

081888

6/20/08

ORDINANCE NO. 27248

An ordinance adding CHAPTER 48B, "VACANT BUILDINGS," composed of Sections 48B-1 through 48B-17, to the Dallas City Code, as amended; defining terms; providing requirements, procedures, and fees for the registration and inspection of vacant buildings in the central business district of the city; providing defenses; providing an appeal process for the denial or revocation of a certificate of registration; providing signage requirements; providing insurance requirements; requiring a vacant building plan; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the Dallas City Code, as amended, is amended by adding new CHAPTER 48B, "VACANT BUILDINGS," composed of Sections 48B-1 through 48B-17, to read as follows:

"CHAPTER 48B

VACANT BUILDINGS

ARTICLE I.

GENERAL PROVISIONS.

SEC. 48B-1. PURPOSE OF CHAPTER.

(a) There exists in the central business district of the city of Dallas, Texas, many vacant buildings that, if left unoccupied and unmonitored, may fall into a state of disrepair, become a haven for criminal activity, and create a blight on the area. The purpose of this chapter is to protect the health, safety, morals, and welfare of the citizens of the city of Dallas by establishing a registration program for vacant buildings in the central business district in order to

monitor the vacant buildings and ensure that they are maintained in compliance with this code and other applicable laws and to encourage their demolition or return to occupancy in a timely manner.

SEC. 48B-2. DEFINITIONS.

In this chapter:

(1) BUILDING means a structure for the support or shelter of any use or occupancy.

(2) CENTRAL BUSINESS DISTRICT means the area of the city bounded by Woodall Rodgers Freeway on the north, Central Expressway (elevated bypass) on the east, R. L. Thornton Freeway on the south, and Stemmons Freeway on the west.

(3) CERTIFICATE OF REGISTRATION means a certificate of registration issued by the director under this chapter to the owner or operator of a vacant building.

(4) 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.

(5) 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.

(6) OCCUPIED means that one or more persons 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.

(7) OWNER means a person in whom is vested the ownership or title of real property:

(A) including, but not limited to:

(i) the holder of fee simple title;

(ii) the holder of a life estate;

(iii) the holder of a leasehold estate for an initial term of five years or more;

(iv) the buyer in a contract for deed;

(v) a mortgagee, receiver, executor, or trustee in control of real property; and

(vi) the named grantee in the last recorded deed; and

(B) not including the holder of a leasehold estate or tenancy for an initial term of less than five years.

(8) PERSON means any individual, corporation, organization, partnership, association, governmental entity, or any other legal entity.

(9) PREMISES or PROPERTY means a lot, plot, or parcel of land, including any structures on the land.

(10) REGISTRANT means a person issued a certificate of registration for a vacant building under this chapter.

(11) 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.

(12) VACANT BUILDING means a building located in the city's central business district that, regardless of its structural condition, is not occupied.

SEC. 48B-3. AUTHORITY OF DIRECTOR.

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

SEC. 48B-4. 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:

(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.

SEC. 48B-5. VIOLATIONS; PENALTY.

(a) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, 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) Criminal penalties.(1) An offense under this chapter is punishable by a fine not to exceed \$2,000.(2) An offense under this chapter is punishable by a fine of not less than \$500 for a first conviction of a violation of Section 48B-6.(3) The minimum fine established in Subsection (b)(2) will be doubled for the second conviction of the same offense within any 24-month period and trebled for the third and subsequent convictions of the same offense within any 24-month period. At no time may the minimum fine exceed the maximum fine established in Subsection (b)(1).(c) The culpable mental state required for the commission of an offense under this chapter is governed by Section 1-5.1 of this code.(d) As an alternative to imposing the criminal penalty prescribed in Subsection (b), the city may impose administrative penalties, fees, and court costs in accordance with Article IV-b of Chapter 27 of this code, as authorized by Section 54.044 of the Texas Local Government Code, for an offense under this chapter. The alternative administrative penalty range for an offense is the same as is prescribed for a criminal offense in Subsection (b).(e) The penalties provided for in Subsections (b) and (d) are in addition to any other enforcement remedies that the city may have under city ordinances and state law.**ARTICLE II.****REGISTRATION AND INSPECTION OF
VACANT BUILDINGS.****SEC. 48B-6. 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 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 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 90-day period preceding the date of the alleged offense;

(4) within the 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 Dallas, the State of Texas, or the United States government.

SEC. 48B-7. 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 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 is (such as, but not limited to, a commercial building, a warehouse, an office, a hotel, an apartment complex, a boarding home, a group home, a loft, a townhome, a condominium, or a 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 as required by Section 48B-15 of this chapter.

(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 Section 48B-16 of this chapter.

(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 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 director 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 director 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.

SEC. 48B-8. REGISTRATION FEE AND INSPECTION CHARGE.

(a) The fee for a certificate of registration for a vacant building is \$75, plus an inspection charge in an amount equal to $\$185.64 + (\$0.009282 \times \text{total square feet of building area, excluding stairwells, elevator shafts, and mechanical rooms})$.

(b) If one certificate of registration is issued for multiple vacant structures located at the same address, the inspection charge will be calculated using the aggregate area in square feet of all the vacant buildings.

(c) If a certificate of registration expires under Section 48B-12 and the registration term was less than six months, then the registration fee (minus the inspection charge) may be prorated on the basis of whole months and partially refunded to the registrant, if the director receives a written request for the refund from the registrant within 90 days after expiration of the certificate of registration. If a certificate of registration expires under Section 48B-12 and no inspection was conducted by the city during the registration term, then the full inspection charge may be refunded, if the director receives a written request for the refund from the registrant within 90 days after expiration of the certificate of registration. Otherwise, no refund of a registration fee or inspection charge will be made.

27248

SEC. 48B-9. ISSUANCE, DENIAL, AND DISPLAY OF CERTIFICATE OF REGISTRATION.

(a) Upon payment of all required 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 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

(3) the applicant has no outstanding fees assessed under this chapter.

(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 an 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 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 director. The certificate of registration must be presented upon request to the director or to a peace officer for examination.

SEC. 48B-10. REVOCATION OF REGISTRATION.

(a) The director shall revoke a certificate of registration for a vacant building if the director determines that:

(1) the registrant failed to comply with any provision of this chapter 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 fee required by this chapter at the time it was due.

(b) Before revoking a certificate of registration under Subsection (a), 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 10 days after the date of delivery to comply with the notice.

(c) If, after 10 days from the date the notice required in Subsection (b) 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 of appeal.

SEC. 48B-11. APPEALS.

If the director denies issuance or renewal of a certificate of registration or revokes a certificate of registration, this action is final unless the applicant or registrant files an appeal with a permit and license appeal board in accordance with Section 2-96 of this code.

SEC. 48B-12. EXPIRATION AND RENEWAL OF REGISTRATION.

(a) A certificate of registration for a vacant building expires the earlier of:

- (1) one year after the date of issuance;
- (2) the date the vacant building changes controlling ownership, as determined by the director;
- (3) the date the vacant building becomes occupied, as determined by the director; or
- (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 48B-7 and paying the registration fee and inspection charge required by Section 48B-8. A registrant shall apply for renewal at least 30 days before the expiration of the certificate of registration.

SEC. 48B-13. NONTRANSFERABILITY.

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

SEC. 48B-14. PROPERTY INSPECTIONS.

(a) For the purpose of ascertaining whether violations of this chapter 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; 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 director 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 department of environmental and health services, 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 director and a violation of this chapter 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 director to determine that the violation has been eliminated.

ARTICLE III.

MISCELLANEOUS REQUIREMENTS FOR VACANT BUILDINGS.

SEC. 48B-15. 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 24 hours a 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, 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 director within five 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" in 2-3/8-inch-high and two-inch-wide black letters on a bright yellow background followed by the information required in Subsection (a) in one-inch-high black letters on a bright yellow background;
- (4) be in a format approved by the director; 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 chapter or a rule or regulation promulgated under this chapter; or
 - (C) removing the sign when registration of the vacant building is no longer required under this chapter.

(g) A minor variation of a required or minimum height or width of a sign or lettering is not a violation of this section.

SEC. 48B-16. 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 term, commercial general liability insurance coverage (including, but not limited to, premises/operations and personal and advertising injury) protecting the city of Dallas 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 and its officers and employees as additional insureds 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 chapter.

SEC. 48B-17. VACANT BUILDING PLAN.

(a) Within 30 days after the date a certificate of registration is issued 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 contain the following:

(1) A plan of action and a time schedule for correcting all existing violations of this chapter 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 chapter 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 director with an updated vacant building plan at least once every six months that the building is required to be registered under this chapter.”

SECTION 2. That the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect on September 1, 2008, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By *Dana Christopher*
Assistant City Attorney

Passed **JUN 25 2008**

LC/DCC/00433A