

**CITY OF NOKOMIS, ILLINOIS**

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**ORDINANCE NO. 2074**

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**AN ORDINANCE REGULATING VACANT STRUCTURES  
WITHIN THE CITY OF NOKOMIS, ILLINOIS**

**ADOPTED BY THE**

**OF THE**

**CITY OF NOKOMIS, ILLINOIS**

**this 8th day of February, 2021**

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City of Nokomis, Montgomery County, Illinois,  
this 9<sup>th</sup> day of February, 2021.

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**CITY OF NOKOMIS, ILLINOIS**

**Ordinance No. 2074**

**AN ORDINANCE REGULATING VACANT STRUCTURES  
WITHIN THE CITY OF NOKOMIS, ILLINOIS**

**WHEREAS**, the City of Nokomis, Illinois (the "City") an Illinois non-home rule municipal corporation pursuant to Article VII, § 8 of the 1970 Illinois Constitution, organized and operating under the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*; and

**WHEREAS**, the Illinois Municipal Code, 65 ILCS 5/1-2-1, states, "The corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper"; and

**WHEREAS**, the City has the statutory power to define, prohibit, and abate public nuisances pursuant to the Illinois Municipal Code, 65 ILCS 5/11-60-2; and

**WHEREAS**, buildings, structures, and properties that are indefinitely vacant or in a state of disrepair are public nuisances in that they contribute to the decrease in value of surrounding properties, precipitate divestment by neighboring owners, provide a location for criminal activity, undermine the aesthetic character of the neighborhood, and have other undesirable effects; and

**WHEREAS**, vacant buildings, structures, and properties, especially those which remain vacant over an extended period of time, are unsightly and diminish neighboring property values and neighbors' sense of well-being and are a public nuisance; and

**WHEREAS**, allowing certain buildings, structures, and properties to remain indefinitely vacant, even in the absence of violations of the Revised Code of Ordinances of Nokomis, Illinois (hereinafter, the "City Code"), is detrimental to the public health, safety, and welfare; unreasonably interferes with the reasonable and lawful use and enjoyment of other premises within the neighborhood; may pose an extraordinary danger to police officers or firefighters entering the premises in time of emergency; and detracts from the appearance and good order of the neighborhood; and

**WHEREAS**, registration of vacant properties and implementation of maintenance and monitoring plans will encourage property owners and those responsible to properly maintain vacant buildings, structures, and properties and discourage property owners from allowing their properties to remain indefinitely vacant or in a state of disrepair, thereby preventing such properties from becoming a burden to the residents and taxpayers of the City and providing an impetus for returning these properties to their intended uses and to the tax rolls; and

**WHEREAS**, the City has the authority to regulate the maintenance of properties and buildings within the City in order to protect the health, safety, and welfare of its citizens; and

**WHEREAS**, the City has adopted, from time to time, various ordinances regulating the maintenance of properties and buildings within the City, including Chapter 29 of the City Code, which is known as the "Property Maintenance Code"; and

**WHEREAS**, the City's "Property Maintenance Code", by its terms, "shall not apply to Commercial *structures* unless they contain residential uses" (City Code, § 29-1-2 (emphasis in original)); and

**WHEREAS**, the corporate authorities of the City adopt the "broken window" concept among the rationale for this Ordinance, a concept meaning that one broken window, when left unrepaired, leads to more broken windows as it gives the appearance that no one cares for or protects the property, that the building becomes increasingly more deteriorated, and that the deterioration may have a ripple effect on neighboring properties; and

**WHEREAS**, the corporate authorities of the City have determined that the abatement of nuisances caused by vacant buildings, structures, and properties and the repair and rehabilitation of same and their subsequent occupancy is in the best interests of the citizens of Nokomis; and

**WHEREAS**, an ordinance providing for the declaration of vacant buildings, structures, and properties – whether boarded up or not – as a public nuisance and providing for their abatement is a means for the City to use in maintaining sanitation and health standards, preventing illegal activities, and avoiding fire, health, and safety hazards and minimizing or eliminating the effect such buildings have on the personal and economic well-being of the City of Nokomis; and

**WHEREAS**, various state statutes authorize the City to provide for the removal of certain nuisances from private properties within the City, including cutting and removal of neglected weeds, grass, trees and brushes (65 ILCS 5/11-20-7); pest control activities (65 ILCS 5/11-20-8); removal of infected trees (65 ILCS 5/11-20-12); removal of garbage, debris, and graffiti (65 ILCS 5/11-13); and removal, securing, and enclosing abandoned residential properties (65 ILCS 5/11-20-15.1); and

**WHEREAS**, the City incurs costs in abating these nuisances by performing property maintenance activities on these properties; and

**WHEREAS**, the Illinois Municipal Code, 65 ILCS 5/11-20-15, authorizes municipalities to record superior liens against a property for these nuisance abatement and property maintenance costs; and

**WHEREAS**, the corporate authorities of the City deem it in the interest of the public health, safety, and welfare of the residence of Nokomis to set forth specific registration requirements for vacant buildings, structures, and properties; and

**WHEREAS**, the Illinois Municipal Code, 65 ILCS 5/3.1-30-5, authorizes the Mayor, with the advice and consent of the City Council, to appoint officers necessary to carry into effect regulations contained in this ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and the City Council of the City of Nokomis, Montgomery County, Illinois, as follows:

**SECTION 1:** The above recitals are incorporated herein and made a part hereof.

**SECTION 2:** Chapter 6 of the Revised Code of Ordinances of Nokomis, Illinois is hereby amended by creating Article V as follows:

**ARTICLE V  
VACANT STRUCTURES**

**6-5-1** **CITATION.** This Article shall be known as “Nokomis Vacant Structures Ordinance” and may be cited as such.

**6-5-2** **PURPOSE & DECLARATION OF NUISANCE.** It is hereby declared to be a nuisance and to be against the health, safety, and welfare of the Village and its residents for any person to suffer,

permit, or otherwise allow a Vacant Structure, as defined in this Article, within the limits of the City. The purpose of this Article is to protect the public health, safety, and welfare by establishing a process for the registration of Vacant Structures within the City of Nokomis that is consistent with the City's enforcement authority. Responsible Parties will be required to implement a maintenance plan for such Structures to remedy any existing public code violations and to prevent deterioration, unsightly blight, and consequent adverse impact on the value of nearby property. The provisions of this Article and the requirements, obligations, penalties, and remedies contained herein, are in addition to requirements, obligations, penalties, and remedies found elsewhere in this Revised Code of Ordinances of Nokomis, Illinois and Illinois law generally.

**6-5-3**            **DEFINITIONS.** For purposes of this Article, the following words and phrases shall have the meanings set forth below:

- (a) *Article.* Article V of Chapter 6 of the City Code.
- (b) *City.* Nokomis, Montgomery County, Illinois.
- (c) *City Code.* The Revised Code of Ordinances of Nokomis, Illinois.
- (d) *Code Official.* A person appointed by the Mayor with the advice and consent of the City Council, who is charged with the administration and enforcement of the City Code, including but not limited to this Article, or any person duly authorized by the Code Official to act on behalf of the Code Official. The term may also include a Code Official or Code Enforcement Officer as defined and designated elsewhere in the City Code, or the Mayor, the Commissioner of Public Health and Safety, the Chief of Police, or their designee(s), as provided in Section 6-5-5.
- (e) *Enclose or Enclosing.* Surrounding part or all of the Premises underlying parcel with a fence or wall or otherwise making part or all of Premises inaccessible to the general public.
- (f) *Garbage.* Any organic waste material, including, but not limited to, unused food and food residue.
- (g) *Open Building.* Any existing Structure or part thereof which is vacant and is deemed hazardous due to the fact that the Structure is Open to Trespass. Structures under construction and which have a valid building permit are not to be considered "Open Buildings."
- (h) *Open to Trespass.* Any Structure or part thereof that is in such condition so as to allow entry without the use of keys or special tools by people, animals, or fowl.
- (i) *Owner.* Any person, entity, Responsible Party, or

service company, who, alone or jointly or severally with others, shall have the legal or equitable title to any Structure or real estate, including executors, executrices, administrators, administratrixes, trustees, or guardians of the estate of the owner, and any purchaser or assignee under a certificate of sale pursuant to a mortgage foreclosure.

(j) *Premises*. A lot, plot, or parcel of land, easement, or public way, including any Structures thereon.

(k) *Responsible Party*. Any person, entity, or service company who has care, charge, or control of any Structure or real estate, including Owners, tenants, occupiers, property managers, lessees, agents, a mortgagee under the terms of a mortgage where the mortgagor is no longer taking responsibility for the property and where the mortgage in question contains a provision authorizing the mortgagee to act to secure or repair the Structure or property, a mortgagee in possession of any such Structure or property, or a mortgagee that has instituted foreclosure proceedings against the mortgagor.

(l) *Rubbish*. Inorganic waste material, including, but not limited to, metal and glass.

(m) *Secure or Securing*. Closing off, locking windows or entrances, or otherwise making the interior of a Structure inaccessible to the general public.

(n) *Statement of Intent*. A form completed by the Owner of a Vacant Structure that contains specific information regarding the Structure and the Owner's or Owners' plans for rehabilitation, maintenance, demolition, and/or removal.

(o) *Structure*. Anything that is installed, built, or constructed and is located on or affixed to the land including, but not limited to, any, building, dwelling, dwelling unit, improvement, property, or other physical object.

(p) *Vacant*. Any Structure or part thereof that lacks the habitual presence of human beings who have a legal right to be on the Premises for a period of sixty (60) consecutive days, has ceased substantially all lawful business or construction activity or occupancy, is devoid of contents, or, if a multifamily residential property, that contains six (6) or more units with eighty percent (80%) of the units being unoccupied. This term, however, shall not include single family homes or owner-occupied two-family properties that have been used as a residence by the owner for a period of at least five (5) months within the previous twelve (12) months and the owner intends to resume residing at the property. Also excluded are properties that are under active, ongoing

rehabilitation or reconstruction and have an unexpired building permit from the City.

(q) *Vacant Structure.* Any Structure that is Vacant, as those terms are defined herein.

(r) *Vacant Structure Registration Certificate.* Document issued by the Code Official to an Owner or Responsible Party upon receipt of (1) a complete and satisfactory application for a Vacant Structure Registration Certificate and (2) the fee required for the same.

**6-5-4**        **OFFICE ESTABLISHED.** The Mayor may appoint, with the advice and consent of the City Council, a Code Official, whose duty and responsibility shall be to enforce the provisions of this Article V. This Code Official may be an existing Code Official or Code Enforcement Officer identified elsewhere in the City Code or may be in addition to such other Code Officials or Code Enforcement Officers. The Code Official may delegate his/her powers and duties to an appropriate designee or inspector, subject to the approval of the Mayor. In the absence of a Code Official designated to enforce this Article, the Code Official's functions of the office shall be performed by the Mayor or delegated by the Mayor to the Commissioner of Public Health and Safety or to the Chief of Police.

**6-5-5**        **ENFORCEMENT AUTHORITY.** The Code Official, delegates, other officials and designees identified in Section 6-5-4 are authorized to administer and enforce the provisions of this Article, including, but not limited to, maintaining lists setting forth the status of Vacant Structures.

**6-5-6**        **RESERVED.**

**6-5-7**        **OBLIGATIONS OF OWNERS.**

(a) The Owner of a Structure that is Vacant shall:

(1) Within thirty (30) days of a Structure becoming Vacant, apply for a Vacant Structure Registration Certificate. If the Structure is still Vacant at the time of expiration of the original Vacant Structure Registration Certificate, the Owner shall immediately apply to renew the certificate. At the City's sole discretion, renewal may be granted upon demonstrated need for a maximum of three (3) 3-month periods, for an aggregate maximum of twelve (12) months total registration, which shall be measured from the date that the initial Vacant

Structure Registration Certificate is issued. Changes in ownership shall not extend or otherwise affect the maximum total months of registration allowed for a Vacant Structure. Renewed Vacant Structure Registration Certificates shall be subject to all requirements, conditions, and obligations imposed by this Article on the initial Vacant Structure Registration Certificate, including the payment of a fee at each renewal. Renewed certificates shall be effective as of the date that the previous certificate expired. It shall be the responsibility of the Owner to file an amended registration within ten (10) business days of any changes to the conditions contained in the initial or renewal application, including occupancy or transfer. During the period of any Vacant Structure Registration Certificate, the Owner shall, upon reasonable notice, provide the City access to the Structure to conduct inspections of the interior and exterior of same to determine compliance with the City Code.

(2) Within ten (10) days of receipt of the Vacant Structure Registration Certificate, apply for all permits required that are necessary to bring the Structure into compliance with all applicable Ordinances, laws, or regulations.

(3) Within ten (10) days of receipt of the Vacant Structure Registration Certificate, and as necessary to bring the Structure into compliance with all applicable Ordinances, laws, or regulations, complete the removal of all:

(a) combustible materials from the Structure and the Premises; and

(b) waste, Garbage, Rubbish, or debris from the interior of the Structure; and

(c) waste, Garbage, Rubbish, debris, or excess vegetation (see Chapter 25 and Chapter 29, as applicable) from the exterior of the Structure or on the Premises.

(4) Immediately Secure the Structure to prohibit



entry by unauthorized persons or animals in accordance with this Article. The Owner shall, as needed, additionally Secure the Structure in the event of increased danger to human life or the public welfare, as determined by the City. Where Securing the Structure is insufficient to abate any nuisance or protect the health, safety, and welfare of the City and its residents, the Code Official may order any Owner to immediately Enclose the Premises of a Structure that is Vacant and specify the manner of Enclosing the Structure.

(b) The obligations of the Owner of a Vacant Structure are continuing obligations which are effective throughout the time a Structure, or any portion thereof, remains Vacant.

**6-5-8 VACANT STRUCTURE REGISTRATION CERTIFICATE.** All Structures that are Vacant within the City shall be registered with the Code Official of the City. An Owner or Responsible Party may apply for registration of a Structure as Vacant by submitting an application to the Code Official.

(a) Application by an Owner for a Vacant Structure Registration Certificate shall be made on a form approved by the Code Official and provided by the City Clerk or Code Official. The application shall include a "Statement of Intent" which will set forth information as to:

(1) the expected period of vacancy (including the date of initial vacancy);

(2) the plan (including timeline) to achieve and maintain compliance with the requirements of this Article;

(3) a plan and timeline for the lawful occupancy, rehabilitation, removal, or demolition of the Structure;

(4) measures and/or plans (including timelines) to be taken to ensure that the Structure will be kept weather tight and Secure and that it will be safe for entry by police officers, firefighters, and other officers, employees, or agents of the City in times of exigent circumstances or emergencies, as well as at times of reasonable inspection;

(5) measures (and timeline) to be taken to assure that the Premises remain free from nuisance conditions;

(6) list of all persons authorized to be present in the Structure (and, as an ongoing obligation, update this list so as soon as reasonably practicable following any changes by the Owner to who may access the Structure); and

(7) The plan (including timeline and measures taken) for regular maintenance, including but not limited to mowing, landscaping, usual and customary repairs, etc.

(b) No Vacant Structure Registration Certificate shall be effective for more than three (3) months from the date of issuance. The Code Official may grant no more than three (3) renewals of a Vacant Structure Registration Certificate, each for a subsequent 3-month period. Such renewals shall be granted in the sole discretion of Code Official and only upon a demonstrated need by the Owner.

(c) Failure of an Owner to secure a Vacant Structure Registration Certificate where and when required is a violation of this Article. Each day that a Structure remains Vacant without a Vacant Structure Registration Certificate shall be considered a new and separate violation.

(d) Failure of an Owner or Responsible Party to abide by its Statement of Intent shall be a violation of this Article.

**6-5-9 VACANT STRUCTURE MAINTENANCE  
STANDARDS.**

(a) A Vacant Structure shall be subject to the following maintenance standards:

(1) *Structure Openings:* Doors, windows, areaways and other openings shall be weather tight, Secure, and prevent entry by birds, vermin, and trespassers. Missing or broken doors, windows, and other such openings shall be covered by glass or other rigid transparent materials, which are weather protected, and tightly fitted and secured to the opening.

(2) *Roofs:* The roof and flashings shall be sound

and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the Structure.

(3) *Drainage:* The Structure storm drainage system shall be functional and installed in a manner consistent with City ordinances and allow discharge in a manner consistent with City ordinances.

(4) *Structure:* The Structure shall be in good repair, not in violation of City ordinances, structurally sound and free from waste, Garbage, Rubbish, and debris. The Structure shall be sanitary. The Structure shall not pose a threat to the public health and safety.

(5) *Structural Members:* The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.

(6) *Foundation Walls:* The foundation walls shall be structurally sound and in a sanitary condition so as not to pose a threat to public health and safety. The walls shall be capable of supporting the load of normal use and shall be free from open cracks and breaks, free from leaks, and be rodent proof.

(7) *Exterior Walls:* The exterior walls shall be free of holes, breaks and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(8) *Decorative Features:* The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(9) *Overhanging Extensions:* All balconies,

canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(10) *Chimneys and Towers:* Chimneys, cooling towers, smokestacks and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(11) *Walkways:* Walkways shall be safe for pedestrian travel.

(12) *Accessory and Appurtenant Structures:* Accessory and appurtenant Structures such as garages, sheds and fences shall be free from safety, health and fire hazards and shall comply with City ordinances.

(13) *Premises:* The Premises upon which the Structure is located shall be clean, safe and sanitary. It shall be free from waste, Garbage, Rubbish, debris, or excessive vegetation in compliance with City ordinances and shall not pose a threat to the public health or safety.

(14) *Insurance:* The Premises shall be insured by the Owner or Responsible Party. Liability insurance with the following coverage is required:

- \$300,000.00 minimum coverage is required for residential Structures.
- \$1,000,000.00 minimum coverage is required for commercial Structures.

(b) A Vacant Structure shall otherwise comply with all applicable State and Federal laws; all ordinances, regulations, and codes of the City, including the City of Nokomis Property Maintenance Code; and any other applicable building or zoning laws, ordinances, regulations and codes of Montgomery County,

Illinois, as amended from time to time.

**6-5-10 VACANT STRUCTURE REGISTRATION CERTIFICATE FEES.** The Vacant Structure Registration Certificate application fee shall be \$125.00 for the initial application. The fee for the first certificate renewal shall be \$250.00, and the fee for the second and each subsequent certificate renewal shall be \$500.00. If a renewal is requested after a certificate has expired, an additional fee of \$125.00 shall apply. The appropriate fee shall be paid at the time of application or renewal.

**6-5-11 ENFORCEMENT AND PENALTIES.**

(a) Any Owner found to be in violation of any provision of this Article shall be subject to a fine not to exceed \$750.00. Each day that said violation continues shall be considered a new and separate violation. Prosecution under this Article is a remedy cumulative to any and all other remedies at law and equity, including, but not limited to, the City's remedies under the Illinois Municipal Code.

(b) Unless otherwise granted a waiver as provided herein, at the expiration of twelve (12) months from the original issuance of the Vacant Structure Registration Certificate, the Structure must be reoccupied, removed, or demolished. Any Structure that is vacant beyond the twelve (12) month maximum registration period shall be considered abandoned and a public nuisance, and the City may pursue whatever legal action is afforded to it by law for the removal and/or abatement of public nuisance.

(c) Every Owner with respect to any Vacant Structure shall be jointly and severally liable with every other Owner for the obligations set forth in this Article.

**6-5-12 REQUEST FOR WAIVER.** Any Owner of a Structure or Premises may petition the City for a waiver of the registration or re-registration fee, a reduction of the minimum amount of liability insurance, and/or a waiver of some or all of the Vacant Structure Maintenance Standards (hereinafter "financial requirements") under this Article. Application for a waiver of financial requirements shall be in writing on forms provided by the City. The decision of the Code Official, to be made within fourteen (14) days of receiving the petition,

shall be made in writing and shall forthwith be mailed or delivered to the petitioner. In making such decision, the Code Official shall consider all relevant factors, including, but not limited to: (1) whether the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by this Article V; (2) whether the plight of the Owner is due to unique circumstances; and (3) whether the waiver, if granted, will alter the essential character of the locality. An appeal of the decision may be made to the City Council, in writing, within fourteen (14) days of the mailing or delivery of the decision. Owners who are granted a waiver under this Section are still obligated to comply with this Article other than the portions so waived.

SECTION 3: Within sixty (60) days after the effective date of this Ordinance, the Code Official(s) shall evaluate all "Structures" in the City that he/she believes to be unoccupied on the effective date of this Ordinance and make a determination for each as to whether the Structure is a vacant structure within the meaning of this Ordinance. At any point after the effective date of this Ordinance, the Code Official(s) may evaluate Structures he/she believes have become unoccupied and make a determination as to whether each Structure is a "Vacant Structure". For Structure the Code Official(s) determine(s) to be Vacant Structures, he/she shall, within seven (7) days of making such determination, send a written Notice of Determination with the factual findings to the last taxpayer of record listed on the most recent Montgomery County tax bill as the party responsible for said property. Said Notice of Determination shall be sent via first class mail or may be personally on the taxpayer of record. Failure of delivery shall not excuse a person from complying with this Ordinance. The Notice of Determination shall contain a statement of the obligations of the owner of a Structure determined to be a Vacant Structure.

SECTION 4: All ordinances, resolutions, motions, or parts thereof in conflict or inconsistent with the provisions of this Ordinance are hereby superseded to the extent that they may conflict.

SECTION 5: If any section, clause, paragraph, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

SECTION 6: This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

SECTION 7: The Clerk shall publish this Ordinance in pamphlet form and see to inclusion of this Ordinance in the next update of the Code of Ordinances.

PASSED this 8<sup>th</sup> day of February, 2021 by roll call votes as follows:

AYE: 5

NAY: X

ABSENT: X

PRESENT: 5

ATTEST:

Rechel Ciu  
CITY CLERK

APPROVED by the Mayor of the City of Nokomis, Illinois this day 8<sup>th</sup> of February, 2021.

Mike Holliday  
MAYOR

