



## ORDINANCE NO. 3170

**AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 22 “BUILDINGS AND BUILDING REGULATIONS” BY ADDING ARTICLE XII “VACANT BUILDING REGULATIONS” ESTABLISHING VACANT BUILDING REGISTRATION AND INSPECTION REQUIREMENTS; AND BY AMENDING THE CODE OF ORDINANCES APPENDIX A “FEE SCHEDULED” BY ESTABLISHING A REGISTRATION AND INSPECTION FEE FOR VACANT BUILDINGS; AND PROVIDING FOR A PENALTY NOT TO EXCEED \$2000.00; PROVIDING A SAVINGS CLAUSE, PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, vacant commercial and residential buildings exist within the City of Farmers Branch; and

**WHEREAS**, buildings that remain vacant discourage economic development, become an attractive nuisance for children, a harborage for rodents and other vermin, an invitation to vagrants and criminals become more vulnerable to arson, have an adverse affect on nearby businesses and residences and their property values and are public nuisances; and

**WHEREAS**, with the increase in demand for copper, vacant buildings attract thieves who remove copper from the buildings which, aside from resulting in a structural degradation of the building, may pose environmental risks, including increased exposure to asbestos resulting from damage to walls, ceilings, plumbing and other piping and vents; and

**WHEREAS**, the State of Texas recognized the potential need to address vacant buildings in Section 214.231 of the Local Government Code; and

**WHEREAS**, the City Council of the City of Farmers Branch deems that a vacant building registration program that allows the City to monitor vacant buildings, their occupancy or demolition and ensures their maintenance, security, repair and return to economic usefulness promotes the protection of the health, safety, welfare and morals of the residents and the general public;

**NOW THEREFOR BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, THAT:**

**SECTION 1.** All matters stated above are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

**SECTION 2.** Chapter 22 titled “Building and Building Regulations” of the Code of Ordinances of the City of Farmers Branch is amended by adding Article XII “Vacant Building Regulations” to read as follows:

**ARTICLE XII.  
VACANT BUILDING REGULATIONS**

**DIVISION 1. GENERALLY**

**Sec. 22-701. – Registration Required.** Pursuant to this Article, buildings deemed to be vacant shall maintain a valid vacant building registration with the City and shall be maintained in accordance with the codes and ordinances of the City.

**Sec. 22-702. – Revocation.**

- (a) The Building Official may revoke the vacant building registration if:
  - (1) The owner fails to comply with any of the provision of this Article, any other City ordinance, State law, or Federal law applicable to vacant buildings or properties or
  - (2) The owner intentionally makes false statement regarding a material matter on the registration form or in a hearing concerning the property.
- (b) Prior to revoking the registration, the Building Official shall deliver written notice of the possible revocation, the basis for the revocation, and a statement that the owner has ten (10) days after delivery to comply with the notice to prevent revocation.
- (c) Upon revocation of the registration, the Building Official shall send written notice of revocation to the owner of the property, which shall include a summary of the reasons for the revocation.
- (d) The Building Official may reinstate a registration one time during the registration period if the basis of the revocation is remedied within thirty (30) days of the revocation and a fee equal to 50% of the registration fee is paid.

**Sec. 22-703. – Definitions.**

“Building” means any enclosed structure designed or constructed for use as a habitation or for a commercial use, including engaging in trade or manufacture.

“Building Official” means the Building Official of the City of Farmers Branch or designee or the City Manger’s designee charged with the enforcement of this Article.

“Occupy, Occupies or Occupied” means an area of a building where one or more persons actually conduct a lawful business or resides as the legal business-occupant, or occupant, or tenant on a permanent, non-transient basis, pursuant to a valid Certificate of Occupancy.

“Owner” means the person that owns the real property on which a building is located according to:

- (a) The real property records in the office of the Dallas County Clerk;  
or
- (b) The records of the Dallas Central Appraisal District.

In the event of a conflict between the records of the Dallas County Clerk and the Dallas Central Appraisal District, the most recently updated records shall control.

“Unit” means an enclosed area designed or constructed for habitation by a single family or for a commercial tenant.

**Sec. 22-704. – Enforcement.**

The Building Official or designee shall implement and enforce the provisions of this Article in conformance with Chapter 56 “Property Maintenance” Article II “Health and Safety Requirements” Division 2 “Administration and Enforcement”.

**Sec. 22-705. – Applicability.**

The requirements of this Article shall be applicable to each owner of a building that has been presumed vacant. A building shall be presumed vacant if:

- (a) All lawful residential, commercial recreational, charitable, or construction activity at the building have ceased or reasonably appears to have ceased for more than 150 days; or
- (b) The building contains more than three units, 75 percent or more of which have not been used lawfully, or reasonably appear not to have been used lawfully, for more than 150 days.

**Sec. 22-706. – Violations; Penalty.**

In addition to any other enforcement remedies that the City may have under other City ordinances or state law, any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and, upon conviction in Municipal Court, shall be subject to a fine not to exceed \$2,000.00 for each offense, and each and every day such violation continues, it shall constitute a separate offense.

**DIVISION 2. COMMERCIAL AND RESIDENTIAL BUILDINGS  
(INCLUDING MULTIPLE FAMILY STRUCTURES)**

**Sec. 22-707. – Vacant Building Determination.**

- (a) If the Building Official has reason to believe that a building has been vacant for at least 150 days and has not been registered as a vacant building, the Building Official shall evaluate the building and make a determination as to whether the building is vacant pursuant to Sec. 22-705. If the Building Official determines the building is vacant, the Building Official shall state in writing that determination and the factual basis for the determination. The Building Official shall give written notice of the determination by either mailing such notice to the owner(s) of the property or by personal delivery to the owner(s) of the property. If such notice is addressed and mailed through the United States Postal Service to the owner at the owner's address as shown in the records of the Dallas Central Appraisal Districts and the United States Postal Service returns the notice, the validity of the notice is not affected and the notice is considered delivered.
- (b) The notice shall identify the building; street address or legal description of the property; state the factual basis for the determination; and, the obligation of the owner to register the building as set forth in this Article.
- (c) Within 30 days of the Building Official's determination that the building is vacant, the property owner may provide a written dispute to the determination and provide evidence reflecting why the building should not be deemed vacant. The Building Official shall consider the owners dispute and after evaluation of all of the evidence, inform the owner of any determination made regarding the status of the vacant building determination.

- (d) Appeals to the Building Official's determination shall be set forth in Section 22-704.

**Sec. 22-708. – Registration.**

- (a) Any owner of a vacant building shall obtain and maintain a current and valid registration for each vacant building.
- (b) The City, an independent school district, the United States of America, the State of Texas, or any political subdivision, department, or agency of any of the foregoing are exempt from the provisions of this section.
- (c) The owner shall complete the application for registration and pay the required fees as set forth in Appendix A of this Code.
- (d) The Building Official shall issue the vacant building registration when the Building Official determines:
  - (1) The owner has submitted the completed form,
  - (2) All required fees have been paid;
  - (3) The Building Official has inspected the building in conformance with Sec. 22-709.
- (e) If the Building Official determines that all of the requirements of this section have not been met, the Building Official shall deny the registration. The Building Official shall deliver written notice of denial to the owner including the basis for denial.
- (f) The registration required by this section shall expire on the earlier of:
  - (1) One year after the date of issuance;
  - (2) Upon demolition of the building;
  - (3) When ownership of the building changes; or
  - (4) When the building becomes legally occupied pursuant to a valid Certificate of Occupancy.

- (g) A registration of a vacant building issued pursuant to this section is not transferable.
- (h) The owner shall place a sign made of durable, weather-resistant material which is not less than three inches (3.0") by eight inches (8.0") in size on or near the front door of the building which contains in clearly legible print:
  - (1) the name and 24-hour contact phone number of the person that is authorized by the owner to make decisions regarding the day-to-day supervision, management and maintenance of the building and premises;
  - (2) the words "THIS PROPERTY MANAGED BY..." and "TO REPORT PROBLEMS OR CONCERNS CALL"; and
  - (3) such other information which will identify the property to the owner's agent.

**Sec. 22-709. – Inspections.**

Prior to the initial issuance and each renewal of the registration by the Building Official, the owner shall allow the Building Official or designee to perform an inspection of the building and property. The Building Official shall provide a report to the owner denoting any issues found to be in non-compliance with any provisions of the applicable building, plumbing, mechanical, electrical, property maintenance, zoning, dangerous building code or any other applicable code adopted by the City. The Building Official shall determine what issues found during the inspection need immediate attention and issues that may be corrected prior to occupancy of the building. All of the noted issues shall be addressed or, in the case of a renewal inspection, readdressed, on the vacant building plan.

**Sec. 22-710. – Maintenance Bond.**

- (a) The Building Official may require the owner of vacant property to post a cash bond, letter of credit or escrow deposit in the amount of \$2500.00 to secure future compliance when a vacant commercial and residential building has been the subject of action by the City to abate any violation City ordinance within the twelve (12) months preceding the date of the initial or renewal registration. The owner shall post the bond or other security within 30 days after the receipt of notice from the Building Official that such bond is required. In the event the amount of the bond or other security is reduced or depleted for the purpose of bringing

the property into compliance with applicable City code violations after the bond or other security has been posted with the City, the owner shall, within 15 days after the notice from the City, provide such additional sums to the bond or other security so as to maintain the amount at the minimum level of \$2500.00. Any funds obtained by the City under a bond, letter of credit, or escrow account posted under this section shall be used only for the purpose of bringing the property into compliance with applicable City codes, and shall not be part of the City's general fund.

- (b) If:
- (1) the owner of a property has remedied all violations noted by the Building Official for a period of twelve (12) months following the posting of the bond or other security; or
  - (2) The property is sold or occupied following the posting of the bond or other security;

The person who posted the bond or other security shall be entitled to the cancellation of the bond, letter of credit or a refund of the actual amounts then held for the property in the escrow account, as the case may be.

**SECTION 3.** Section Appendix A "Fee Schedule" of the Code of Ordinances be amended by adding the following fees:

<b>Section</b>	<b>Description</b>	<b>Amount</b>
<b>22-708</b>	Annual Registration and Inspection Fee for the first year (1 inspection)	\$200.00
	Annual Registration and Inspection Fee for a building that is vacant for 2 years (Includes up to 2 inspections per year.)	\$400.00
	Annual Registration and Inspection Fee for a building that is vacant for 3 years (Includes up to 3 inspections per year.)	\$600.00
	Annual Registration and Inspection Fee for a building that is vacant for 4 or more years (Includes up to 4 inspections per year)	\$1000.00
	Additional fee for registrations over 60 days past the noted due date	50% of annual fee.

**SECTION 4.** Any person, firm, or corporation in violation of any of the provisions of this ordinance, or any amendment thereto shall be deemed guilty of a misdemeanor, and upon conviction in Municipal Court shall be subject to a fine not to exceed the sum of two thousand

dollars (\$2,000.00) for each offense, and each and every day such violation continues shall constitute a separate offense.

**SECTION 5.** All provisions of the ordinances of the City of Farmers Branch in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Farmers Branch not in conflict with the provisions of this ordinance shall remain in full force and effect.


**SECTION 6.** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 7.** Than an offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinance as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.


**SECTION 8.** That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH,  
TEXAS, ON THIS THE 7<sup>th</sup> DAY OF FEBRUARY, 2012.**

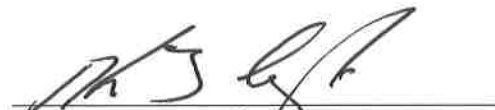
ATTEST:

  
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Shanna N. Sims-Bradish,  
Interim City Secretary

APPROVED:

  
\_\_\_\_\_  
William P. Glancy, Mayor

APPROVED AS TO FORM:

  
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Peter G. Smith, City Attorney