

## Exhibit A

### Vacant Building Registration Program Ordinance

Chapter 3 Building Regulations, Article 3.02 Technical and Construction Codes, Division 1 Generally, Section 3.02.001 is here by revised as follows:

#### “Division 1 Generally

#### Section 3.02.001 Vacant Building Registration Program

##### Section 3.02.001.1 Definitions

In this Section:

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

City – means the City of Leon Valley.

Certificate of Registration – means a certificate of registration issued by the director under this chapter to the owner or operator of a vacant building.

Director – means the director of the department designated by the City Manager to enforce and administer this chapter and includes any representatives, agents, or department employees designated by the director.

Dwelling Unit – means one or more rooms designated 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 conduct business in or reside in at least fifty percent (50%) of the total area of the 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 the valid certificate of occupancy.

Owner – means a person in whom is vested the ownership or title of the real property, including but not limited to:

- a. The holder of a fee simple title;
- b. The holder of a life estate;
- c. The holder of a leasehold estate for an initial term of five (5) years or more;
- d. The buyer in a contract for deed;
- e. A mortgagee, receiver, executor, or trustee in control of the real property;
- f. The named grantee in the last recorded deed; and
- g. Not including the holder of a leasehold estate or tenancy for an initial term of less than five (5) years.

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

Premise or Property – means a lot, plot, or parcel of land, including any structures on such land.

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

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 defined manner.

Vacant Building – means a commercial or industrial building located within the city limits of the City of Leon Valley that, regardless of its structural condition, is not occupied or is occupied by a person without legal right of occupancy. There is a presumption of vacancy if all lawful uses in the buildings have ceased or reasonably appear to have ceased.

### **Section 3.02.001.2 Authority of Director**

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

### **Section 3.02.001.3 Delivery of Notices**

Any written notice that the director is required to give an applicant or registrant under this chapter is deemed to be delivered:

- a. On the date the notice is hand delivered to the applicant or registrant; or
- b. Three (3) 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.

### **Section 3.02.001.4 Violations; Penalty**

- a. A person who violates a provision of this division, or who fails to perform an act required of the person by this division, commits an offense. A person commits a separate offense each day or portion of day during which the violation is committed, permitted, or continued.
- b. Criminal Penalties:
  1. An offense under this division is punishable by a fine not to exceed \$2,000.
  2. An offense under this division is punishable by a fine of not less than \$500 for a first conviction of a violation of this division.
  3. The minimum fine established under subsection b. 2. will be doubled for the second conviction of the same offense within any 24-month period and trebled

- for a third and subsequent convictions of the same offense within a 24-month period. At no time shall the fine exceed the maximum fine established in subsection b.1. above.
4. As an alternative to imposing the criminal penalty prescribed in subsection b. above, the city may impose administrative penalties, fees, and court costs as authorized by Section 54.044 of the Texas Local Government Code for an offense of this Division.
  5. The penalties provided for in subsections a. and b. are in addition to any other enforcement remedies that the city may have under city ordinances and state or federal law.

### **Section 3.02.001.5 Registration and Inspection of Buildings**

- 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 the vacant buildings.
- b. It is a defense to prosecution under this section that:
  1. The building was occupied within the 45-day period preceding the date of the 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 being issued by the Building Inspector (if required) and had been occupied within the 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 for sale and had been occupied within the 90-day period preceding the date of the alleged offense.
  4. Within the 90-day period preceding the date of the offense, the building suffered damage or destruction from 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 an owner, operator, lessee, or other invitee; or
  5. The building was owned by the City of Leon Valley, the Northside Independent School District, the State of Texas, or the United States government.

### **Section 3.02.001.6 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 director. The applicant

must be the person who will own, control, or operate the vacant building. The application must contain all 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 is (such as, but not limited to, a commercial building, apartment complex, warehouse, hotel, boarding home, group home, loft, townhome, condominium, or single-family residence).
  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.
  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. Proof of insurance required by this section.
  7. 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 owned 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.
  10. The date on which the vacant building was last occupied, a description of the last use, 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 director deems necessary to aid in the determination of whether the request certificate of registration should be granted.
- b. If the application for registration is being made for multiple vacant buildings located at the same address, then the information required in subsection (a) above must be provided for each vacant building located at that address.
  - c. A registrant shall notify the director within ten (10) days after any material change in the information contained in the application for certificate of registration for a vacant building, including any changes in the ownership of the property.

### **Section 3.02.001.7 Registration Fee and Inspection Charge**

The fees for a certificate of registration and inspections shall be as stated in Appendix A Fee Schedule. The certificate of registration will be valid for a period of one year, at which time additional inspection will be required and a new certificate of registration issued.

### **Section 3.02.001.8 Issuance, Denial, and Display of Certificate of Registration**

- a. Upon payment of all fees, the director shall issue a certificate of registration for a vacant building to the applicant, if the director determines that:
  1. The applicant has complied with all requirements for the issuance of a certificate of registration
  2. The applicant has not made a false statement as to material matter in the application;
  3. The applicant has no outstanding fees assessed under this Division.
- b. If the director determines that the requirements of subsection (a) have not been met, the director shall deny a certificate of registration to the applicant.
- c. If the director determines that the applicant should be denied a certificate of registration, the director shall deliver written notice to the applicant that the application is denied and include in the notice the reasons for such denial and a statement informing the applicant of his right to appeal the decision.
- d. A certificate of registration issued under this section must be displayed to the public in a manner and location approved by the director. The certificate must be presented upon request to the director or to a peace officer for examination.

### **Section 3.02.001.9 Revocation of Registration**

- a. The director shall revoke a certificate of registration for a vacant building if the director determines:
  1. The registrant failed to comply with any provision of this Division or any other city ordinance or state or federal law applicable to the building.
  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; or
  3. The registrant failed to pay a required fee at the time it was due.
- b. Before revoking a certificate of registration, the director 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 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 to appeal.

### **Section 3.02.001.10 Appeals**

If the director denies issuance or renewal or revokes a certificate of registration of a vacant building, this action is final unless the applicant or registrant files an appeal with the City Council.

### **Section 3.02.001.11 Expiration and Renewal of Registration**

- a. A certificate of registration for a vacant building expires the earlier of:
  1. One year after date of issuance;
  2. The date the vacant building changes controlling ownership, as determined by the director;
  3. The date the vacant building become occupied, as determined by the director;
  4. The date the vacant building is demolished, as determined by the director.
- b. A certificate of registration may be renewed by making application in accordance with Section 3.02.001.7 and paying the registration fee and inspection charge as required by Appendix A Fee Schedule. A registrant shall apply for renewal no later than 30 days prior to the expiration of the certificate of registration.

### **Section 3.02.001.12 Nontransferability**

A certificate of registration for a vacant building is nontransferable.

### **Section 3.02.001.13 Property Inspections**

- a. For the purpose of ascertaining whether violations of this Division 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:
  1. The exterior of a vacant building
  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 director shall cause an inspection of the vacant building at least once during each twelve-month period that the building is not occupied.
- c. Whenever a vacant building is inspected and a violation of this division or another 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 director to determine that the violation has been eliminated.

### **Section 3.02.001.13            Emergency Response Information**

- a. An owner, operator, or other person in control of a vacant building shall provide the director with the name, street address, mailing address, and telephone number of a person or persons who can be contacted twenty-four hours per 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, flood, natural disaster, collapse hazards, burst pipe, serious police incident, or other condition that requires an emergency response to prevent harm to the property or the public.
- b. The owner, operator, or other person in control of the vacant building shall notify the director within five days after any change in emergency repose information.
- c. The owner, operator, or other person in control of a vacant building, or an authorized agent, must arrive at the premises of the vacant building within one hour after a contact person named under this section has been notified by the city or emergency response personnel that an emergency condition had 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 façade of the vacant building that faces a public right of way.
- e. The sign required by this section must:
  1. Comply with the City’s sign regulations
  2. Be twenty-four inches (24”) tall and eighteen inches (18”) wide and constructed of a rigid weather resistant material
  3. Contain the words “Vacant Building” in a 2-3/8 inch high and 2-inch-wide black letters on a bright yellow background, followed by the information required in this section.
  4. Be in a format approved by the director
  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 the prosecution under this subsection that the removal or obstruction was caused by:
  1. A city employee in the performance of his duties
  2. The owner, operator, or lessee of the vacant building for the purpose of:
    - A. Repairing or maintaining the sign;
    - B. Complying with this division or a rule or regulation promulgated under this division
    - C. Removing the sign when registration of the vacant building is no longer required under this section.
- g. A minor variation of a required minimum height or width of a sign or lettering is not a violation of this section.

**Section 3.02.001.14****Insurance**

- a. The registrant shall procure, prior to the issuance of a certificate of registration, and keep in full force and effect at all times during the registration period, commercial general liability insurance coverage (including, but not limited to, premise/operations and personal and advertising injury) protecting the City of Leon Valley 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 annual aggregate.
- b. 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 as an additional insured and provide for 30 days written notice to the director of cancellation, non-renewal, or material change to the insurance policy.
- c. 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 Division.

**Section 3.02.001.15****Vacant Building Plan**

- a. Within 30 days after the date a certificate of registration is used for a vacant building, the registrant shall submit to the director a vacant building plan complying with this section.
- b. The vacant building plan must include:
  1. A plan of action and a time schedule for correcting all existing violations of this division or any other city ordinances 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 division and any other city ordinances or state or federal law.
  3. A plan of action for maintaining the building and a safe and secure manner, including, but not limited to, any provision 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 director with an updated vacant building plan at least once every six months that the building is required to be registered under this division.