

CITY OF NOKOMIS, ILLINOIS

ORDINANCE NO. 2100

**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE V OF THE NOKOMIS REVISED
CODE OF ORDINANCES TO ESTABLISH REGULATIONS GOVERNING THE
MAINTENANCE, SECURITY, AND MONITORING OF PROPERTIES**

ADOPTED BY THE

CITY COUNCIL

OF THE

CITY OF NOKOMIS, ILLINOIS

THIS 27TH DAY OF MARCH, 2023

Published in pamphlet form by the authority of the City Council of the City of
Nokomis, Montgomery County, Illinois, this 27th day of March, 2023.

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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, if left vacant or unattended, are likely to fall into disrepair, contribute to the decrease in value of surrounding properties, precipitate disinvestment by neighboring owners, provide locations for illegal activities, drain City resources, undermine the aesthetic character of the City, and have other undesirable effects and are public nuisances; and

WHEREAS, vacant or unattended buildings, structures, and properties that are in a state of disrepair are unsightly, 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 vacant or unattended 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 or in the normal course of their duties; and detracts from the appearance and good order of the neighborhood; and

WHEREAS, vacant or unattended buildings, structures, and properties that are in a state of disrepair may be owned or controlled by individuals or other entities who are absent from the community; and

WHEREAS, the implementation of maintenance standards and monitoring plans will encourage property owners and those responsible to properly maintain 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; and

WHEREAS, on March 8, 2021, the City approved Ordinance No. 2074, entitled, "An Ordinance Regulating Vacant Structures Within the City of Nokomis, Illinois", which amended Chapter 6 of the Code by creating a new Article V thereof; and

WHEREAS, the corporate authorities have determined that Ordinance No. 2074 should be superseded by this Ordinance; 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 buildings, structures, and properties that are vacant or unattended and the repair and rehabilitation of same and their subsequent occupancy is in the best interests of the citizens of Nokomis; and

WHEREAS, the corporate authorities deem it in the public's best interest to adopt an ordinance providing for the declaration of unattended buildings, structures, and properties – whether vacant and 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, 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; 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 brush (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 nuisances by performing property maintenance activities on such 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 residents of Nokomis to amend Article IV of Chapter 6 of the Revised Code of Ordinances of Nokomis, Illinois (the "Code") and set forth specific requirements for maintenance of buildings, structures, and properties within the City.

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: Article V of Chapter 6 of the Code is hereby amended by deleting same and replacing it in its entirety with the following:

**ARTICLE IV
MAINTENANCE OF PROPERTIES**

6-5-1 **CITATION.** This Article shall be known as "Nokomis Property Maintenance Code" and may be cited as such.

6-5-2 **DEFINITIONS.** For purposes of this Article, the following words and phrases shall have the meanings set forth below:

- (a) *Article.* Article V of Chapter 5 of the City Code.
- (b) *City.* Nokomis, Montgomery County, Illinois.
- (c) *City Code.* The Revised Code of Ordinances of Nokomis, Illinois.
- (d) *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.
- (e) *Garbage.* Any organic waste material, including, but not limited to, unused food and food residue.
- (f) *Open Building.* Any existing Structure or part thereof which is Open to Trespass. Structures under construction and which have a valid building permit are not to be considered "Open Buildings."
- (g) *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.

(h) *Owner*. Any person or entity who, alone or jointly or severally with others, has the legal or equitable title to any Premises, including executors, executrixes, 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.

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

(j) *Responsible Party*. Any person or entity who has care, charge, or control of any Premises or Structure, 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, a mortgagee that has instituted foreclosure proceedings against the mortgagor, a tax purchaser with an order of possession, or a tax purchaser that has received an order directing issuance of a tax deed.

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

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

(m) *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.

(n) *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.

(o) *Structure Maintenance Standards*. Those standards set forth in Section 6-4-4 below.

(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, or that has ceased substantially all lawful business or construction activity or occupancy, or that is substantially 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.

6-5-3 **ENFORCEMENT AUTHORITY.** The Code Enforcement Officer is authorized to administer and enforce the provisions of this Article, including, but not limited to, maintaining lists setting forth the status of Vacant Structures. The Code Enforcement Officer is further authorized to enlist the assistance of such inspectors, engineers, electricians, plumbers, and other professionals as may be authorized by the Commissioner of Public Health and Safety, as well as the Fire Chief and other officers, employees, and agents of the City.

6-5-4 **STRUCTURE MAINTENANCE STANDARDS.** All Structures within the City shall be subject to the following maintenance standards, in addition to any other applicable federal, state, or local ordinances, regulations, or codes:

(a) *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.

(b) *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.

(c) *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.

(d) *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.

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

(f) *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.

(g) *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.

(h) *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.

(i) *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.

(j) *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.

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

(l) *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.

(m) *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.

(n) *Fences*: All fences shall be maintained in a state of good repair and in safe and secure condition, with all braces, bolts, nails, supporting frames, and fastenings free from deterioration, termite infestation, rot, rust, or loosening and be able to withstand, at all times, the wind pressure for which they are designed. Additionally, a Responsible Party shall maintain and keep the area between the fence and the property line free and clear of debris and unlawful grass or weed growth.

6-5-5 **VACANT STRUCTURE REQUIREMENTS.** All Vacant Structures within the City shall be subject to the following requirements, effective throughout the time a Structure or any portion thereof remains Vacant:

(a) The Premises shall be insured by a 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) Within thirty (30) days of a Structure becoming Vacant, a Responsible Party shall 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.

(c) Within ten (10) days of receipt of the Vacant Structure Registration Certificate, a Responsible Party shall

apply for all permits required that are necessary to bring the Structure into compliance with all applicable ordinances, laws, or regulations.

(d) 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, a Responsible Party shall complete the removal of all:

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

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

(3) 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.

(e) A Responsible Party shall immediately Secure the Structure to prohibit entry by unauthorized persons or animals in accordance with this Article. The Responsible Party 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 Enforcement Officer may order any Owner to immediately Enclose the Premises of a Structure that is Vacant and specify the manner of Enclosing the Structure.

6-5-6 VACANT STRUCTURE REGISTRATION CERTIFICATE. All Vacant Structures within the City shall be registered with the Code Enforcement Officer.

(a) Application for a Vacant Structure Registration Certificate shall be made on a form approved by the Code Enforcement Officer and provided by the City Clerk or Code Enforcement Officer. 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 Enforcement Officer 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 Enforcement Officer 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 a Responsible Party to abide by its Statement of Intent shall be a violation of this Article.

6-5-7 VACANT STRUCTURE REGISTRATION CERTIFICATE FEES. The Vacant Structure Registration Certificate application fee shall be \$50.00 for the initial application. The fee for the first certificate renewal shall be \$50.00, and the fee for the second and each subsequent certificate renewal shall be \$100.00. 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.

6-5-8 REQUEST FOR WAIVER. Any Responsible Party 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 Structure Maintenance Standards. Application for a waiver of the Structure Maintenance Standards shall be in writing on forms provided by the City. The decision of the Code Enforcement Officer shall be made in writing within fourteen (14) days of receiving the petition and shall forthwith be mailed or delivered to the petitioner. In making such decision, the Code Enforcement Officer 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; (2) whether the plight of the Responsible Party is due to unique circumstances; or (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. Responsible Parties who are granted a waiver under this section are still obligated to comply with this Article other than the portions so waived.

6-5-9 ENFORCEMENT AND PENALTIES.

(a) Any Responsible Party 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 Responsible Party with respect to any Structure shall be jointly and severally liable with every other Responsible Party for the obligations set forth in this Article.

(d) 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.

SECTION 3: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 4: All ordinances, resolutions, motions, or parts thereof in conflict with this Ordinance are hereby superseded.

SECTION 5: This Ordinance is effective upon its passage, approval, and publication as required by law.

SECTION 6: The City Clerk shall publish this Ordinance in pamphlet form and shall see to its inclusion in the next published update of the Code.

Adopted this 27th day of March, 2023, by roll call votes as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Present</u>
Commissioner Nash	X			X
Commissioner Durbin	X			X
Commissioner Stauder	X			X
Commissioner Glenn	X			X
Mayor Holliday	X			X

APPROVED by the Mayor of the City of Nokomis, Illinois this 27th day of March, 2023.

ATTEST:

Mike Holliday
MAYOR

Rosy Wu
CITY CLERK

STATE OF ILLINOIS)
COUNTY OF MONTGOMERY) SS.
CITY OF NOKOMIS)

CERTIFICATE

I certify that I am the duly appointed and acting City Clerk of the City of Nokomis, Montgomery County, Illinois, and, as such, am the keeper of records and seal thereof; that the foregoing is a true, complete, and correct copy of Ordinance No. 2100 of said City; that said Ordinance, which is

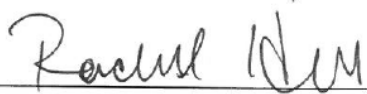
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was passed by the City Council of the City of Nokomis, Montgomery County, Illinois, by yea and nay vote on the 27th day of March, 2023; that said Ordinance was approved by the Mayor on the 21st day of March, 2023; and that said Ordinance was then deposited in the office of the City Clerk of said City and filed therein; and that the same was recorded in the Record of Ordinances of said City.

I further certify said Ordinance provided by its terms that it should be published in pamphlet form; that the pamphlet form of said Ordinance, including the Ordinance and a cover sheet thereof, was prepared; that a copy of such Ordinance was posted in the Nokomis City Hall, commencing on the 21st day of March, 2023, to continue for at least ten (10) days thereafter; and that copies of such Ordinance were also available for public inspection upon request in the office of the City Clerk.

DATED at Nokomis, Illinois, this 27th day of March, 2023.

(SEAL)



City Clerk