
ORDINANCE _____

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE VACANT STRUCTURE REGISTRATION AND INSPECTION FEES; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen has designated an area within the City of Killeen as a Historic Overlay District (HOD); and

WHEREAS, the City Council passed and adopted an ordinance establishing a Vacant Building Registration and Inspection Fee on August 14, 2020;

WHEREAS, the City Council finds that such amendments are necessary and will provide consistent and even application of regulations to all applicants;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

SECTION I. That the City of Killeen hereby amends the Vacant Building Registry as follows:

Sec. 31-391. Definitions.

For the purposes of this division, the following definitions shall apply:

Awning shall mean a shelter projecting from and supported by the exterior wall of a building constructed of rigid and non-rigid materials on a supporting framework.

Auxiliary sign shall mean a sign indicating general information such as credit cards, pricing official notices required by law, directions, shop hours, community services, occupant and profession, and realty information.

Banner shall mean a sign made of cloth, plastic, or light fabric with no enclosing framework. Pennants are considered banners.

Department shall mean the development services department for the City of Killeen, Bell County, Texas.

Director shall mean the executive director of development services.

Downtown action agenda shall mean the document adopted by city council per resolution 07-023R.

Façade shall mean the entire building front including the parapet.

Ground sign shall mean a billboard or similar type of sign which is supported by one or more uprights, poles or braces in or upon the ground.

Hanging sign shall mean any sign affixed to either an awning or the building.

Historic shall mean properties older than fifty years.

Historic overlay district shall mean all property located within the historic district as described as:

Point of beginning intersection of Santa Fe Plaza Drive and 8th Street; thence north 14 deg 15' 40" east 528.256 feet; thence south 76 deg. 23' 47" east 186.989 feet; thence north 14 deg. 38' 17" east 515.418 feet; thence north 75 deg. 34' 30" west 630.255 feet; thence south 14 deg. 14' 35" west 129.342 feet; thence north 75 deg. 34' 56" west 168.658 feet; thence south 14 deg. 28' 14" west 195.764 feet; thence north 75 deg. 19' 50" west 186.635 feet thence south 13 deg. 55' 59" west 757.510 feet; thence south 75 deg. 32' 57" east 414.775 feet; thence north 11 deg. 22' 27" east 38.420 feet; thence south 75 deg. 09' 51" east 378.691 feet to the point of the beginning.

A map of the area described is available in the city planning office.

Internally lit sign shall mean a sign with an artificial light source incorporated internally for the purpose of illuminating the sign.

Live work unit shall mean a building or space within a building used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of business.

Mixed-use shall mean a building or structure that contains a mixture of commercial and residential uses.

Occupied shall mean that one or more persons conduct business in at least 50 percent of the total area of the building (excluding stairwells, elevator shafts, and mechanical rooms) as the legal or equitable owner, operator, lessee, or invitee on a permanent, non-transient basis pursuant to and within the scope of a valid certificate of occupancy.

Off-premises sign shall mean a sign visible from any public traveled road or street displaying advertising or other copy that pertains to any business, person, organization, activity, event, place, service, or product not manufactured, sold, or provided on the same premises on which the sign is located. This definition for off-premises signs shall include any sign that does not qualify as an approved on-premises sign.

Owner shall mean any person, firm, partnership or corporation having a legal interest in the property.

Parapet shall mean a low protective wall along the edge of the roof.

Poster shall be a sign made of paper or any non-rigid material with no enclosing framework.

Projecting sign shall mean a sign other than a wall sign, which projects from and is supported by a wall of a building or structure.

Reflective tinting shall mean any window tinting which demonstrates a reflective quality and impedes clear visibility into a building.

Roof sign shall mean a sign erected upon or above a roof or parapet of a building or structure.

Secured shall mean that all accessible means of ingress and egress to the vacant structure, including, but not limited to, all exterior doorways and windows, are locked so as to prevent unauthorized entry by vagrants and criminals.

Sign shall mean any letter, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated service, which shall be constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, whatsoever, which is displayed in any manner outdoors.

Sign area shall mean that area being the total square footage of the combined message or display surface. This area does not include structural supports for a sign, whether they be columns, pylons, or a building, or part thereof.

Sign structure shall mean any structure which supports or is capable of supporting a sign.

Temporarily secured shall mean that all accessible means of ingress and egress to the vacant structure, including, but not limited to, all exterior doorways and windows, are covered with plywood which has been nailed or bolted in place so as to prevent unauthorized entry by vagrants and criminals.

Temporary sign shall mean any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, metal, or other light materials, not intended for long term use. Banners and posters are temporary signs.

Vacant structure shall mean a structure, regardless of its structural condition, that is not occupied.

Wall sign shall mean any sign attached to or erected against the wall of a building or structure, with the exposed face in a plane parallel to the plane of the wall as defined in appendix H of the city's adopted building code.

Window covering shall mean any material including, but not limited to, curtains, wood, fabric, cardboard, or paper which impedes visibility and is not intended to be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise, whatsoever, which is affixed in any manner to the window or area surrounding the window.

(Ord. No. 09-024, § II, 3-17-09; Ord. No. 17-010, § I, 2-14-17; Ord. No. 20-032, § I, 8-4-20; Ord. No. 22-046, § I, 6-28-22)

Sec. 31-392. Statement of purpose.

The historic overlay district (HOD) is intended to establish and provide for the protection, preservation, and enhancement of buildings, structures, sites and areas of architectural, historical, archaeological, or cultural importance or value. The HOD is envisioned as a tool to help stabilize and improve property values; to encourage neighborhood conservation; to foster civic pride and past accomplishments; to protect and enhance city attractions for tourists and residents; to strengthen the economy; and to promote the use of historical and cultural landmarks for the general welfare of the community. Additionally, the historic overlay district is intended to help

promote the development of a downtown consistent with the community objectives identified in the City of Killeen Comprehensive Plan.

The following standards or requirements shall apply to the historic overlay district:

- A. Any regulations for the HOD shall apply to all properties or structures wholly contained within that district, and to those portions of any property within the district.
- B. Because the HOD is an overlay district, the regulations for the underlying zoning district shall remain in effect, except as otherwise provided in the zoning ordinance.
- C. In case of any conflict between the regulations applicable in the underlying zoning district, and the regulations of the HOD, the regulations of the HOD will take precedence, even where the applicable regulation may not be a higher standard.
- D. The findings adopted by the city council for a historic overlay district shall define the scope of the city's interest in protecting the historic resources in the district and shall provide the guidelines to be used by the heritage preservation officer or heritage preservation board, along with any applicable design guidelines in considering whether to grant or deny an order of design compliance.

(Ord. No. 09-024, § II, 3-17-09)

Sec. 31-393. Vacant structures in the historic overlay district.

(a) *Applicability and administration.*

- (1) This section shall apply to all vacant structures, as defined in this division, which are now in existence or which may hereafter be constructed or converted from other uses and which are located within the boundary of the historic overlay district (HOD).
- (2) The director or designee is authorized to administer and enforce the provisions of this section.
- (3) The director or designee shall have the authority to render interpretations of this division and to adopt policies and procedures in order to clarify the application of its provisions.

(b) *Registration required.*

- (1) Within 30 days of any structure becoming a vacant structure, the owner shall register that building by completing and filing with the Department a registration form and remitting to the city the required registration fee as set forth in Subsection (c).
- (2) The registration form shall include the following information:
 - a. The address and legal description of the property.
 - b. The name, physical address, mailing address, telephone number, and email information for any property owner(s) with an interest in the property.
Corporations or corporate entities shall submit the same information pertaining to their registered agent.
 - c. The contact information for a designated local property manager for the property.

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- d. Proof of property insurance in an amount not less than the appraised value of the structure, as determined by the Bell County Appraisal District, or a surety bond for the value of structure if insurance cannot be obtained. This subsection is not applicable to single family residential structures.
 - e. A completed Letter of Intent, provided by the Department, detailing a timeline for correcting code enforcement violations, conducting rehabilitation and maintenance of the structure, and a plan for future use of the structure. The Letter of Intent must be updated every twelve (12) months.
 - f. A complete floor plan of the property for use by first responders in the event of a fire or other catastrophic event.
 - g. Confirmation of criminal trespass affidavit, which shall be filed by the property owner with the Killeen Police Department. Said property owner shall post "No Trespass" placards on the premises. Additional employment of security services for the property for a specified number of hours every day may be required by the director on the basis of the property's history of code and/or criminal violations.
 - h. Confirmation that the owner has scheduled an inspection by the city and that the inspection will occur within sixty (60) calendar days of registration.
- (3) Within thirty (30) days, the owner of a vacant structure shall provide written notice to the director, including a copy of the deed, of a change in:
- a. Ownership of the property; or
 - b. Contact information for either the owner or the property manager.
- (4) Continued annual registration of the property by the owner of a vacant structure is required until said structure is deemed occupied and in compliance with all relevant code requirements by the director.
- (5) A registration of a vacant building issued pursuant to this section is not transferrable. New owners shall submit a new registration and remit the applicable fee within thirty days (30) of transfer of ownership.
- (6) Failure to timely register a vacant building and provide the information required in Subsection (b)(2) is a violation of this section.
- (c) *Fees.*
- (1) At the time of registration, the owner shall tender an annual registration fee and annual inspection fee. The registration fee shall be \$500.00 for the first year and shall increase by \$50.00 for each subsequent year (e.g., the fee in year 1 shall be \$500.00; year 2 shall be \$550.00; year 3 shall be \$600.00; etc...). The annual inspection fee shall be \$75.00, plus \$0.01 per square feet of building area (excluding stairwells, elevator shafts, and mechanical rooms).
 - (2) Subsequent annual registration and inspection fees are due no later than January 31st of each year. Annual registrations not completed by January 31st are subject to a \$150 late fee.
- (d) *Property manager.*

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- (1) The owner of a vacant structure must designate a local property manager for said properties and include the relevant contact information for the designated property manager upon registering the property with the Department. Designated property managers shall act as agents for the property owner for purposes of accepting legal service, however the vacant property owner remains personally liable in criminal prosecutions for code violations.
 - (2) The property manager must be available at the number listed at all times in the event of an emergency or catastrophe. For all vacant properties except for single-family residential structures, the name and telephone number of the property manager must be posted at the front of the building in large, legible print.
- (e) *Standard of care for vacant property.*
- (1) The standard of care, subject to approval by the director, shall include, but is not limited to:
 - a. Protective treatment. All exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition, weather tight, and in such condition so as to prevent the entry of rodents and other pests. All exposed wood or metal surfaces subject to rust or corrosion, other than decay resistant woods or surfaces designed for stabilization by oxidation, 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. All surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. All siding, cladding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight.
 - b. Premises identification. The property shall have address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four (4) inches high with a minimum stroke width of one-half (½) inch. All buildings shall display a vacant building identification placard as required by the director.
 - c. Structure. All structural members and foundation shall be maintained free from deterioration, and shall be capable of safely supporting the imposed loads.
 - d. Exterior walls. All exterior walls shall be kept in good condition and shall be free from holes, breaks, and loose or rotting materials. Exterior walls shall be maintained weatherproof and properly surface coated where necessary to prevent deterioration.
 - e. Roof and drainage. The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent accumulation, dampness or deterioration. Roof drains, gutters and downspouts shall be maintained in good repair, free from obstructions and operational.

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- f. Decorative features. All cornices, belt courses, corbels, applications, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
 - g. Overhang extensions and awnings. All overhang extensions including, but not limited to, canopies, marquees, signs, awnings, and fire escapes shall be maintained in good repair and be properly anchored and supported as to be kept in a sound and safe condition.
 - h. Stairways, decks, porches and balconies. All exterior stairways, decks, porches, and balconies, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
 - i. Chimneys and towers. All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair.
 - j. Handrails and guards. All exterior handrails and guards shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
 - k. Window, skylight and door. All windows, storefronts, skylights, and exterior door parts, including, but not limited to, the frame, the trim, window screens and hardware shall be kept in sound condition and good repair. All broken or missing windows shall be replaced with glass and secured in a manner so as to prevent unauthorized entry. All broken or missing doors shall be replaced with new doors which shall be secured to prevent unauthorized entry. All glass shall be maintained in sound condition and good repair. All exterior doors, door assemblies and hardware shall be maintained in good condition and secured. Locks at all exterior doors, exterior attic access, windows, or exterior hatchways shall tightly secure the opening. Windows and doors shall not be secured by plywood or other similar means mounted on the exterior except as a temporary securing measure, and the same shall be removed within a period of time designated by the director.
 - l. Basement hatchways and windows. All basement hatchways shall be maintained to prevent the entrance of rodents, rain and surface drainage water. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against entry of rodents.
- (2) All repairs shall be subject to approval by the director, or his designee. All required permits and final inspections prior to and/or following repairs shall be in accordance with applicable laws and rules. Historic properties and properties within the designated historic overlay district are additionally subject to all applicable rules and regulations as codified in this chapter.
 - (3) Failure to maintain a vacant structure to the standard of care specified by the director is a violation of this section.

(f) *Property Inspections*

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- (1) For the purpose of ascertaining whether the vacant building is being maintained in compliance with this section and any other applicable law, the director, or his designee, is authorized at a reasonable time to inspect:
 - a. The exterior of a vacant structure;
 - b. The interior of a vacant structure, if the permission of the owner, operator, or other person in control of the building is given or a warrant is obtained; and
 - c. The property upon which a vacant structure is located.
 - (2) At the time of registration, the owner shall schedule an inspection of the vacant structure by the city, to be completed within sixty (60) calendar days of registration. The director, or his designee, shall inspect the vacant structure and surrounding property where it is located to determine if it is maintained in compliance with this article and any other applicable law.
 - (3) After the initial inspection, the director, or his designee, shall inspect the vacant structure and surrounding property where it is located at least once during each twelve (12) month period that the building remains vacant.
 - (4) An owner of a vacant structure shall permit the director, or his designee, to perform an inspection of the interior and exterior of the vacant structure and surrounding property where it is located, for the purpose of ensuring compliance with this section and any other applicable laws, at reasonable times upon request. It shall constitute a violation if the owner, either personally or through an agent or employee, refuses to permit a lawful inspection of the vacant structure as required by this section.
 - (5) If the vacant building or property where the vacant building is located is not maintained in compliance with this section or any other applicable law, the director, or his designee, shall issue a written notice of non-compliance to the owner. The notice shall grant the owner a specific amount of time to resolve the identified violations and direct the owner to schedule a reinspection. If the owner fails or refuses to schedule a reinspection by the resolution date given in the notice of non-compliance, the director, or his designee, may perform an inspection of the property and vacant structure at any time following the resolution date, during regular business hours. If entry to the interior of the building for reinspection is refused, the director, or his designee, shall obtain a warrant to perform an interior inspection. A separate inspection fee, as described in Subsection (c)(1), shall be charged for each reinspection. If violations are not resolved by the time of reinspection, the city may seek any remedy provided by law.
 - (6) Nothing herein shall limit the city's authority to request additional inspections, pursue other enforcement measures, or take immediate abatement measures as otherwise allowed pursuant to city ordinances and state law.
- (g) *Jurisdiction, enforcement, and penalties.*
- (1) Pursuant to Section 31-7, in addition to any other enforcement remedies that the city may have under other city ordinances or other applicable law, any person violating any of the provisions of this section is subject to a fine as provided in Section 1-8. Each day any violation of this article shall continue shall constitute a separate offense.

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- (2) Written notice of a violation of this section will precede the issuance of a citation, in which the vacant structure owner will be given a reasonable length of time, as determined by the director, to remedy the violation.
- a. Written notice for violations of Subsection (b) shall only precede a citation for failure to comply with the initial registration requirement as required by Subsection (b)(1).
- b. Written notice shall not be required to precede a citation for subsequent annual registration violations as required by Subsection (b)(4).
- (3) Written notice shall be issued to the owner of a vacant structure by means of personal service, or by first class mail to their last known address according to Bell County Appraisal District records, and by posting on the property.
- (4) Any minimum fine for a violation of this section will be doubled for the second conviction of the same offense within any 24-month period and trebled for the third and subsequent convictions of the same offense within any 24-month period. At no time may the fine exceed the maximum fine established in Section 1-8.
- (5) This is a strict liability offense in which no mental state is required.
- (Ord. No. 20-032, § I, 8-4-20)

SECTION III. That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION IV. That should any section or part of any section or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

SECTION V. That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION VI. That this ordinance shall be effective after its passage and publication according to law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 10th day of January 2023, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Laura Calcote, CITY SECRETARY

APPROVED AS TO FORM:

Holli C. Clements, CITY ATTORNEY