

CITY OF ALVARADO

ORDINANCE NO. 2025-0004

AN ORDINANCE OF THE CITY OF ALVARADO, TEXAS AMENDING CHAPTER 8, "BUILDINGS AND BUILDING REGULATIONS," OF THE ALVARADO CODE BY ADOPTING A NEW ARTICLE VI, "VACANT BUILDINGS," DEFINING TERMS; PROVIDING REQUIREMENTS, PROCEDURES FOR THE REGISTRATION AND INSPECTION OF VACANT BUILDINGS IN THE CITY; PROVIDING DEFENSES; PROVIDING AN APPEAL PROCESS FOR THE DENIAL OR REVOCATION OF A CERTIFICATE OF REGISTRATION; PROVIDING SIGNAGE REQUIREMENTS; REQUIRING A VACANT BUILDING PLAN; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Alvarado, Texas, ("City") is a home-rule municipality located in Johnson County, created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, there are buildings in the City that are vacant and if an owner fails to monitor and maintain a vacant building, the building may become a blight on the City, dilapidated and substandard, and a haven for criminal activity; and

WHEREAS, buildings that remain vacant discourage economic development, become an attractive nuisance for children, become a harborage for rodents, and an invitation to vagrants and criminals, and affect nearby businesses and residences and their property values; and

WHEREAS, vacant buildings that are unsecured are extremely vulnerable to being set on fire and are public nuisances; and

WHEREAS, with increased demand for copper, vacant buildings attract copper thieves, and removal of copper from buildings may pose environmental risks; and

WHEREAS, the City Council has determined that a vacant building registration program will protect the health, safety, welfare of the City.

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

SECTION 1.

All matters stated herein above are found to be true and correct and are incorporated by reference as if copied in their entirety.

SECTION 2.

Chapter 8, "Buildings and Building Regulations," of the Alvarado Code is hereby amended by adding a new Article VI to read as follows:

"ARTICLE VI. VACANT BUILDINGS

§ 8-300 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:

Building means a structure for the support or shelter of any use or occupancy.

Certificate of registration means a certificate of registration issued by the building official under this article to the owner or operator of a vacant building.

Building official means the person designated by the City manager to enforce and administer this article and includes any representatives, agents, or department employees designated by the official.

Dwelling unit means one or more rooms designed to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.

Occupied means that one or more persons lawfully conduct business in or reside 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 means a person in whom is vested the ownership or title of real property:

- (1) including, but not limited to:
 - a. the holder of fee simple title;
 - b. the holder of a life estate;
 - c. the holder of a leasehold estate for an initial term of five years or more;
 - d. the buyer in a contract for deed;
 - e. a mortgagee, receiver, executor, or trustee in control of real property; and
 - f. the named grantee in the last recorded deed; and
- (2) not including the holder of a leasehold estate or tenancy for an initial term of less than five years.

Person means any individual, corporation, organization, partnership, association, governmental entity, or any other legal entity.

Premises or property means a lot, plot, or parcel of land, including any structures on the land.

Registrant means a person issued a certificate of registration for a vacant building under this article.

Structure means that 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.

Vacant building means a building located in the city other than a building last lawfully occupied for single-family or two-family use that, regardless of its structural condition, is not occupied.

§ 8-301 Authority of building official.

The building official shall implement and enforce this article and may by written order establish such rules, regulations, or procedures, not inconsistent with this article, as the building official determines are necessary to discharge any duty under or to affect the policy of this article.

§ 8-302 Delivery of notices.

Any written notice that the building official is required to give an applicant or registrant under this article is deemed to be delivered:

- (1) on the date the notice is hand delivered to the applicant or registrant; or
- (2) three days after the date the notice is placed in the United States mail with proper postage and properly addressed to the applicant or registrant at the address provided for the applicant or registrant in the most recent registration application.

§ 8-303 Violations and penalty.

- (a) a person who violates a provision of this article, or who fails to perform an act required of the person by this article, commits an offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.
- (b) An offense under this article is punishable by a fine not to exceed \$2,000.
- (c) The penalties provided for in Subsection (b) are in addition to any other enforcement remedies that the City may have under city ordinances and state law.

§ 8-304 Registration required; defenses.

- (a) 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 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.

- (b) It is a defense to prosecution under this section that:
- (1) the building was occupied within the forty-five (45) day period preceding the date of the alleged offense;
 - (2) 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 ninety (90) day period preceding the date of the alleged offense;
 - (3) 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 ninety (90) day period preceding the date of the alleged offense;
 - (4) within the ninety (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
 - (5) the building was owned by the City of Alvarado, the State of Texas, or the United States Government.

§ 8-305 Registration application.

- (a) To obtain a certificate of registration for a vacant building, a person must submit an application on a form provided for that purpose to the building official. The applicant must be the person who will own, control, or operate the vacant building. The application must contain all of the following information:
- (1) The name, street address, mailing address, and telephone number of the applicant or the applicant's authorized agent.
 - (2) The name, all street addresses, and the main telephone number, if any, of the vacant building and a description of the type of property it last was (such as, but not limited to, a commercial building, institutional building, industrial building, a warehouse, an office, a hotel, an apartment complex, a boarding home, retail store, or restaurant).
 - (3) 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.

- (4) The name, street address, mailing address, and telephone number of a person or persons to contact in an emergency as required by Section 8-291 of this article.
 - (5) 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; and, if the business is a corporation or association, a copy of the documents establishing the business.
 - (6) The number of buildings (including vacant and occupied buildings), dwelling units, swimming pools, and spas located in or on the premises of the vacant building.
 - (8) Documentary evidence of payment of ad valorem taxes owed in connection with the vacant building and the premises on which it is located.
 - (9) The total area in square feet of the vacant building, the number of stories contained in the vacant building, the area in square feet of each story, and whether each story is above or below ground level.
 - (10) 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.
 - (11) Such additional information as the applicant desires to include or that the building official deems necessary to aid in the determination of whether the requested certificate of registration should be granted.
- (b) If the application for a certificate of registration is being made for multiple vacant buildings located at the same address, then the information required in Subsection (a) must be provided for each vacant building located at that address.
- (c) A registrant shall notify the building official 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.

§ 8-306 Registration fee.

There is no fee for a certificate of registration.

§ 8-307 Issuance, denial, and display of certificate of registration.

- (a) The building official shall issue a certificate of registration for a vacant building to the applicant if the building official determines that:
- (1) the applicant has complied with all requirements for issuance of the certificate of registration;
 - (2) the applicant has not made a false statement as to a material matter in an application for a certificate of registration; and

- (b) If the building official determines that the requirements of Subsection (a) have not been met, the building official shall deny a certificate of registration to the applicant.
- (c) If the building official determines that an applicant should be denied a certificate of registration, the building official shall deliver written notice to the applicant that the application is denied and include in the notice the reason for denial and a statement informing the applicant of the right of appeal.
- (d) A certificate of registration issued under this section must be displayed to the public in a manner and location approved by the building official. The certificate of registration must be presented upon request to the building official or to a peace officer for examination.

§ 8-308 Revocation of registration.

- (a) The building official shall revoke a certificate of registration for a vacant building if the building official determines that:
 - (1) the registrant failed to comply with any provision of this article or any other city ordinance or state or federal law applicable to the building; or
 - (2) the registrant intentionally made a false statement as to a material matter in the application or in a hearing concerning the certificate of registration.
- (b) Before revoking a certificate of registration under Subsection (a), the building official 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 ten (10) days after the date of delivery to comply with the notice.
- (c) If, after ten (10) days from the date the notice required in Subsection (b) is delivered, the registrant has not complied with the notice, the building official 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 building official orders the revocation, and a statement informing the registrant of the right of appeal.

§ 8-309 Appeal.

- (a) If the building official denies the issuance or renewal of a certificate of registration or revokes a certificate of registration, the action is final unless the registrant files a written appeal to the construction board of appeals within seven (7) calendar days of delivery of the notice of revocation.
- (b) If a written request for an appeal hearing is filed with the building official within the seven-day period, the construction board of appeals shall hear the appeal within thirty (30) days from the City's receipt of the appeal unless otherwise agreed by the City and the appellant.
- (c) Failure to file an appeal in accordance with this section is a waiver of appeal and the building official's decision shall be final.

- (d) The revocation of a certificate of registration is stayed pending appeal.
- (e) At the appeal hearing, the construction board of appeals is limited to affirming or reversing the denial or revocation based upon proof by the appellant that there was error as of the date of the revocation or denial. Subsequent repair, renovation, correction, or payment of a fee shall not form the basis of the board's decision. Otherwise, the appeal shall be handled in accordance with Section 113 of the 2021 International Building Code. The decision of the board is final as to administrative remedies, and no rehearing or appeal may be granted.

§ 8-310 Expiration and renewal of registration.

- (a) A certificate of registration for a vacant building expires the earlier of:
 - (1) one (1) year after the date of issuance;
 - (2) the date the vacant building changes controlling ownership, as determined by the building official;
 - (3) the date the vacant building becomes occupied, as determined by the building official; or
 - (4) the date the vacant building is demolished, as determined by the building official.
- (b) A certificate of registration may be renewed by making application in accordance with Section 8-283 and paying the registration fee, if any, required by Section 8-284. A registrant shall apply for renewal at least thirty (30) days before the expiration of the certificate of registration.

§ 8-311 Transfer of certificate of registration.

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

§ 8-312 Inspection.

- (a) For the purpose of ascertaining whether violations of this article or any other city ordinance or state or federal law applicable to the building exist, the building official is authorized at a reasonable time to inspect:
 - (1) the exterior of a vacant building; and
 - (2) 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.
- (b) The building official shall inspect a vacant building at least once during each 12-month period that the building is not occupied.
- (c) An applicant or registrant shall permit representatives of the police department, the fire department, the 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.

- (d) Whenever a vacant building is inspected by the building official and a violation of this article 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 reinspected by the building official to determine that the violation has been eliminated.

§ 8-313 Emergency response information.

- (a) An owner, operator, or other person in control of a vacant building shall provide the building official with the name, street address, mailing address, and telephone number of a person or persons who can be contacted twenty-four (24) hours a day, seven (7) 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.
- (b) The owner, operator, or other person in control of the vacant building shall notify the building official within five (5) days after any change in the emergency response information.
- (c) 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.
- (d) A sign containing the emergency contact information required in Subsection (a) 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.
- (e) The sign required by Subsection (d) must:
 - (1) comply with the City's sign regulations;
 - (2) be 24 inches tall and 18 inches wide and constructed of a rigid weather-resistant material;
 - (3) contain the words "VACANT BUILDING" contrasting colors that are visible yet harmonious with the city's aesthetic standards, such as black text on a neutral background;
 - (4) be in a format approved by the building official; and
 - (5) be readable day and night.

- (f) 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:
 - (1) a city employee in the performance of official duties; or
 - (2) the owner, operator, or lessee of the vacant building for the purpose of:
 - a. repairing or maintaining the sign;
 - b. complying with this article or a rule or regulation promulgated under this article; or
 - c. removing the sign when registration of the vacant building is no longer required under this article.
- (g) A minor variation of a required or minimum height or width of a sign or lettering is not a violation of this section

§ 8-315 Vacant building plan.

- (a) Within thirty (30) days after the date a certificate of registration is issued for a vacant building, the registrant shall submit to the building official a vacant building plan complying with this section.
- (b) The vacant building plan must contain the following:
 - (1) A plan of action and a time schedule for correcting all existing violations of this article or any other city ordinance or state or federal law applicable to the building or its premises.
 - (2) A plan of action for maintaining the building and its premises in compliance with this article and all applicable city ordinances and state and federal laws.
 - (3) 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.
 - (4) A plan of action for occupying 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.
 - (5) A plan of action and time schedule for any demolition of the building.

- (c) A registrant may update the vacant building plan at any time, but shall provide the building official with an updated vacant building plan at least once every six months that the building is required to be registered under this article.

§ 8-316 through § 8-346. (Reserved)

SECTION 3.

This Ordinance shall be cumulative of all provisions of ordinances and of the Alvarado Code, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 4.

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 in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 5.

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the Alvarado Code amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary of the City of Alvarado is directed to publish the caption and penalty clause of this Ordinance to the extent required by law.

SECTION 7.

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars and no cents (\$2,000.00) for each violation of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 8.


This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 22 DAY OF JANUARY 2025.



JACOB WHEAT, MAYOR

ATTEST:

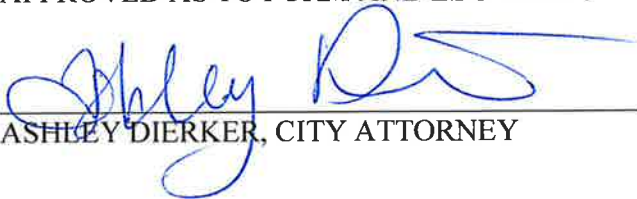


BETH A. WALLS, CITY SECRETARY



EFFECTIVE DATE: _____

APPROVED AS TO FORM AND LEGALITY:



ASHLEY DIERKER, CITY ATTORNEY