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Mayor
Leticia Miranda
Alderson Place 1
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Alderson Place 2



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Alderson Place 3
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Alderson Place 5

ORDINANCE NO. 1604.13

VACANT BUILDING REGISTRATION ORDINANCE

AN ORDINANCE ENACTING THE “VACANT BUILDING REGISTRATION ORDINANCE” ESTABLISHING REGULATIONS AND REQUIREMENTS FOR REGISTRATION OF VACANT BUILDINGS, AND PROVIDING FOR THE FOLLOWING: STANDARD OF CARE; REVOCATION OF CERTIFICATE; ENFORCEMENT, INCLUDING A FINE AND/OR CIVIL PENALTY NOT TO EXCEED \$2000.00 PER DAY; AND EFFECTIVE DATE

WHEREAS, vacant buildings, if left unoccupied and unmonitored, may fall into a state of disrepair, become a haven for criminal activity and create a blight in the City of San Elizario (“City”); and

WHEREAS, the City Council (“City Council”) of the City has determined that the presence of unmaintained and unregulated vacant structures has a negative economic impact on neighboring properties and businesses and also creates a negative impression of the City to visitors and tourists; and

WHEREAS, the City Council seeks to promote the health, safety and general welfare of the City residents and visitors by establishing a registration program for vacant buildings in the City in order to ensure their maintenance in compliance with city code or to encourage their demolition, if necessary; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City.

WHEREAS, the Council finds that it is necessary and proper for the good government, peace, or order of the City to adopt this Ordinance requiring the registration of vacant buildings.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of San Elizario:

SECTION 1. FINDINGS OF FACT

The foregoing recitals are adopted as facts and incorporated fully herein.

SECTION 2. ENACTMENT

The City Council hereby adopts and enacts the “*Vacant Building Registration Ordinance*”, contained in Attachment A, attached hereto and incorporated fully herein for all intents and purposes.

SECTION 3. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

SECTION 4. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication in the city’s official newspaper.

PASSED AND APPROVED this, the 28th day of June, 2016, by a vote of 4 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of San Elizario, Texas.

CITY OF SAN ELIZARIO, TEXAS



Maya Sanchez, Mayor

CITY OF SAN ELIZARIO

VACANT BUILDING REGISTRATION ORDINANCE

I. Purpose and Application

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 in the City of San Elizario. The purpose of this Ordinance is to protect the health, safety, morals, and welfare of the citizens of the City of San Elizario by establishing a registration program for vacant buildings in the City in order to monitor vacant buildings and ensure that they are maintained in compliance with City code and other applicable laws and to encourage their demolition or return to occupancy in a timely manner.

This ordinance 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 City.

II. Definitions

The following words, terms, and phrases shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning. A word or term not defined herein shall be read in accordance with its common or standard definition. Headings and captions are for reference purposes only.

Building or Structure: a realty improvement which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner on a property.

City: the City of San Elizario.

City Designee: the person or official designated by the City to receive and approve an application for a vacant building certificate.

Certificate of Registration: a certificate issued by the city designee to the owner or operator of a vacant building indicating that the building is registered with the City.

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

Owner a person who will own, control, or operate the vacant building and has a legal interest in the property such as, including but not limited to:

- i. the holder of fee simple title;
- ii. the holder of a 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; or
- vi. the named grantee in the last recorded deed.

Person: an individual, owner, agent, firm, partnership, corporation, organization, association, governmental entity, or any other legal entity having a legal interest in the property.

Property or Premises: a zoned property lot, plot or parcel of land, including structures on the land.

Secured: status of a structure in which 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: status of a structure in which 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.

Vacant building: status of a structure at which all lawful activity has ceased, or reasonably appears to have ceased, for 30 days.

III. Registration

A. Application and Issuance.

- (1) A certificate of registration is required for a vacant building. To obtain a certificate, an owner of a vacant building must submit to the City an application for a certificate on an application form provided by the City and an application fee established by the City Council.
- (2) 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 of the vacant buildings. Also, only one certificate of registration is required for a single vacant building that has more than one street address. Suite numbers and apartment unit numbers will not be considered in determining the street address of a vacant building.
- (3) Applications must be submitted one week prior to the start date of the vacancy of the building.

- (4) The City Designee shall have the authority to deny an application or revoke an issued certificate for failure to meet the standards for issuance.
- (5) No certificate shall be issued if the applicant has been cited in the past 12 months of the application date for violation of this Ordinance.
- (6) Upon issuance, a certificate must be displayed in a conspicuous place on the building.
- (7) An issued certificate is not transferable.
- (8) A certificate expires one year after the date of issuance.
- (9) 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 City Designee.
- (10) Upon the one year termination, if the building continues to remain vacant, a follow-up inspection will be conducted, and if deemed vacant, notice to register will be issued.
- (11) An Applicant denied a certificate may appeal the denial to the City Administrator or Mayor.

B. Registration upon Notice.

- (1) An owner of a vacant structure shall have 30 days in which to register from the date that written notice of the requirement to register is issued to the owner.
- (2) Written notice shall be issued to the vacant building property owner by means of personal service, or by first class mail to their last known address according to El Paso County Appraisal District records, and by posting on the property.
- (3) Failure to register with the City after written notice to the vacant building property owner is a violation of this article.

C. Fee exemptions must be applied for and may be granted in these circumstances:

- i. property which has been devastated by a catastrophe such as fire or flood, in a first-time application only;
- ii. a property owner who is indigent; or
- iii. representatives of a property owner who is deceased or is no longer legally competent; or
- iv. where the owner of the property has obtained a building permit and is progressing in an expedient manner to prepare the premises for occupancy.

D. A certificate of registration for a vacant building may be revoked if:

- i. the Applicant failed to comply with any provision of this chapter or any other city ordinance or state or federal law applicable to the building;

- ii. the Applicant intentionally made a false statement as to a material matter in the application or in a hearing concerning the certificate of registration; or
 - iii. the Applicant failed to pay a fee required by this chapter at the time it was due.
- E. Before revoking a certificate of registration, the City Designee shall deliver written notice to the Owner that the certificate of registration is being considered for revocation. The notice must include the reason for the proposed revocation, state the action to be taken to prevent the revocation, and advise that the Owner has 10 days after the date of delivery to comply with the notice.

IV. Standard of Care for Vacant Property

- A. An owner shall provide a standard of care for the registered vacant property which shall include, but is not limited to:
- i. *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.
 - ii. *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.
 - iii. *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.
 - iv. *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.
 - v. *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.

- vi. *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.
 - vii. *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 temporarily secured measure, and the same shall be removed within a period of time designated by the Director.
 - viii. *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.
- B. Upon submission of an application for a certificate, the Applicant agrees that for ascertaining compliance with this section, the City Designee or Code Enforcement Officer of the City is authorized to enter the premises on which the vacant building is located to conduct an inspection of the exterior as described herein. An owner's refusal to permit a lawful inspection is an offense.
- C. Failure to properly maintain the vacant building is an offense and will result in increased renewal fees and penalties.

IV. Offense and Penalties

- A. Offense
- (1) A person who violates this Ordinance commits an offense. A person violating any provision of this Ordinance is subject to prosecution for criminal violations as well as suit for injunctive relief.
 - (2) It is a defense to prosecution under this section that:
 - i. the building was occupied within the 30-day period preceding the date of the alleged offense;
 - ii. 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 building official, if required) and had been occupied within the 30-day period preceding the date of the alleged offense;

- iii. at the time of the alleged offense, the building was in the process of being actively marketed and advertised for lease or sale and had been occupied within the 30-day period preceding the date of the alleged offense;
- iv. within the 30-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
- v. the building was owned by the City, the State of Texas, or the United States government.

B. Criminal and Civil Penalties

(a) Criminal Prosecution

A person violating any provision of this Ordinance shall, upon conviction, be fined a sum of \$500, and up to \$2,000.00 if the violation also involves fire safety, zoning or public health and sanitation including dumping of refuse. Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a Class C misdemeanor. This is a strict liability offense in which no mental state is required.

(b) Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to, the following:

- a. injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
- b. a civil penalty up to \$500.00 a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
- c. other available relief.