

ORDINANCE No. 1027-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINNSBORO, TEXAS, AMENDING CHAPTER 3, BUILDING REGULATIONS OF THE WINNSBORO CODE OF ORDINANCES, DEFINING TERMS; PROVIDING REQUIREMENTS; PROCEDURES, AND FEE FOR THE REGISTRATION AND INSPECTION OF VACANT STRUCTURES IN THE DOWNTOWN HISTORIC MAIN STREET DISTRICT OF THE CITY; PROVIDING DEFENSES; PROVIDING AN APPEAL PROCESS FOR THE DENIAL OR REVOCATION OF A CERTIFICATE OF REGISTRATION; PROVIDING SIGNAGE REQUIREMENTS; PROVIDING INSURANCE REQUIREMENTS; REQUIRING A VACANT BUILDING PLAN; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVING CLAUSE; RESCINDING CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, within the Historic Main Street District of the city of Winnsboro, there exist many vacant buildings, that if left unoccupied and unmonitored, may fall into a state of disrepair, become a haven for criminal activity, and create a blight on the area; and

WHEREAS, it the responsibility of the City Council of the City of Winnsboro to protect the health, safety, morals, and welfare of the citizens of the City of Winnsboro by establishing a registration program for vacant buildings in the central Historic Main Street District in order to monitor the vacant buildings and ensure that they are maintained in compliance with this code and other applicable laws and to encourage their demolition or return to occupancy in a timely manner;

NOW THEREFORE; BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINNSBORO TEXAS:

SECTION 1. THAT THE CODE OF ORDINANCES FOR THE CITY OF WINNSBORO, TEXAS BE AMENDED TO THE FOLLOWING:

The City Code of Winnsboro, Chapter 3 Building Regulations is hereby amended by adding a new Article 3.12 entitled "Vacant Building Registration " to read as follows:

CHAPTER 3.12 - VACANT BUILDINGS

ARTICLE I - GENERAL PROVISIONS:

Section 3.12.001 - There is hereby adopted rules and regulations regarding vacant structures in the Designated Historic Main Street District. This article shall be known and may be cited as the vacant building regulations.

Section 3.12.002 - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) BUILDING means a structure for the support or shelter of any use or occupancy.

- (2) CERTIFICATE OF REGISTRATION (COR) means a Certificate of Registration issued by the City Administrator or their designees under this chapter to the owner or operator of a vacant building.
- (3) DESIGNATED HISTORIC MAIN STREET DISTRICT means the area bounded by Mill Street on the west; Carnegie Street on the south; Pine and Chestnut Street on the east, and Pine Street on the north; as adopted or hereafter amended by the City Council.
- (4) LAWFUL BUSINESS ACTIVITY is that for which the building was built for or intended to be used for. No building shall be used primarily for storage of personal or business items.
- (5) OCCUPIED means that one or more persons conduct business in, or reside in, at least 25 percent of the total area of the building (excluding stairwells, elevator shafts, and mechanical rooms) as the legal or equitable owner, lessee or invitee on a permanent non-transient basis pursuant to and within the scope of a valid Certificate of Occupancy.
- (6) OWNER means a person in whom is vested the ownership or title of real property:
- a. Including, but not limited to:
 - i. The holder of a fee simple title;
 - ii. The holder of life estate;
 - iii. The holder of a leasehold estate for an initial term of five years or more;
 - iv. The buyer in a contract for deed;
 - v. A mortgagee, receiver, executor, or trustee in control of real property; and
 - vi. The named grantee in the last recorded deed: and
 - 1. Not including the holder of a leasehold estate or tenancy for an initial term of less than five years.
- (7) PERSON means any individual, corporation, organization, partnership, association, governmental entity, or any other legal entity.
- (8) PREMISES or PROPERTY means a lot, plot, or parcel of land including and structures on the land.
- (9) REGISTRANT means a person issued a Certificate of Registration for a vacant building under this chapter.
- (10) SECURED means 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.
- (11) STRUCTURE means that which is built or constructed, an edifice or building of any kind, or piece of work artificially built up or composed of parts joined together in some definite manner.
- (12) TEMPORARILY SECURED means 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 (or other appropriate material) which has been nailed or bolted in place so as to prevent unauthorized entry.

(13) VACANT BUILDING means a building located in the city's Historic Main Street District that, regardless of its structural condition, is not occupied.

Section 3.12.003 – Applicability, Administration, and Authority

- (1) This article shall apply to all vacant structures, as defined herein, which are now in existence or which may hereafter be constructed or converted from other uses and which are within the Central Business District, all Historic Districts, and all vacant designated landmarks.
- (2) The City Administrator or his designee is authorized to administer and enforce the provisions of this article.
- (3) The City Administrator or his 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. The City Administrator or his designee, at his sole discretion, may also enter into an agreement with a registered property owner to obtain compliance with this ordinance by a date certain.
- (4) The City Administrator shall implement and enforce this chapter and may by written order establish such rules, regulations, or procedures, not inconsistent with this chapter, as determined necessary to discharge any duty under or to effect the policy of this chapter.

Section 3.12.004 – Delivery of Notices

- (1) Any written notice that the City Administrator is required to give an applicant or registrant in this chapter is deemed to be delivered:
 - a. On the date the notice is hand delivered to the applicant or registrant; or
 - b. Three days after the United States Mail postmarked date, properly addressed to the applicant or registrant at the address provided for the applicant or registrant in the most recent registration application.

Section 3.12.005 – Violations; Penalty

- (1) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits an offense. A person commits a separate offense each day or portion of a day which a violation is committed, permitted or continued.
- (2) Criminal penalties.
 - a. An offense under this chapter is punishable by a fine not to exceed \$2,000.
 - b. As an alternative to imposing the criminal penalty prescribed in Subsection (a) the city may impose administrative penalties, fees, and court costs in accordance and as authorized by Section 54.044 of the Texas Local Government Code, for an offense under this chapter. The alternative administrative penalty range for an offense is the same as prescribed for a criminal offense under subsection (a).
 - c. The penalties provided for in Subsections (a) and (b) are in addition to any other enforcement remedies that the city may have under the city ordinances and state law.

ARTICLE II - REGISTRATION AND INSPECTION OF VACANT BUILDINGS

Section 3.12.006 - Registration required, Defenses

- (1) A person commits an offense if the person owns or operates a vacant building without a valid Certificate of Registration. A separate Certificate of Registration is required for each street address at which any vacant building is located, regardless of any separate occupied buildings that may also be located at the same street address. If more than one vacant building is located at the same street address, only one certificate of registration is required for all the vacant buildings.
- (2) It is a defense to prosecution under this section that:
 - a. The building was occupied within the 45-day period preceding the date of the alleged offense;
 - b. At the time of the alleged offense the building was in the process of being renovated, rehabilitated, repaired or demolished (pursuant to appropriate and valid permits issued by the city building official) and has been occupied within the 90-day period preceding the date of the alleged offense;
 - c. Within the 90-day period preceding the date of the alleged offense, the building suffered damage or destruction from a fire, flood, storm or similar event that rendered the building incapable of being occupied, except that this defense does not apply if the building was rendered incapable of being occupied by the intentional act of the owner, operator, lessee, or other invitee or an agent of the owner, operator, lessee or other invitee; or
 - d. The building was owned by the City of Winnsboro, the State of Texas, or the United States government.

Section 3.12.007 – Registration Application

- (1) To obtain a Certificate of Registration for a vacant building, a person must submit an application on a form for that purpose to the City Administrator. The applicant must be the person who will own, control, or operate the vacant building. The application must contain all of the following information:
 - a. The name, street address, mailing address and telephone number of the applicant or the applicant's authorized agent.
 - b. The name, all street addresses, main telephone number if any, of the vacant building and a description of the type of property it is (such as, but not limited to, a commercial building, a warehouse, an office, a hotel, an apartment complex, a boarding house, a group home, a loft, a townhome, a condominium, or a single family residence).
 - c. The names, street addresses, mailing addresses, and telephone numbers of all owners of the vacant building and any lien holders and other persons with a financial interest in the vacant building.
 - d. The name, street address, mailing address and telephone number of a person or persons to contact in an emergency as required by Section 3.12.014 of this chapter.
 - e. The form of business of the applicant (and owner, if different from the applicant): the name, street address, mailing address and telephone number of a high managerial agent of the business.
 - f. Proof of insurance required by Section 3.12.015 of this chapter.

- g. The number of buildings (including vacant and occupied buildings), dwelling units, swimming pools and spas located in or on the premises of the vacant buildings.
 - h. Documentary evidence of payment of ad valorem taxes owed in connections with the vacant building and the premises on which it is located.
 - i. The total area in square feet of the vacant building, the number of stories contained in the vacant building, the area in square feet and whether each story is above or below ground level.
 - j. The date on which the vacant building was last occupied, a description of the last use of the vacant building and a description of any hazardous materials uses or conditions that currently exist or previously existed in the vacant building.
 - k. Such additional information as the applicant desires to include or that the City Administrator deems necessary to aid in the determination of whether the requested Certificate of Registration should be granted.
- (2) If the application for a Certificate of Registration is being made for multiple vacant buildings located at the same address then the information in Section (1) must be provided for each vacant building located at that address.
- (3) A registrant shall notify the City Administrator within 10 days after any material change in the information contained in the application for a Certificate of Registration for a vacant building, including any changes in ownership of the property.

Section 3.12.008 – Registration Fee and Inspection Charge

The fee for a certificate of registration and inspection for each vacant building is \$500.00 for the first year of vacancy. The fee shall increase by \$500.00 for each year the building remains vacant.

Section 3.12.009 – Issuance, Denial, and Display of Certificate of Registration

- (1) Upon payment of all required fees, the City Administrator shall issue a Certificate of Registration for a vacant building to the applicant if the City Administrator determines that:
- a. The applicant has complied with all requirements for issuance of the Certificate of Registration;
 - b. The applicant has not made a false statement as to a material matter in an application for a Certificate of Registration; and
 - c. The applicant has no outstanding fees assessed under this chapter.
- (2) If the City Administrator determines that the requirements of Section 3.12.007(1) have not been met the City Administrator shall deny a Certificate of Registration to the applicant.
- (3) If the City Administrator determines that an applicant should be denied a Certificate of Registration, the director shall deliver written notice of denial to the applicant and include the reason for denial with a statement informing the applicant of the right of appeal.
- (4) A Certificate of Registration issued under this section must be displayed to the public in a manner and location approved by the City Administrator. The certificate of registration must be presented upon request to the City

Administrator or to a peace officer for examination.

Section 3.12.010 – Revocation of Registration

- (1) The City Administrator shall revoke a certificate of registration for a vacant building if the director determines that:
 - a. the registrant failed to comply with any provision of this chapter or any other city ordinance or state or federal law applicable to the building;
 - b. the registrant intentionally made a false statement as to a material matter in the application or in a hearing concerning the certificate of registration; or
 - c. the registrant failed to pay a fee required by this chapter at the time it was due.
- (2) Before revoking a certificate of registration under Subsection (1) the City Administrator shall deliver written notice to the registrant that the certificate of registration is being considered for revocation. The notice must include the reason for the proposed revocation, action the registrant must take to prevent the revocation, and a statement that the registrant has 10 days after the date of delivery to comply with the notice.
- (3) If after 10 days from the date the notice required in Subsection (2) is delivered, the registrant has not complied with the notice, the director shall revoke the certificate of registration and deliver written notice of the revocation to the registrant. The notice must include the reason for the revocation, the date the director orders the revocation and a statement informing the registrant of the right of appeal.

Section 3.12.011 – Appeals

If the City Administrator denies issuance or renewal of Certificate of Registration or revokes a Certificate of Registration, this action is final unless the applicant or registrant files an appeal with the Planning and Zoning Commission. If the applicant or registrant's appeal is denied by the Planning and Zoning Commission the applicant or registrant can appeal to the City Council. The decision of the City Council is final.

Section 3.12.011 – Expiration and Renewal of Registration

- (1) A certificate of registration for a vacant building expires the earlier of:
 - a. one year after the date of issuance;
 - b. the date the vacant building changes controlling ownership as determined by the City Administrator;
 - c. the date the building becomes occupied as determined by City Administrator; or
 - d. the date the vacant building is demolished as determined by the director.
- (2) A certificate of registration may be renewed by making application in accordance with Section 3.12.011 and paying the registration fee and inspection charge as required by Section 312.008. A registrant shall apply for renewal at least 30 days before expiration of the certificate of registration.

Section 3.12.012 – Nontransferability

A certificate of registration for a vacant building is not transferable.

Section 3.12.013 – Property Inspections

- (1) For the purpose of ascertaining whether violations of this chapter or any other city ordinance or state or federal law applicable to the building exist the director is authorized at a reasonable time to inspect:
 - a. the exterior of a vacant building; and
 - b. the interior of a vacant building, if the permission of the owner, operator or other person in control is given or a search warrant is obtained.
- (2) The City Administrator or designee shall inspect a vacant building at least once during each 12-month period that the building is not occupied.
- (3) An applicant or registrant shall permit representatives of the police department, Department of Environmental and Health Services, fire department, Department of Code Compliance, and the building official to inspect the interior and exterior of a vacant building, for the purpose of ensuring compliance with the law at reasonable times upon request. The applicant or registrant commits an offense if he either personally or through an agent or employee refuses to permit a lawful inspection of the vacant building as required by this subsection.
- (4) Whenever a vacant building is inspected by the City Administrator or designee, and a violation of this chapter or any other city ordinance or state or federal law applicable to the building is found, the building or premises will, after the expiration of any time limit for compliance given in a notice or order issued because of the violation, be re-inspected by the City Administrator or designee to determine that the violation has been eliminated.

ARTICLE III - MISCELLANEOUS REQUIREMENTS FOR VACANT BUILDINGS.

Section 3.12.014 – Emergency Response Information

- (1) An owner, operator, or other person in control of a vacant building shall provide the City Administrator with the name, street and mailing address, and telephone number of a person or persons who can be contacted 24 hours a day, seven days a week in the event of an emergency condition in or on the premises of the vacant building. An emergency condition includes any fire, natural disaster, collapse hazard, burst pipe, serious police incident, or other condition that requires an immediate response to prevent harm to property or the public.
- (2) The owner, operator, or other person in control of a vacant building, or an authorized agent must arrive at the premises within one hour after a contact person named under this section is notified by the city or emergency response personnel that an emergency condition has occurred on the premises.
- (3) A sign containing the emergency contact information required in Subsection (1) of this section must be attached in a conspicuous location on the exterior of each facade of the vacant building that faces a public right-of-way.
- (4) The sign required by subsection (4) must:
 - a. Comply with the city's sign regulations;
 - b. Be 24 inches tall and 18 inches wide and constructed of a rigid weather resistant material;
 - c. contain the words "VACANT BUILDING" in 2-3/8-inch-high and two- inch-wide black letters on a bright yellow background followed by the information required in Subsection (1) in one-inch-high black letters

on a bright yellow background;

- d. be in a format approved by the City Administrator; and
- e. be readable day and night.

(5) A person commits an offense if he removes or obstructs or allows the removal or obstruction of a sign required to be posted on a vacant building under this section. It is a defense to prosecution under this subsection that the removal or obstruction was caused by:

- a. a city employee in the performance of official duties; or
- b. the owner, operator, or lessee of the vacant building for the purpose of:
 - i. repair or maintenance to the sign;
 - ii. complying with this chapter or a rule or regulation promulgated under this chapter; or
 - iii. removing the sign when registration of the vacant building is no longer required under this chapter.
- c. A minor variation of a required minimum height or width of a sign or lettering is not a violation of this section.

Section 3.12.015 – Insurance

- (1) Prior to the issuance of a Certificate of Registration, the registrant shall procure and keep in full force and effect at all times during the registration term, commercial general liability insurance coverage (including, but not limited to, premises/operations and personal and advertising injury) protecting the city of Winnsboro against any and all claims for damages to persons or property as a result of or arising out of the registrant's operation maintenance or use of the vacant building with minimum combined bodily injury (including death) and property damage limits of not less than \$1,000,000 for each occurrence and \$2,000,000 aggregate.
- (2) The insurance policy must be written by an insurance company approved by the State of Texas and acceptable to the city and issued in a standard form approved by the Texas Department of Insurance. All provisions of the policy must be acceptable to the city and must name the city and its officers and employees as additional insureds and provide for 30 days written notice to the director of cancellation, non-renewal or material change to the insurance policy.
- (3) A registrant shall provide to the director an updated certificate of insurance for the vacant building every six months that the building is required to be registered under this chapter.

Section 3.12.016 – Vacant Building Plan

- (1) Within 30 days after the date a certificate of registration is issued for a vacant building the registrant shall submit to the City Administrator a vacant building plan complying with this section.
- (2) The vacant building plan must contain the following:

- a. A plan of action and a time schedule for correcting all existing violations of this chapter or any other city ordinance or state or federal law applicable to the building or its premises.
 - b. A plan of action for maintaining the building and its premises in compliance with this chapter and all applicable city ordinances and state and federal laws.
 - c. A plan of action for maintaining the building and its premises in a safe and secure manner including but not limited to any provisions for lighting security patrols, alarm systems fire suppression systems and securing the building from unauthorized entry.
 - d. A plan of action for occupying, leasing or selling the building, including but not limited to a time schedule for renovating or repairing the building and a time schedule for marketing, advertising or offering the building for sale or lease. The plan of action for leasing or selling the property must reflect marketing the property at regionally fair market value as determined by regional comparable values reviewed and approved by the governing body.
 - e. A plan of action and time schedule for any demolition of the building.
- (3) A registrant may update the vacant building plan at any time, but shall provide the City Administrator with an updated vacant building plan at least once every six months that the building is required to be registered under this chapter.

Section 3.12.017 - Standard of care for vacant property

- (1) The standard of care, subject to approval by the City Administrator or designee, 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 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).
 - 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. Interior and exterior areas: The property must be kept free of junk, trash, debris or combustible materials.
- f. Vegetation and landscaping: Shall be maintained in good and healthy condition
- g. 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.
- h. 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.
- i. 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.
- j. Stairways, decks, porches and balconies: Every exterior stairway, deck, porch, balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- k. 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.
- l. Window, Skylight and Door: Every window, storefront, skylight and exterior door part, including but not limited to the frame, 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 appropriately sized 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 City Administrator or his designee.

(2) All repairs shall be subject to approval by the City of Winnsboro. All required permits and final inspections prior to and/or following repairs shall be in accordance with applicable laws and rules.

(3) Failure to maintain the vacant property to the standard of care specified by the City of Winnsboro is a violation of this article.

SECTION 2. SEVERABILITY CLAUSE:

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 3. REPEALING CLAUSE:

Any provision of any prior ordinance of the City whether codified or uncodified, which are in conflict with any provisions of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE:

This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this the 11th day of August, 2020

Approved:

Brenda Shirley, Mayor Pro-Tem

Attest:

Angie Pike, City Secretary