

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; INSTITUTING REGISTRATION AND STANDARD OF CARE REQUIREMENTS FOR VACANT STRUCTURES WITHIN AND SURROUNDING THE HISTORIC OVERLAY DISTRICT AND TIRZ BOUNDARIES; 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, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code;

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 finds that registration and standard of care requirements for vacant buildings in the HOD will help preserve the historic character of the HOD and will help conserve the value of the buildings and community as a whole; and,

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, TEXAS:

SECTION I. That Chapter 31 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

CHAPTER 31 – ZONING

ARTICLE IV. – DISTRICT REGULATIONS

DIVISION 17. – DISTRICT “HOD” HISTORIC OVERLAY DISTRICT

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 means the Planning and Development Department for the City of Killeen, Bell County, Texas.

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 means an area designated as such in this Code.

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

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 means any person, agent, 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 means 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. *Temporarily secured* means 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.

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.

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 means a structure in which all activity for which the structure was built for or intended to be used for has ceased, or reasonably appears to have ceased for thirty (30) days or more.

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.

Sec. 31-401. – Vacant Structures in the Historic Overlay District.

A. Applicability and administration.

1. This section shall apply to all vacant structures, as defined in this Article, 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 article.
3. The director, or designee, shall have the authority to render interpretations of this title and to adopt policies and procedures in order to clarify the application of its provisions.

B. Registration required.

1. The vacant structure property owner shall have ninety (90) days in which to register from the date that written notice is issued to the property owner. Written notice shall be issued to the vacant structure property owner 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. The Director may consider evidence provided that the property is listed for sale or lease for fair market value and for a reasonable length of time for purposes of extending the length of time before the property must be registered.
2. Upon the issuance of a notice to register a vacant structure, property owners shall register with the Department and provide the following information:
 - a. The address and legal description of the property;
 - b. The current name, physical address, mailing address, telephone number, and email information for any owner(s) with an ownership interest in the property. Corporations or corporate entities shall submit the same information pertaining to their registered agent.
 - c. The contact information for a local manager of the properties and/or improvements located on said property, as applicable.
 - d. Proof of liability insurance, no less than one hundred thousand dollars (\$100,000.00), for the property and/or a surety bond for the value of structure if insurance cannot be obtained. Said value shall be the appraised value as determined by the Bell County Appraisal District. This subsection is not applicable to single family residential structures.
 - e. A completed comprehensive plan of action form, provided by the department, detailing a timeline for correcting violations, rehabilitation, maintenance while vacant, and future use of the structure. The plan of action must be updated every six (6) 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 affidavits which shall be filed with the

Killeen Police Department by the property owner and 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.

3. Vacant structure property owners shall provide written notice to the director, including a copy of the deed, of a change in:
 - i) Ownership of the property;
 - ii) Contact information for either the owner or the designated manager.
 - iii) Written notice must be provided to the department no later than 30 days after said changes have occurred.
4. Continued annual registration of the property by the vacant structure property owner is required until said structure is deemed occupied and in compliance with all relevant code requirements by the director.

C. Property manager or agent.

Vacant structure property owners must designate a local manager for said properties and include the relevant contact information for the designated manager upon registering the property with the department. 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 or agent 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 or agent must be posted at the front of the building, in large, legible print.

D. 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 inches (102mm) high with a minimum stroke width of one-half inch (12.7mm). 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.
- 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:* Every exterior stairway, deck, porch and balcony, 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:* Every exterior handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- k. *Window, skylight and door:* Every window, storefront, skylight and exterior door part, 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.

1. *Basement hatchways and windows:* Every basement hatchway 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. 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 chapter 31 of the Code.
3. Failure to maintain the vacant property to the standard of care specified by the department is a violation of this article.

E. Jurisdiction, enforcement and penalties.

1. Written notice of violation will precede the issuance of a criminal citation, in which the vacant property owner will be given a reasonable length of time, as determined by the director, to remedy the violation. Written notice shall be issued to the vacant structure property owner 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.
2. Failure to register with the department after written notice to the vacant structure property owner, as is hereinafter specified, is a violation of this article.
3. Violation of this chapter is a Class C misdemeanor and shall be punishable pursuant to Section 1-8 of this Code.
4. This is a strict liability offense in which no mental state is required.
5. Administrative, civil, and criminal enforcement are alternative remedies which may be sought independently of each other. Criminal prosecution may occur regardless of pursuit of civil or administrative remedies and vice versa.