

**AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; UPDATING ALLOWED USES AND INSTITUTING REGISTRATION AND STANDARD OF CARE REQUIREMENTS FOR VACANT STRUCTURES WITHIN THE HISTORIC OVERLAY DISTRICT; ADOPTING VACANT STRUCTURE REGISTRATION AND INSPECTION FEES; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code;

**WHEREAS**, the City of Killeen has designated an area within the City of Killeen as a Historic Overlay District (HOD); and,

**WHEREAS**, the City Council finds that registration and standard of care requirements for vacant structures in the HOD will help preserve the historic character of the HOD and will help conserve the value of the structures and community as a whole; and,

**WHEREAS**, the City Council finds that such amendments are necessary and will provide consistent and even application of regulations to all applicants;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.** That Chapter 31, Article IV, Division 17 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

**Sec. 31-391. - Definitions.**

For the purposes of this division, the following definitions shall apply:

*Awning* shall mean a shelter projecting from and supported by the exterior wall of a building constructed of rigid and non-rigid materials on a supporting framework.

*Auxiliary sign* shall mean a sign indicating general information such as credit cards, pricing official notices required by law, directions, shop hours, community services, occupant and profession, and realty information.

*Banner* shall mean a sign made of cloth, plastic, or light fabric with no enclosing framework. Pennants are considered banners.

*Department* shall mean the Planning and Development Services Department for the City of Killeen, Bell County, Texas.

*Director* shall mean the Executive Director of Development Services.

*Downtown action agenda* shall mean the document adopted by city council per resolution 07-023R.

*Façade* shall mean the entire building front including the parapet.

*Ground sign* shall mean a billboard or similar type of sign which is supported by one or more uprights, poles or braces in or upon the ground.

*Hanging sign* shall mean any sign affixed to either an awning or the building.

*Historic* shall mean properties older than fifty years.

*Historic Overlay District* shall mean all property located within the historic district as identified in the 2008 historic resources survey and described as:

Point of beginning intersection of Santa Fe Plaza Drive & 8<sup>th</sup> Street; thence north 14 deg. 30' 0.60" east 537.46 feet; thence south 76 deg. 9' 7" east 198.66 feet; thence north 13 deg. 56' 53" east 424.30 feet; thence north 76 deg. 3' 17" west 764.08 feet; thence south 15 deg. 7' 45" west 248.06 feet; thence north 75 deg. 43' 33" west 196.48 feet; thence south 14 deg. 10' 31" west 736.10 feet; thence south 75 deg. 30' 5" east 384.33 feet; thence north 13 deg. 13' 32" east 31.89 feet; thence south 75 deg. 43' 59" east 378.61 feet to the point of the beginning.

A map of the area described is available in the city planning office.

*Internally lit sign* shall mean a sign with an artificial light source incorporated internally for the purpose of illuminating the sign.

*Live/Work Unit* shall mean a building or space within a building used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of business.

*Mixed-Use* shall mean a building or structure that contains a mixture of commercial and residential uses.

*Off-premises sign* shall mean a sign visible from any public traveled road or street displaying advertising or other copy that pertains to any business, person, organization, activity, event, place, service, or product not manufactured, sold, or provided on the same premises on which the sign is located. This definition for off-premises signs shall include any sign that does not qualify as an approved on-premises sign.

*Owner* shall mean any person, firm, partnership or corporation having a legal interest in the property.

*Parapet* shall mean a low protective wall along the edge of the roof.

*Poster* shall be a sign made of paper or any non-rigid material with no enclosing framework.

*Projecting sign* shall mean a sign other than a wall sign, which projects from and is supported by a wall of a building or structure.

*Reflective tinting* shall mean any window tinting which demonstrates a reflective quality and impedes clear visibility into a building.

*Roof sign* shall mean a sign erected upon or above a roof or parapet of a building or structure.

*Secured* shall mean that 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* shall mean that 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.

*Sign* shall mean any letter, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated service, which shall be constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, whatsoever, which is displayed in any manner outdoors.

*Sign area* shall mean that area being the total square footage of the combined message or display surface. This area does not include structural supports for a sign, whether they be columns, pylons, or a building, or part thereof.

*Sign structure* shall mean any structure which supports or is capable of supporting a sign.

*Temporary sign* shall mean any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, metal, or other light materials, not intended for long term use. Banners and posters are temporary signs.

*Vacant structure* shall mean a structure in which all activity for which the structure was built or intended to be used has ceased, or reasonably appears to have ceased for thirty (30) days or more.

*Wall sign* shall mean any sign attached to or erected against the wall of a building or structure, with the exposed face in a plane parallel to the plane of the wall as defined in appendix H of the city's adopted building code.

*Window covering* shall mean any material including, but not limited to, curtains, wood, fabric, cardboard, or paper which impedes visibility and is not intended to be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise, whatsoever, which is affixed in any manner to the window or area surrounding the window.

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**Sec. 31-393. - ~~Overlay district boundary.~~ Vacant Structures in the Historic Overlay District.****A. Applicability and administration.**

1. This section shall apply to all vacant structures, as defined in this Division, which are now in existence or which may hereafter be constructed or converted from other uses and which are located within the boundary of the Historic Overlay District (HOD).
2. The director or designee is authorized to administer and enforce the provisions of this section.
3. The director or designee shall have the authority to render interpretations of this Division and to adopt policies and procedures in order to clarify the application of its provisions.

**B. Registration required.**

1. The owner of a vacant structure shall have ninety (90) days from the date that written notice is issued to the property owner in which to register a vacant structure with the City of Killeen Development Services Department. Written notice shall be issued to the owner of a vacant structure by means of personal service, or by first class mail to the last known address according to Bell County Appraisal District records, and by posting notice 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.
2. Upon the issuance of a notice to register a vacant structure, a property owner shall register with the Department and provide the following information:
  - a. The address and legal description of the property;
  - b. The name, physical address, mailing address, telephone number, and email information for any property owner(s) with an interest in the property. Corporations or corporate entities shall submit the same information pertaining to their registered agent.
  - c. The contact information for a local property manager for the property.
  - d. Proof of property insurance in an amount not less than the appraised value of the structure, as determined by the Bell County Appraisal District, or a surety bond for the value of structure if insurance cannot be obtained. This subsection is not applicable to single family residential structures.
  - e. A completed comprehensive plan of action form, provided by the department, detailing a timeline for correcting code enforcement violations, conducting

rehabilitation and maintenance of the structure, and a plan for future use of the structure. The plan of action form must be updated every six (6) months.

- f. A complete floor plan of the property for use by first responders in the event of a fire or other catastrophic event.
  - g. Confirmation of criminal trespass affidavit, which shall be filed by the property owner with the Killeen Police Department. 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 and/or criminal violations.
3. The owner of a vacant structure 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 property manager.
    - iii) Written notice must be provided to the department no later than thirty (30) days after said changes have occurred.
  4. Continued annual registration of the property by the owner of a vacant structure is required until said structure is deemed occupied and in compliance with all relevant code requirements by the director.

C. Property manager.

1. The owner of a vacant structure must designate a local property manager for said properties and include the relevant contact information for the designated property manager upon registering the property with the department. Designated 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.
2. The property manager must be available at the number listed at all times in the event of an emergency or catastrophe. For all vacant properties except for single-family residential structures, the name and telephone number of the property manager must be posted at the front of the building in large, legible print.

D. Standard of care for vacant property.

1. The standard of care, subject to approval by the director, shall include, but is not limited to:
  - a. *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.

- b. *Premises identification:* The property shall have address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four (4) inches high with a minimum stroke width of one-half (1/2) inch. All buildings shall display a vacant building identification placard as required by the director.
- c. *Structure:* All structural members and foundation shall be maintained free from deterioration, and shall be capable of safely supporting the imposed loads.
- d. *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.
- e. *Roof and drainage:* The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent accumulation, dampness or deterioration. Roof drains, gutters and downspouts shall be maintained in good repair, free from obstructions and operational.
- f. *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.
- g. *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.
- h. *Stairways, decks, porches and balconies:* All exterior stairways, decks, porches, and balconies, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- i. *Chimneys and towers:* All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair.
- j. *Handrails and guards:* All exterior handrails and guards shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

- k. Window, skylight and door: All windows, storefronts, skylights, and exterior door parts, 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 temporary securing measure, and the same shall be removed within a period of time designated by the director.
- l. Basement hatchways and windows: All basement hatchways 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.
- 2. All repairs shall be subject to approval by the director. All required permits and final inspections prior to and/or following repairs shall be in accordance with applicable laws and rules. Historic properties and properties within the designated Historic Overlay District are additionally subject to all applicable rules and regulations as codified in this Chapter.
- 3. Failure to maintain a vacant structure to the standard of care specified by the director is a violation of this section.

E. Jurisdiction, enforcement and penalties.

- 1. 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 owner of a vacant structure by means of personal service, or by first class mail to their last known address according to Bell County Appraisal District records, and by posting on the property.
- 2. Failure to register with the department after written notice to owner of a vacant structure, as is hereinafter specified, is a violation of this Chapter pursuant to Section 31-7.

~~The historic overlay district boundary regulations apply to all property located within the historic district as identified in the 2008 historic resources survey and described as:~~

~~Point of beginning intersection of Santa Fe Plaza Drive & 8<sup>th</sup> Street; thence north 14 deg. 30' 0.60" east 537.46 feet; thence south 76 deg. 9' 7" east 198.66 feet; thence north 13 deg. 56' 53" east 424.30 feet; thence north 76 deg. 3' 17" west 764.08 feet; thence south 15 deg. 7' 45" west 248.06 feet; thence north 75 deg. 43' 33" west 196.48 feet; thence south 14 deg. 10'~~

~~31" west 736.10 feet; thence south 75 deg. 30' 5" east 384.33 feet; thence north 13 deg. 13' 32" east 31.89 feet; thence south 75 deg. 43' 59" east 378.61 feet to the point of the beginning.~~

~~A map of the area described is available in the city planning office.~~

**Sec. 31-394. - Conditional use Permit Use Regulations.**

A. A building or premises in the Historic Overlay District shall allow all uses within the "B-5" Business District with the following exclusions:

1. Mini self-storage facilities.
2. Storage warehouses.
3. Tire recapping or retreading.
4. Impound yards.
5. Auto upholstery or muffler shop.
6. Auto repair.
7. Appliance (household) sales and service.
8. Electric utility substation.

B. A building or premises in the Historic Overlay District may be used for mixed-use development or live/work purposes, provided that the following conditions are met:

1. The ground floor of all mixed-use buildings shall be designed, constructed, and used only for commercial uses. Residential uses shall be permitted only on the second floor and above.
2. Any structure or portion of a structure that is mixed-use or live/work shall comply with all applicable City of Killeen ordinances, including all building and residential codes.

—Conditional use permit

C. The City Council by an affirmative majority vote may by ordinance grant a conditional use permit as provided in section 31-456 of this chapter for any business land use or any use identified in the "full list" of the Killeen downtown action agenda for a specific parcel in the district and may impose appropriate conditions and safe guards to assure that these land uses are compatible with the character of the district setting and buildings. Conditional use permits granted shall be considered permanent provided the property owner remains in continuous compliance with any conditions or safeguards imposed.

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**SECTION II.** That the City of Killeen Comprehensive Fee schedule is hereby amended to add the following Planning and Development fees:

<u>Type</u>	<u>Unit</u>	<u>Frequency</u>	<u>Amount</u>
Vacant Structure Registration (1 <sup>st</sup> Year)	per application	per annum	\$500.00
Vacant Structure Registration (2+ years)	per application	per annum	\$500.00 plus Additional \$50.00 X the number of years the structure remains on the registry after the first year
Vacant Structure Registration (late fee)	per late application	per occurrence	\$150.00
Vacant Structure Inspection	per inspection	per annum	\$.01 X square feet

**SECTION III.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

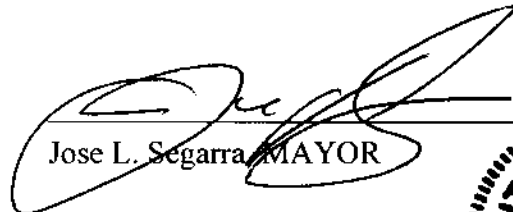
**SECTION IV.** That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION V.** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

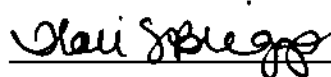
**SECTION VI.** That this ordinance shall be effective after its passage and publication according to law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 4th day of August, 2020, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED**

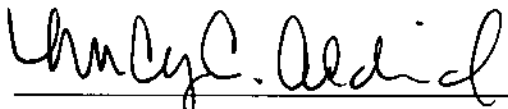
  
Jose L. Segarra, MAYOR

**APPROVED AS TO FORM:**



Traci S. Briggs, CITY ATTORNEY

**ATTEST:**

  
Lucy C. Aldrich, CITY SECRETARY



**CITY COUNCIL MEMORANDUM FOR ORDINANCE**

**DATE:** July 21, 2020

**TO:** Kent Cagle, City Manager

**FROM:** Tony D. McIlwain, AICP, CFM, Executive Director of Planning and Development Services

**SUBJECT:** An ordinance amending Chapter 31 of the Code of Ordinances regulating storage facilities, allowing mixed use developments, implementing a vacant structure registry, and adopting vacant structure registration and inspection fees

**BACKGROUND AND FINDINGS:**

Killeen Code Ordinances Section 31-392 states the Historic Overlay District (HOD) "is envisioned as a tool to help stabilize and improve property values; to encourage neighborhood conservation; to foster civic pride and past accomplishments; to protect and enhance city attractions for tourists and residents; to strengthen the economy; and to promote the use of historical and cultural landmarks for the general welfare of the community."

In congruence with this purpose of the HOD, staff has made observations which evaluate the existing inventory of buildings within the Historic District and have noted that:

- There are 43 vacant buildings out of 110 structures, which is a 39% vacancy condition;
- There is a need to encourage mixed-use and occupancy of existing structures; and
- There are store front buildings being used solely for storage purposes, with no active contributing business.

The proposed ordinance includes a prohibition of storage facilities, provisions for mixed use development and the implementation of a vacant structure registry within the Historic Overlay District. The effect of the proposed ordinance is to discourage inactivity within the HOD, while improving opportunities for economic development and investment.

Notification of the Chapter 31 changes were provided to owners of property within the Historic Overlay District along with advance notification of the following three (3) meetings:

- The Heritage Preservation Board meeting on May 26th;
- The Planning and Zoning Board meeting on July 6th; and
- The City Council meeting on July 21st.

In addition, staff published the notification in the Killeen Daily Herald for the above referenced City Council meeting.

In conjunction with the vacant structure registration requirements, proposed ordinance amends the Comprehensive Fee Schedule and adopts fees for registration and inspection of vacant structures. The City's peer cities do not have vacant structure registration requirements. Staff did compare fees from other cities and based on these findings, recommends the following fees:

Vacant Structure Registration (1 <sup>st</sup> Year)	per application	per annum	\$500.00
Vacant Structure Registration (2+ years)	per application	per annum	\$500.00 plus Additional \$50.00 X the number of years the structure remains on the registry after the first year
Vacant Structure Registration (late fee)	per late application	per occurrence	\$150.00
Vacant Structure Inspection	per inspection	per annum	\$.01 X square feet

### **THE ALTERNATIVES CONSIDERED:**

The City Council has the following alternatives:

- disapprove the ordinance;
- approve the ordinance with amendments; or
- approve the ordinance as presented.

**Which alternative is recommended?** Staff recommends that the City Council approve the ordinance as presented.

**Why?** Approval of the proposed ordinance will address health, safety and viability concerns in the Historic Overlay District, allow for a work-play-live atmosphere, and will provide assistance to building owners and documentation of their efforts through the vacant structure registry. In addition, the proposed ordinance will encourage more investment into the area as vacant structures will be maintained and more structures will be ready to host active businesses.

### **CONFORMITY TO CITY POLICY:**

It is the City's policy to comply with state law. This ordinance, if approved by City Council, fulfills this requirement.

### **FINANCIAL IMPACT:**

**What is the amount of the expenditure in the current fiscal year?** This ordinance does not involve any expenditures in the current fiscal year.

**For future years?** N/A

**Is this a one-time or recurring expenditure?**

N/A

**Is this expenditure budgeted?**

N/A

**If not, where will the money come from?**

N/A

**Is there a sufficient amount in the budgeted line-item for this expenditure?**

N/A

**RECOMMENDATION:**

The Heritage Preservation Board (May 26th meeting) recommended approval of the ordinance by a vote of 3 to 0. The Planning and Zoning Commission (July 6th meeting) recommended approval of the ordinance by a vote of 8 to 0. City staff recommends approval of the ordinance as presented.

**DEPARTMENTAL CLEARANCES:**

Legal