

Ordinance No. 08-053

An ordinance adding the “Vacant Structure Registration” Chapter to the Code of the City of Arlington, Texas, 1987, through the addition of Article I through IV; providing for a fine of up to \$500 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication

WHEREAS, there exists in the City of Arlington a large number of vacant structures, which are more likely than occupied structures to become sites of City ordinance violations and illegal activity based on code compliance and public safety history and data; and

WHEREAS, the longer a structure remains vacant, the more likely it becomes that it will be the site of ordinance violations and illegal activity and the more likely it becomes that it will require additional public safety and code compliance resources; and

WHEREAS, vacant structure ordinance violations and illegal activity is detrimental to the public health, safety and welfare of the City of Arlington; and

WHEREAS, the special problems associated with vacant structures require that the City maintain information on location, ownership and status of those structures; and

WHEREAS, registering vacant structures will enable the City to better monitor vacant structures and locate owners for issues that arise concerning structure deterioration or ordinance violations or illegal activity; and

WHEREAS, the Arlington City Council determines that the health, safety and general welfare of the City will be protected and improved by adopting an ordinance to require registration of vacant structures, maintenance plans, and registration fees, NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “Vacant Structure Registration” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby adopted to read as follows:

ARTICLE I

GENERAL PROVISIONS

Section 1.01 Title

This Chapter of the Code of the City of Arlington is hereby designated and shall be known and referred to as the Vacant Structure Registration Chapter of the City Code of Ordinances.

Section 1.02 Purpose

The purpose of this chapter is to protect the public health, safety and welfare of Arlington citizens by requiring the registration of all vacant structures, the submission of a vacant structure maintenance plan and the payment of an annual registration fee in order to monitor, inspect and record the condition of vacant structures. Further, this chapter serves to preserve property and reduce fire safety hazards and unlawful, temporary occupancy by transients. The provisions in this chapter are cumulative of all City ordinances.

Section 1.03 Applicability

The requirements of this chapter shall be applicable to each owner of a structure that has been vacant for more than 180 days except as to a structure that is owned by a federal, state, or local governmental entity.

ARTICLE II

DEFINITIONS

Section 2.01 Definitions

Unless otherwise expressly stated or clearly indicated by the context, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section:

“City” means the City of Arlington, Texas.

“Director” means the Director of the Community Services Department or designee or the City Manager designated Department Directors or designees charged with the enforcement of this chapter.

“Notice of Determination” means the written notice by the Director to an owner that the structure is a vacant structure, a statement of the factual basis for the determination, and the obligations of the owner of the structure to register.

“Occupied” means where one or more persons actually conduct a lawful business or resides in all or any part of the structure as the licensed business-occupant, or as the legal or equitable owner or occupant or tenant on a permanent, non-transient basis, or any combination of the same.

“Owner” means any person, agent, firm or corporation, whether one or more, having a legal or equitable interest in the property; owner or owners recorded in the Official Public Records of Real Property in Tarrant County, specifically in the Tarrant County Clerk’s Office; owner or owners recorded in the records of Tarrant Appraisal District; or any person, agent, firm or corporation otherwise having control of the property, including the 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. There is a rebuttable presumption that the Tarrant Appraisal District’s records identify the owner of the property and the owner’s address.

“Person” means any individual, partnership, firm, corporation, association or other legal entity of whatsoever kind and nature.

“Registration Fee” means the non-refundable annual fee as established by City Council resolution that an owner of a vacant structure is required to remit to the Director each year the structure is vacant. The registration fee is to cover the cost of the vacant structure program including the cost of the City registering and inspecting the vacant structure.

“Registration Form” means that form provided by the Director for an owner to register a vacant structure with the City.

“Reinspection Fee” means the fee as established by City Council resolution which may be assessed for each reinspection when such violation was not corrected after inspection.

“Structure” means any building or structure which is built for the support, shelter, or enclosure or partial enclosure of persons, animal, chattel or moveable property of any kind.

“Vacant” means no person(s) actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the structure as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent, non-transient basis.

“Vacant Structure Maintenance Plan Form” means that form provided by the Director for an owner to provide a vacant structure maintenance plan to the City.

ARTICLE III
REGISTRATION

Section 3.01 Registration

- A. The owner of a vacant structure shall register that structure by completing and filing with the Director a registration form, completing and filing with the Director a vacant structure maintenance plan form, and remitting to the Director the registration fee in the amount as established by City Council resolution within 180 days from the time that the structure becomes a vacant structure in accordance with this chapter. Thereafter, the owner of the vacant structure shall annually register that vacant structure by completing and filing with the Director the registration form, completing and filing with the Director the vacant structure maintenance plan form and remitting to the Director the registration fee in the amount as established by City Council resolution on or before October 31st of every year until such structure becomes occupied or the ownership is transferred.
- B. Upon payment of the full amount due of the annual registration fee to the Director by an owner of a vacant structure, the requirement for remittance of the annual registration fee as described above has been satisfied.
- C. The Director shall provide the registration form that the owner shall complete and file with the Director. The registration form shall include the street address of each vacant structure, the names and address of each owner and any other information deemed necessary for vacant structure identification by the Director.
- D. The Director shall provide a vacant structure maintenance plan form that the owner shall complete and file with the Director.
- E. If the status of any registration information changes including ownership information or the structure becomes occupied, the owner shall contact the Director in writing within 30 days to report such changes.
- F. Any new owner of a vacant structure shall update the registration of that vacant structure by completing and filing with the Director a registration form; completing and filing with the Director a vacant structure maintenance plan form, and remitting to the Director the current annual registration fee for that vacant structure, if it had not been previously paid; and, thereafter, annually registering as described above for an owner.

Section 3.02 Vacant Structure Determination

- A. If the Director has reason to believe that a structure has been vacant for at least 180 days and it is unregistered, the Director shall evaluate the structure and make a determination as to whether the structure is vacant within the meaning of this chapter. If the Director finds the structure is vacant, the Director shall state that determination in writing and the factual basis for the determination. The Notice of Determination shall be based on the definitions and standards in this chapter. The Director shall give written Notice of Determination by either mailing such notice to the owner at the owner's address as recorded in the Tarrant Appraisal District records or by mailing, personal delivery, or verified facsimile transmission to an owner. If such notice is addressed and mailed through the United States Postal Service to the owner at the owner's address as recorded in the Tarrant Appraisal District records and the United States Postal Service returns the notice as "refused" or "unclaimed" the validity of the notice is not affected and the noticed is considered delivered.
- B. The Notice of Determination shall identify the structure; street address or legal description of the property; state the factual basis for the determination; and, the obligations of an owner to register the structure as set forth in this chapter.

Section 3.03 Fees

- A. A registration fee and reinspection fee is hereby authorized to be charged to the ownership of all vacant structures. The fees shall be used to cover the cost of administration of the vacant structure registration program and inspections. The registration and reinspection fees shall be established by City Council resolution.
- B. The registration fee shall be paid on an annual basis. The registration fee billing period shall be October through September (billable in October). The registration fee payment shall be due to the Director by October 31st of every year until such structure becomes occupied. Reinspection fees may be billed monthly and payments shall be due to the Director within thirty (30) days from the billing date.
- C. All registration fees are to be expended during the current billing year as may be necessary to cover the City's direct and indirect cost for administering the registration and inspections required by this chapter. Should there be an unexpended balance at the end of any year, the City shall adjust the fees for the succeeding year, so that the amount produced and paid to the City, together with the unexpended balance will be sufficient to pay the expenses of carrying out the provisions of this chapter.
- D. All fees shall be applied to the year in which they were billed.

Section 3.04 Exceptions

Upon an owner's written request to the Director for an exception to the registration fee requirement and a finding by the Director that a vacant structure qualifies as described below, the following shall be exceptions from the registration fee requirements of this chapter:

1. a vacant structure that has a City building permit in issued status for remodel/repair;
2. a vacant structure that is being actively marketed for sale or lease for less than twelve (12) months by a licensed real estate broker or an owner who is regularly advertising the property; or
3. a vacant structure that is under a contract for sale or lease for less than twelve (12) months.

The Director shall issue such finding in writing and mail such written finding by either mailing such notice to the owner at the owner's address as recorded in the Tarrant Appraisal District records or by mailing, personal delivery, or verified facsimile transmission to an owner.

ARTICLE IV

ENFORCEMENT AND PENALTY

- A. The Director shall enforce the terms and conditions of this chapter when violations occur.
- B. It is an offense to:
 1. fail to provide information required by this chapter;
 2. provide false information on the registration form or vacant maintenance structure plan form; or
 3. fail to perform an act required by this chapter.
- C. Each offense is punishable by a fine not to exceed Five Hundred Dollars (\$500) and each day that the violation continues shall be a separate offense.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred and No/100 Dollars (\$500) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 17th day of June, 2008, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 1st day of July, 2008, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



ROBERT N. CLUCK, Mayor

ATTEST:



KAREN BARLAN, City Secretary



APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY 
