

## ORDINANCE NO. 2019-\_\_\_\_

**AN ORDINANCE** adding Yakima Municipal Code Chapter 11.49 Minimum Standards and Maintenance of Vacant Commercial Space in the Central Business District

**WHEREAS**, maintaining a clean and inviting downtown core is important for residents, visitors and those looking to start or relocate a business to downtown Yakima; and

**WHEREAS**, there have been instances where businesses have closed and have not been maintained, causing an eyesore downtown; and

**WHEREAS**, to enhance economic development downtown, including to increase occupancy in businesses and provide a welcoming downtown, a higher standard of maintenance should be required for downtown commercial businesses; and

**WHEREAS**, to make sure that the City is aware of vacant commercial buildings in the Central Business District, and therefore can monitor the condition of those buildings the ordinance proposes a vacant building registry to be operated by the City and funded by owners of commercial buildings that are vacant; and

**WHEREAS**, the City Council of the City of Yakima finds it is in the best interest of the City and its residents to enact the ordinance; now, therefore,

### **BE IT ORDAINED BY THE CITY OF YAKIMA:**

Section 1. Chapter 11.49 entitled “Minimum Standards and Maintenance of Vacant Commercial Space in the Central Business District” is added as a new Chapter to the Yakima Municipal Code and reads as follows:

#### **11.49 Minimum standards and maintenance of vacant commercial space in the central business district.**

- 11.49.010 Scope
- 11.49.020 Administration
- 11.49.025 Compliance with YMC 11.48
- 11.49.030 Definitions
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- 11.49.050 Vacant commercial space registration
- 11.49.060 Window displays for commercial spaces not occupied for thirty days
- 11.49.070 Fees for vacant commercial space registration
- 11.49.080 Exemptions
- 11.49.090 Delinquent registration fees—Collection
- 11.49.100 Duty to amend registration statement
- 11.49.110 Inspections
- 11.49.120 Enforcement
- 11.49.130 Annual Report

#### 11.49.010 Scope.

The provisions of this chapter apply to all structures in the Central Business District, unless otherwise stated. All responsible persons shall comply with the requirements of this chapter.

#### 11.49.020 Administration

This chapter will be administered by the code administration manager or their designee, who may adopt administrative rules and regulations consistent with its terms. The codes administration manager (and their designee), code inspectors, or code compliance officers are authorized to enforce this chapter.

#### 11.49.025 Compliance with YMC 11.48

All buildings subject to this chapter shall also comply with the requirements of Yakima Municipal Code section 11.48 as now exists or is hereafter amended.

#### 11.29.030 Definitions

For purposes of this chapter:

“Central business district” means the central business district, or CBD, zone in the city of Yakima as defined by the Yakima Urban Area Zoning Ordinance, Title 15 YMC.

“City” means the city of Yakima, its officers, employees and agents.

“Commercial space” means any portion of a structure in the central business district zone that is not intended for residential use. Each distinct space in multi-unit building is considered a separate commercial space for purposes of this chapter.

“Occupied” means a permitted nonresidential use physically located and lawfully operating in the space for at least three consecutive months.

“Responsible person” means any person, firm, association, corporation or any agent thereof, owning, leasing, renting or having lawful possession of a structure in the central business district.

“Vacant commercial space” means any portion of a street-level commercial space that, on or after January 1, 2020, is not occupied and has not been occupied during the preceding ninety days.

#### 11.49.040 General minimum maintenance requirements.

All responsible persons shall perform the following with respect to each commercial space they own, lease, rent or lawfully possess:

- a. Maintain all exterior surfaces, including, but not limited to doors, windows, door and window frames, cornices, porches, trim, balconies, decks, and fences, in good condition.
- b. Protect exterior wood surfaces, other than decay-resistant woods, from the element and decay with paint or other protective covering or treatment. If protection of the

surface is compromised, restore adequate protection within fourteen calendar days or other time period approved in advance by the code administration manager; for example, remove peeling, flaking or chipped paint and repaint the compromised surface.

- c. Cause all siding and masonry joints and joints between the building envelope and the perimeter of windows, doors, and skylights to be weather-resistant and watertight.
- d. Coat all metal surfaces subject to rust or corrosion, except those designed to be stabilized by oxidation, to inhibit rust or corrosion, after first stabilizing any existing rust and corrosion. Remove oxidation stains from exterior surfaces.
- e. Maintain all exterior walls free from dirt, grime, holes, breaks, graffiti, and loose or decaying materials. Weatherproof and properly coat the surface of all exterior walls when required to prevent deterioration.
- f. Maintain the roof and flashing of all structures so that they are sound, tight, free of defects, do not attract pests or create a public nuisance. Maintain adequate roof drainage, maintain roof drains, gutters, and downspouts in good repair and free from obstructions.
- g. Broken windows or doors shall be replaced. No windows or doors may be boarded up with plywood, wood, cardboard, or other material for more than five (5) business days while the responsible person is waiting for the windows or doors to be replaced.

#### 11.49.050 Vacant commercial space registration

- a. At least one responsible person for each vacant commercial space must register that space with the city within ten (10) calendar days of the date the space becomes vacant, as that term is defined in Section 11.49.030.
- b. A space will considered to be registered on the date the city receives, on a form provided by the code administration manager and properly completed and signed by a responsible person, the following information:
  - 1. The street address and parcel number of the vacant commercial space;
  - 2. The name, address, daytime and evening telephone numbers of each responsible person for the vacant commercial space, including, but not limited to the owner and tenant;
  - 3. The period of time the vacant commercial space is expected to remain vacant; and
  - 4. Any other information requested by the code administration manager for the administration of this chapter.
- c. A responsible person must renew the registration for each vacant commercial space on or before January 1<sup>st</sup> of each year that the space remains vacant. A responsible person must submit the renewal application to the city on forms provided by the code administration manager.

- d. Upon satisfactory proof to the code administration manager that the vacant commercial space is occupied as defined in Section 11.49.030, the vacant commercial space will be unregistered. Proof of physical occupation may include, but is not limited to, usable furniture, office equipment, retail inventory or other equipment and inventory in the space that are consistent with the unit's intended use, and persons regularly present at and using the space for its intended use. Proof of physical occupancy must also include documentation, which may include, but is not limited to, a current executed lease agreement, paid utility receipts reflecting payments for three consecutive months from the month the space is occupied, or valid state and local business licenses, federal income tax or business and occupation tax statements indicating the subject space is the official business address of the person or business claiming occupancy.
- e. The determination of the number of vacant commercial spaces a structure contains will be at the reasonable discretion of the code administration manager, who may take into account the number of unique spaces within a structure, the number of tax assessor parcel numbers associated with the structure, or the previous use of the structure.

11.49.060 Window displays for commercial spaces not occupied for thirty days.

When commercial space is unoccupied for more than thirty days, a responsible person must take steps to avoid adverse impacts on the neighborhood and create an attractive streetscape by applying at least one of the following measures to all ground floor windows that face sidewalks, streets, or public open space:

- a. Paint windows with visually appealing scenes depicting or suggesting business or cultural activities;
- b. Display works of art or provide other displays of cultural or educational value, using background panels or other methods to screen views from the street of the unoccupied space; or
- c. Other measures consistent with these examples approved by the code administration manager.

11.49.070 Fee for vacant commercial space registration.

- a. At least one responsible person shall pay an annual registration fee of Five Hundred Dollars (\$500.00) for each vacant commercial space in the central business district at the time the space is registered and on January 1<sup>st</sup> of each year that the space remains vacant.
- b. The fee is intended to defray the costs of administering this section, and may be amended by the City Council to meet the costs.

11.49.080 Exemptions.

- a. The fee required in section 11.49.070 shall not be required if the following conditions are met:

1. The space meets all applicable codes and regulations that apply to a permitted nonresidential use, and the responsible person is actively attempting to sell, lease, or rent the property (which is evidenced, in part, by appropriate signage at the space visible to the public); and
  2. The space complies with section 11.49.060; and
  3. There are no nuisance activities on the property; and
  4. The sidewalks are consistently cleaned and cleared of debris, snow, leaves and garbage.
- b. The fee required in section 11.49.070 shall not be required if the space is the subject of a current, valid building permit for repair or rehabilitation and the responsible person provides proof, such as receipts, invoices or executed contracts, that the repair or rehabilitation is proceeding without significant delay.
  - c. The fee required in section 11.49.070 shall not be required if the space is located on property which is the subject of a land use application for redevelopment for which approval has been granted, but building permits have yet to be issued.
  - d. Even if the vacant commercial space is exempt from payment of the fee outlined in section 11.49.070, the responsible person shall register the vacant commercial space with the city pursuant to section 11.49.050.

#### 11.49.090 Delinquent registration fees—collection.

If a responsible person fails to pay the registration fee by the due date, the city is authorized to take action to collect the registration fee, including, but not limited to, enforcement as provided by section 11.49.120, filing civil actions or turning the matter over to collection, in which case costs incurred by the city as a result of the collection process will be assessed to the responsible person or responsible persons in addition to the registration fee.

#### 11.49.100 Duty to amend registration statement.

Responsible persons for any registered vacant commercial space shall advise the building official, in writing, of any changes to the information on the registration form within thirty days of the occurrence of the change.

#### 11.49.110 Inspections.

In addition to inspection rights pursuant to Yakima Municipal Code Section 11.48, the code administration manager and their designees, code enforcement officers, building inspectors, or any combination thereof, are authorized to conduct inspections to enforce the provisions of this chapter.

#### 11.49.120 Enforcement.

- a. Enforcement of the provisions of this chapter will be performed in accordance with Chapter 11.10.

- b. No responsible person may violate or fail to comply with any provisions of this chapter. Each responsible person commits a separate offense for each and every day they commit, continue or permit a violation of any provision of this chapter.
- c. All responsible persons for a commercial space are jointly and severally responsible with respect to that commercial space for compliance with the provisions of this chapter and or any payments that they may be required to make to the city under this chapter. If the commercial space is subject to a lease, the city shall have discretion to determine whether to enforce this chapter against a commercial space owner, the tenant, or both of them, but the city shall consider in this determination whether the lease provides that the compliance with this chapter is the responsibility of the commercial space owner or the tenant.

11.49.120 Annual report.

The code administration manager will make a report once each year, if requested by the City Council, on the status of the vacant commercial space registration program. If no request is made by the City Council, the code administration manager will draft a summary report of the program for the City Manager on or before June 30<sup>th</sup> of every odd year on the status of the vacant commercial space registration program.

**Section 2.** Severability. If any section, subsection, paragraph, sentence or clause of this ordinance is declared invalid or unconstitutional for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of the ordinance.

**Section 3.** This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

**PASSED BY THE CITY COUNCIL,** signed and approved this 17th day of September, 2019.

ATTEST:

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Kathy Coffey, Mayor

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Sonya Claar Tee, City Clerk

Publication Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_