BILL NO. 1038-C.S.
ORDINANCE NO. ___-C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EUREKA REPEALING AND REPLACING TITLE 15, CHAPTER 150, SECTIONS 150.095 THROUGH 150.097 WITH SECTIONS 150.095 THROUGH 150.100 PERTAINING TO VACANT COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL BUILDINGS, AS FOLLOWS:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA:

Section 1.
Title XV, Chapter 150, §§ 150.095, 150.096, and 150.097 are repealed and replaced in full by the following sections 150.095 through 150.100:

§ 150.095 FINDINGS AND PURPOSE.

The City Council finds as follows:

Vacant buildings are a major cause and source of blight in residential and nonresidential 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. Vacant buildings, substandard or unkempt buildings, and long-term vacancies discourage economic development and dampen the appreciation of property values. Vacant buildings are potential fire hazards that can jeopardize the ability of owners of neighboring property to secure or maintain affordable fire insurance. It is the responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare. One vacant building that is not actively maintained and managed can be the cause of spreading blight. Vacant buildings are also a potential source of much needed housing, and the City Council encourages property owners to return vacant buildings to useful purposes whenever possible. It is the purpose and intent of the City Council, through the adoption of this ordinance, to define the responsibilities of owners of, and to establish registration and monitoring programs for, vacant commercial, industrial and residential buildings and properties.

§ 150.096 DEFINITIONS.

(A) "Vacant building" means a building, structure, unit, or space intended for lawful occupancy but which is without a lawful resident or occupant or which is not being put to a lawful commercial, residential or industrial use, and which may be unoccupied and unsecured; unlawfully occupied and/or occupied and secured by boarding or other similar means; unoccupied and a dangerous structure; or unoccupied, with City municipal code or nuisance violations extant.

§ 150.097 OWNER RESPONSIBILITIES.

(A) The owner of a vacant building must actively maintain and monitor the building. Active maintenance and monitoring must include:

(1) Maintenance and appropriate watering and care of landscaping and plant materials;

(2) Maintenance of the exterior of the building, including but not limited to, paint and finishes, in good condition;

(3) Regular removal of all trash, debris, and graffiti;

(4) Maintenance of the building or structure in continuing compliance with applicable codes and regulations.

(B) No person may allow a building or structure they own or control that is designed for human, industrial, or commercial use or occupancy to stand vacant for more than thirty days unless one of the following applies:

(1) The building is the subject of an active building permit for repair or rehabilitation, or a permit for demolition, and the owner is progressing diligently to complete the repair, rehabilitation, or demolition, as evidenced by commencement and continuation of permitted work and related inspections;

(2) The building is being actively maintained and monitored as required by section (A) above, and is actively being offered for sale, lease, or rent.

(C) Owners experiencing exceptional, demonstrable, and specific hardships or circumstances may present written evidence of such, in the form of a declaration by the owner of owner's representative, to the Public Works Director or designee. If such circumstances or hardships are convincingly demonstrated, the owner may be granted up to a one-time, six-month stay of enforcement of this ordinance.

§ 150.098 MONITORING PROGRAM – PURPOSE AND OPERATION.

(A) Because of the potential economic and public health, welfare, and safety problems caused by vacant buildings, the City needs to monitor vacant buildings, so that these buildings do not become attractive nuisances, are not used by trespassers, are properly maintained both inside and out, and do not become a blighting influence in the neighborhood.

(B) There is a substantial cost to the City for monitoring vacant buildings and that cost should be borne by the owners of the vacant buildings.

(D) The Public Works Director or designee is responsible for administering a program for identifying and monitoring the maintenance of all vacant buildings or structures in the City.

(E) The purpose of the monitoring program is:

(1) To promptly identify buildings that become vacant;

(2) To order vacant buildings that are open and accessible to be secured against unlawful entry;

(3) To initiate appropriate proceedings against any vacant building owners to prevent buildings from becoming or remaining substandard or a public nuisance.

(4) To ensure and encourage buildings be used for the highest and best purpose and to promote a flourishing community.

(F) Notice of vacant building:

(1) Upon discovery of a potential vacant building by a code enforcement officer or receipt of a complaint about a vacant or boarded building from any source, the City may, after inspection, determine that the building or structure should be classified as a vacant building;

(2) If the City determines that a building or portion of a building may be classified as a vacant building under this Chapter, the City will ascertain the identity of, and contact the owner or agent of the owner, and advise the owner in writing that the building or structure is vacant and advise as to which measures must be taken to secure and maintain the vacant building.

(3) If the City determines that a building or structure is vacant it may cause a "Notice of Vacant Building" to be recorded in the chain of the title to the property, which notice will reference the provisions of this Chapter and disclose that administrative penalties and costs may likewise be assessed against the owner and property if the building or structure is allowed to remain in a vacant condition. Upon correction of any unlawful vacancy conditions on the property and satisfaction of any penalties or assessments on the property, the City will record a rescission or cancelation of the Notice of Vacant Building.

(4) If the owner fails to respond within thirty days of the written notice, the vacant building will constitute a nuisance, and the City may, without further notice, and by any lawful means, abate the nuisance.

(5) The owner will be liable for the costs incurred by the City for inspections or to secure the building or structure, including costs incurred to ascertain ownership of the property and obtain title information, prepare notices, and any and all administrative costs together with actual labor or material cost or expense incurred by the City to secure the vacant building and otherwise abate the nuisance. If the owner does not reimburse the City within thirty days of being billed therefore, the City will pursue a lien against the property for all the expenses incurred by the City.

(G) Vacant building plan and timetable:

(1) The owner of any vacant building must submit to the City for approval a vacant building plan. The vacant building plan and timetable must include, at a minimum, the following information:

(i) A description of the premises, including the address thereof;

(ii) The names, addresses, and telephone numbers of all owners with a right of control over the vacant building or structure;

(iii) The names and addresses of all known lien holders and other parties with an ownership interest in the vacant building or structure;

(iv) The name, address, and telephone number of the owner's property manager or agent, and stating whether the property manager or agent has the authority to act independently on the owner's behalf to repair or maintain the property;

(v) The period of time the building is expected to remain vacant;

(vi) If the owner plans on demolishing the building, the date the building is scheduled for demolition, and whether or not all permits have been issued for the demolition;

(vii) If the owner plans on returning the building to a lawful occupancy and use, the estimated date for returning the building to a lawful occupancy and use, and a list of improvements necessary to return the vacant building to a lawful occupancy and use, and a timeline for obtaining all necessary permits to affect the listed improvements;

(viii) A plan for regular inspection and maintenance of the building during the period of vacancy;

(ix) Measures the owner will employ to secure the building to prevent access by trespassers, including, at a minimum, the installation and/or repair and maintenance of adequate windows and doors, as well as at least one of the following:

1. Installation and maintenance of adequate locks for windows and doors;

2. Employment of security officers to the satisfaction of the City;

3. Installation, operation, and monitoring of an electronic security system, which monitors doors and windows by glass breakage or motion sensors, and a method of responding to alarms from the electronic security system, other than sole reliance on the City's Police Department.

4. Any other methods as specified by the City.

(x) Measures the owner will employ to monitor and inspect the property on a weekly basis. The weekly monitoring and inspection must be performed by the owner, property manager, or agent of the owner with full authority to maintain and make repairs to the property on a weekly basis.

(xi) Measures the owner will take to ensure that the building returns to the market as either livable or commercial space as soon as practicable.

(2) Any and all repairs required to implement the plan and timetable must comply with all applicable City of Eureka ordinances, codes, and regulations. The owner will be required to notify the City in writing of any changes in information supplied within ten days of the change;

(3) In the event that the owner fails to comply with the vacant building plan and timetable, the City will notify the owner or authorized agent in writing of its intent to institute appropriate administrative, civil or other legal action to secure compliance with this Chapter.

(H) Monitoring fee imposed. Any vacant building, as defined in this Chapter will be subject to a quarterly monitoring fee to recover the City's regulatory costs to monitor the status of the vacant building. The monitoring fee will be set by resolution of the City Council. The monitoring fee will be assessed until such time as the building or structure is no longer vacant and will likewise be applicable even when a vacant building plan and timetable are in effect. The monitoring fee will be imposed upon the initial determination that the building is vacant. The fee will thereafter be billed to the owner on a quarterly basis until such time as the building or structure is no longer vacant or boarded.

(I) Code enforcement response fee. In addition to the monthly monitoring fee imposed under this section, the City also establishes a further and separate enforcement response fee for actual costs incurred by the City to respond to or abate substandard or blighted conditions existing in or about the property upon which the vacant building is located. Such costs may include, but not be limited to, personnel costs involved with inspecting or responding to calls for service at the property, personnel costs involved in abating the substandard or blighted conditions existing on the property, costs of any materials or supplies either purchased or supplied by the City in connection with the abatement of any substandard or blighted condition in or about the property, costs of any contracted services, including the costs of materials, supplies, and labor provided by the City's contractor, if any, costs of procuring title or ownership information concerning or related to the property, as well as any other incidental enforcement costs incurred by the City in connection with remedying the substandard or blighted conditions existing on the property. The amount of the code enforcement response fee will be based on actual personnel, materials, and contract costs plus a 10% administrative fee.

§ 150.099 CIVIL REMEDY.

(A) Administrative Costs and Penalties.

(1) Any owner of a vacant building which remains vacant in violation of this Chapter for more than thirty days will be liable for an administrative penalty in an amount not to exceed $1,000.00 per month per building.

(2) If an owner remains in violation of this ordinance for more than a year, the monthly administrative penalty imposed upon any owner pursuant to this section will be in an amount not to exceed $5,000.00 per month per building.

(3) The administrative penalty may be imposed by the Public Works Director or designee, taking into consideration the severity of the blight and the owner's efforts or lack of efforts to address the conditions of the property.

(B) Procedure.

(1) If the property is specially assessed, the assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and will be subject to the same penalties and the same procedure and sale as in the case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

(2) The City may also cause a notice of nuisance abatement lien to be recorded against the property. The notice must, at a minimum, identify the record owner or possessor of the property and set forth the last known address of the record owner or possessor, the date on which the penalty was imposed, a description of the real property subject to the lien, and the amount of the penalty or costs assessed against the property.

§ 150.100 APPEAL.

Any person receiving a Notice of Vacant Building under Section 150.098 may appeal the determination of the Public Works Director or designee to the City Manager. A notice of appeal must be received by the City Manager within fifteen calendar days from the date of the Notice of Vacant Building. Hearing on the appeal before the City Manager or designee will take place within fifteen days from the date of the City's receipt of the notice of appeal. A decision after appeal will be in writing and delivered via first class mail within 10 days of the hearing. The decision of the City Manager or designee will be final.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the ____ day of _____, 2024, by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

_____
Leslie Castellano, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR ON THE ___ DAY OF _____, 2024, AND HEREBY APPROVED.

_____
Kim Bergel, Mayor

Approved as to Administration:

_____
Miles Slattery, City Manager

Approved as to Form:

_____
Autumn Luna, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA ON THE ___ DAY OF _____, 2024.

_____

Pamela J. Powell, City Clerk