

**Ordinance No. 02-2021**

**Ordinance establishing a Vacant Structure Registry for the Greater Downtown Area by amending Chapter 22 of the Code of Ordinances by amending Article XIV; providing a repealer clause; providing for inclusion; providing for severability; and setting an effective date**

WHEREAS, City Council has previously determined the redevelopment of downtown was part of the City's long term Strategic Plan; and,

WHEREAS, a volunteer working group of Downtown owners/stakeholders begin meeting to develop and finalize a vacant structure registration for commercial buildings downtown; and,

WHEREAS, this ordinance amendment provides for a vacant structure registration for the downtown commercial buildings; and,

WHEREAS, staff has incorporated the proposals of the volunteer working group to create a Vacant Structure Registry; and,

WHEREAS, staff believes this Vacant Structure Registry will increase life safety as well as help beautify downtown as part of the City's long term Strategic Plan and provide for access to vacant structure owners to notify them of issues; and,

WHEREAS, the City Council concurs with staff's recommendation to amend the Code of Ordinances at Chapter 22, creating Article XIV, Division 3.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

Chapter 22 of the Wichita Falls Code of Ordinances is hereby amended by the addition of language in creating Article XIV, Division 3 which shall hereafter read as follows:

ARTICLE XIV. – Downtown Property Maintenance District

Division 3 – Vacant Structure Registration

Sec. 22-756- 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:

*Director.* City of Wichita Falls Director of Development Services or designee.

*Department.* City of Wichita Falls Development Services Department.

*Downtown.* The Downtown Property Maintenance District as described in Section 22-731.

*Indigent.* An individual who meets the then currently poverty guidelines as set Federal Register by the United States Department of Health and Human Services.

*Owner.* Any person, agent, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

*Structure.* That which is built or constructed as the primary structure on the parcel.

*Vacant.* Any habitable structure on the property that is not occupied by a business or use as defined in the City of Wichita Falls Zoning Ordinance and/or matches any of the following criteria:

1. Currently has an inactive City Utility account
2. Is used solely for the purpose of personal/business storage
3. Has been actively listed for sale or lease for a minimum of 90 days (*unless extended by the Director as outlined in Section 22-733 (a)*)

Sec. 22-757. – Applicability.

This ordinance shall be applicable to the following areas: *Downtown* as defined in Sec. 22-731. This article does not apply to single-family structures, duplexes and accessory structures located on their associated lots within the district area.

Sec. 22-758. – Registration Requirements.

- (a) 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, and/or by first class mail to their last known address according to Wichita 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.
- (b) Upon the issuance of notice to register vacant structure, property owners shall register with the Department and provide the following information:
  1. The address and legal description of the property;
  2. 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;

3. The contact information for a local manager of the properties and/or improvements located on said property, as applicable;
4. Proof of liability insurance, no less than one hundred thousand dollars (\$100,000.00), for the property 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 Wichita County Appraisal District;
5. 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 annually;
6. A complete floor plan of the property for use by first responders in the event of a fire or other catastrophic event;
7. A completed interior inspection performed by the Development Services Department and payment of associated annual inspection fee.
8. Criminal trespass affidavits shall be filed with the Wichita Falls 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 or criminal violations; and,
9. 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.

(c) 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.

#### Sec. 22-759. – Registration Fees.

(a) Vacant structure property owners shall tender an annual registration fee with an annual interior inspection fee set by separate ordinance. If necessary, the registration fee shall be pro-rated for the first time a property is registered with the city. Subsequent annual registration fees shall be due and postmarked no later than January 31st of each year.

#### Sec. 22-760. — Property Manager or agent

- (a) 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.
- (b) 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: the name and telephone number of the property manager or agent must be posted at the front of the building, in large, legible print.

#### Sec. 22-761. – Fee Waivers

- (a) All fee waivers must be applied for, using the forms provided, on an annual basis, and are subject to approval by the Director. A fee waiver is only valid for twelve (12) months.
- (b) Property which has been devastated by a disaster such as fire or flood: The owner has thirty (30) days to register from the date of the disaster but may be exempt from the fees. This exemption is for the duration of one (1) year from the date of the catastrophe; thereafter all applicable fees are due.
- (c) A property owner who is indigent must register and is otherwise subject to this article but may be exempt from the fees.
- (d) Representatives of a property owner who is deceased or is no longer legally competent must register the property and are otherwise subject to this article but may be exempt from the registration fees.
- (e) Where the owner of the property has obtained a building permit and is progressing in an expedient manner to prepare the premises for occupancy, the owner must register the property and is otherwise subject to this article but may be exempt from registration fees and inspection fees.
- (f) Where the property owner has maintained the property to the standards of the International Property Maintenance Code, the owner must register but may be exempt from registration fees.

#### Sec. 22-762. – Modification Procedure

- (a) Where existing conditions require a modification from the standards and regulations herein contained because of a distinct and unusual condition that does not prevail on other properties located in the *Downtown* area, the *Director*

- may approve a modification from specific standards to permit the equitable treatment of the structure or tract in light of the unusual condition.
- (b) The *Director* may authorize a modification from these regulations when in his/her opinion deprivation of use of the property will result from requiring strict compliance. The applicant shall have the responsibility of proving that the strict application of this ordinance creates a deprivation of use of property. The following conditions must be present for consideration:
1. There are special circumstances or conditions affecting the property involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his property; and,
  2. The granting of the modification will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and,
  3. The granting of the modification will not have the effect of preventing the orderly subdivision of other properties in the area in accordance with the provisions of City Code; and,
  4. A more appropriate solution exists which is not currently allowed in this chapter; and,
  5. The granting of the modification is harmonious with the engineered design of the infrastructure or structure on adjacent property
- (c) The modification may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety, and welfare may be secured and substantial justice is done. Economic hardship to the applicant shall not be deemed to constitute a deprivation of use.
- (d) In granting a modification, the *Director* may require such conditions as will, in his/her judgment, secure substantially the objectives of the standards or requirements so varied or modified and maintain the spirit and intent of the standards herein set forth.

#### Sec. 22-763. – Enforcement

- (a) 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 first class mail to their last known address according to Wichita County Appraisal District records, and by posting on the property.

(b) 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.

(c) Violation of this chapter is a Class C misdemeanor.

1. This is a strict liability offense in which no mental state is required.
2. The fine for this offense may not exceed five hundred dollars (\$500.00).

Sec. 22-764-22-775. Reserved.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
3. It is the intention of the City Council of the City of Wichita Falls, Texas, that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Wichita Falls, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.
4. Should any word, phrase, paragraph, section or portion of this ordinance or the Code of Ordinances, as amended hereby, be held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.
5. This ordinance shall become effective on October 1, 2021.

PASSED AND APPROVED this the 2nd day of February, 2021.

  
MAYOR

ATTEST:

  
City Clerk