exempted therefrom. Failure to timely renew a property registration is a violation of this chapter and shall subject the property owner to late fees.
- C. The owner of a vacant building or structure shall comply with all building, fire, life safety, zoning, nuisance and other applicable codes or ordinances and shall

apply for all necessary building, fire prevention, and zoning permits upon application for a vacant building maintenance permit.

- D. The owner of a vacant building or structure shall immediately remove any waste, combustible refuse, rubbish or debris from the interior of the structure in compliance with the applicable fire prevention code. The owner of a vacant building or structure shall also immediately remove any waste, rubbish, debris or excessive vegetation from the yards surrounding the vacant building or structure.
- E. The owner of a vacant building or structure shall immediately lock, barricade or secure all doors, windows and other openings in the building or structure to prohibit entry by unauthorized persons. The owner of a vacant building or structure shall provide the police department with a list of persons authorized to be present in the building and shall provide notices of trespass to the police authorizing the arrest for trespass of individuals not on the list. The owner shall update the authorized person list as needed.
- F. The owner of a single family residential vacant building or structure shall provide proof of General Liability insurance, no less than one hundred thousand dollars (\$100,000.00) for the property and/or a surety bond for the value of structure if insurance cannot be obtained. The owner of a commercial or industrial vacant building or structure shall provide proof of General Liability insurance, no less than three hundred thousand dollars (\$300,000.00) for the property, or the current actual property value as determined by the Colfax County Assessor (whichever is greater) and/or a surety bond for the value of structure if insurance cannot be obtained. Owner shall submit a valid current certificate of insurance for personal and premises types of liability insurance, and a fire legal endorsement if applicable.

The obligations of owners of a vacant building or structure are continuing obligations which are effective throughout the time of vacancy, as that term is defined in this article. The Code Enforcement Officer shall have continuing abatement authority throughout the time of vacancy.

The owner shall notify the Code Enforcement Officer within thirty (30) days of any change in the registration information by filing an amended registration statement on a form provided for such purpose.

Each owner and each designated agent is severally liable for responsibilities of this chapter.

§ 97.21 VACANT BUILDING REGISTRATION REQUIREMENTS.

Each vacant building registration shall be submitted in writing by the owner to the Code Enforcement Officer prior to issuance of a vacant building permit by the Officer. The owner shall remit fee as described in 97.94 of this chapter with registration documentation. Initial registration for every vacant building, regardless of condition, is due no later than October 1, 2021.

An owner of a foreclosed, vacant or abandoned residential property shall apply for a registration on forms provided by the Department of Code Enforcement. No registration is valid unless filled out accurately and completely, signed by the owner, and the proper fees have been paid. A registration fee once tendered may not be refunded or transferred. It is a violation of this article for an owner to provide inaccurate information on an application for registration.

§ 97.22 DETERMINATION OF VACANT BUILDING.

The Code Enforcement Officer may evaluate all buildings in the city believed to be vacant and make a determination for each as to whether the building is a "vacant

building" within the meaning of this chapter. The Officer may determine that a building which meets any of the criteria set forth in this chapter is not to be regulated under this chapter for a stated period, if upon consideration of reliable, substantiated and sufficient evidence, the Officer determines that regulation of the building under this chapter would not serve the public health, welfare, and safety and makes written findings in support of his/her decision. Any such determination shall be in writing and shall state the factual basis for the determination. For buildings the Officer determines to be "vacant buildings," he/she shall send notice of the written determination, with the factual findings, to the last owner of record listed by the County recorder of deeds. Failure of delivery shall not excuse a person from complying with this chapter. The Officer may personally serve or cause personal service of the notice of determination.

The notice shall contain a statement of the obligations of the owner of a building determined to be a vacant building, a copy of the registration form the owner is required to file pursuant to this chapter, and a notice of the owner's right to appeal the Officer's determination.

§ 97.23 APPEAL OF DETERMINATION.

The owner of a building determined by the Code Enforcement Officer to be a vacant building as provided for in this chapter may appeal that determination to the Raton City Commission. Such appeal shall be in writing and shall be filed with the City Manager or Code Enforcement Officer within thirty (30) days of the date of mailing of the notice of determination. The filing of an appeal stays the owner's obligation to register his/her building as required by this chapter, unless the City Manager certifies to the City Commission after the notice of appeal shall have been filed that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property.

The appeal shall contain a complete statement of the reasons the owner disputes the Code Enforcement Officer's determination, shall set forth specific facts in support thereof, and shall include all evidence the owner relies upon to support the appeal. The City Commission shall decide the appeal on the basis of facts presented by the owner in his or her written appeal and the Code Enforcement Officer's written determination and shall affirm, deny or modify the determination.

The City Commission shall send written notice of the appeal decision to the owner within thirty (30) days of the appeal. The City Commission may, at its option, seek additional information from the owner.

FEES AND PENALTIES

§ 97.94 VACANT BUILDING REGISTRATION FEES.

The owner of a vacant building shall submit an annual fee for the registration of a vacant building. The owner shall be required to renew the vacant building registration each year on the anniversary date of the initial filing for the time the building remains vacant and pay the escalating annual fee as follows:

	Less than 10,000 SF	Greater than 10,000 SF
Initial Registration Fee	\$100.00	\$250.00
Second Year Registration Fee	\$250.00	\$500.00
Third Year Registration Fee	\$500.00	\$1,000.00
Fourth Year Registration Fee	\$750.00	\$1,750.00
Fifth Year and Each Subsequent Year Registration Fee	\$1,000.00	\$2,500.00

Annual fees are non-refundable, shall be capped at the fifth-year amount, and shall not increase after the fifth year.

Basis of Structure Area determination shall be the following:

- A. Area of primary building or structure (including additions) where one primary building and one or more accessory buildings or structures exist;
- B. Aggregate area of multiple housing unit complex where more than 75% of the complex of is vacant;
- C. Each discrete unit of a commercial development consisting of independently operated businesses or commercial enterprises.

No prorated refunds shall be returned. All fees are non-refundable.

The payment of all fees under this chapter is secured by a lien against the property, which may be placed on the tax roll for collection in the same manner and subject to the same interest and penalties applicable to delinquent special assessments.

§ 97.95 FAILURE TO PAY FEES AND CHARGES.

An unpaid fee shall be and constitute a lien against the property, to be enforced and foreclosed as provided by ordinance and state statute for other municipal liens.

§ 97.99 PENALTY.


Any person violating any of the provisions of §§ 97.01 through 97.99 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined a minimum of \$100, or an amount not exceeding \$200, or be imprisoned for a period not exceeding 30 days, or be both so fined and imprisoned, in the discretion of the court. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

PASSED, ADOPTED, SIGNED AND APPROVED this 27th day of April, 2021.

CITY OF RATON


James Neil Segotta, Jr. Mayor

ATTEST:


Michael Anne Antonucci, City Clerk