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ORDINANCE

AMENDING CHAPTER 12 ENTITLED “VACANT STRUCTURES” TO ADOPT DECONSTRUCTION REGULATIONS FOR RESIDENTIAL AND ACCESSORY STRUCTURES WITHIN THE CITY OF SAN ANTONIO AND ESTABLISHING PENALTIES.

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Chapter 12 of the City Code of San Antonio, Texas, is amended by adding the language that is underlined to the existing title, and by adding Article II, Deconstruction, to the existing text as set forth in this Ordinance. Chapter 12 of the City Code of San Antonio, Texas, is amended as follows:

CHAPTER 12 – VACANT BUILDINGS AND DECONSTRUCTION

Article II. DECONSTRUCTION.

This article of the City of San Antonio City Code is the Deconstruction Code.

Sec. 12-20. Purpose and Scope.

- (a) *Purpose.* This article shall be construed to secure its expressed intent, which is to provide demolition and deconstruction requirements to safeguard the public safety, health, and general welfare associated with building removal, including the reduction of airborne toxic pollutants, carbon emissions, water consumption, and the dumping of refuse and demolition waste. In addition, this article seeks to increase the availability of high-quality and reclaimed building materials for local reuse; improve equity of access to building materials for use in affordable housing preservation and production; encourage neighborhood continuity; retain historic building materials in the communities from which they originated; develop and sustain a local workforce in construction, heritage trades, and deconstruction; and achieve citywide sustainability goals and mitigation strategies outlined in the City’s adopted Climate Action and Adaptation Plan (CAAP), including the development of a local circular economy. This purpose of this article is not to create or to establish a standard for a building product, material or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building.
- (b) *Scope.* This article provides the procedures to be followed by all persons engaged in the removal of residential and accessory structures within the territorial limits of the City of San Antonio, Texas that meet the criteria for deconstruction established herein.

Sec. 12-21. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article.

Accessory structure means a building, structure, or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building or use. Examples include garages carriage houses, accessory dwelling units, or tool sheds.

Certified Deconstruction Contractor means any person doing work within the building’s trades or construction professions that has successfully completed a deconstruction certification program as administered through the City of San Antonio Office of Historic Preservation.

City means the City of San Antonio, Texas.

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Deconstruction means the systematic dismantling of a structure, typically in the opposite order it was constructed, from roof to foundation, in order to maximize the salvage of materials for reuse, in preference over salvaging materials for recycling, energy recovery, or sending the materials to the landfill.

Demolition means the complete or partial removal of a structure from a site.

Director means the director of the Office of Historic Preservation for the City of San Antonio, Bexar County, Texas, and his/her designee.

Multi-unit structures means residential structures with two (2) or more residential attached dwelling units including, but not limited to, duplexes, apartments, townhomes, and condominiums.

Period of Deconstruction means the period beginning on the date the City issues a demolition permit with deconstruction requirements and ending on the date the City approves the Post Deconstruction Form, which shall be a maximum of sixty (60) calendar days or as specifically provided in the permit requirements of the subject application, whichever period is greater.

Post-Deconstruction Form means an inventory of actual materials salvaged for reuse or donation, as well as materials discarded or landfilled, to be completed and submitted after deconstruction is fully complete to initiate permit closure by the Director.

Pre-Deconstruction Form or *Salvage Plan* means an inventory of materials to be salvaged for reuse or donation as part of an application to deconstruct.

Recycling means the processing of waste materials into new products or material feedstock for products. Materials that can be recycled include, but are not limited to, concrete, metal piping, and asphalt roofing shingles.

Re-use means the utilization of a product or material that was previously installed for the same or similar function to extend its life cycle. Materials salvageable for reuse include, but are not limited to, cabinets, doors, hardware, fixtures, flooring, siding, and framing lumber.

Single-family structure means a dwelling unit for one family.

Structure means a walled or roofed building that was constructed to provide occupied or unoccupied shelter or enclosure.

Sec. 12-22. Applicability and Administration.

This article applies to any request for demolition of residential and accessory structures within the territorial limits of the City of San Antonio that meets the criteria for deconstruction as established in this article.

- (a) *Criteria.* Any application for demolition of a structure that is determined by the Director to meet the criteria for deconstruction shall consider the construction date and original use of the structure. The Director, at his or her discretion, may refer the applicability of criteria to a property to the Historic and Design Review Commission (HDRC) for a recommendation before determination is made.
 - (1) **Construction Date.** The construction date of a structure shall be informed by available primary sources including, but not limited to, Sanborn Maps, deed records, appraisal district data, and/or other applicable research methods.
 - (2) **Original Use.** The original use of the property shall be determined by the Director after a visual

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assessment of construction type and reference to the 1968 City Plan. The current zoning or use of the property does not determine whether the requirements of this section apply.

- (b) *Phasing*. This article shall take effect in phases as set forth below.
 - (1) Phase I shall take effect on October 1, 2022. Deconstruction requirements shall apply to demolition permit applications for City-executed demolitions for:
 - A. Residential single-family structures, multi-unit structures with four (4) units or less, and accessory structures that were constructed on or before December 31, 1920, regardless of zoning overlay; and
 - B. Residential single-family structures, multi-unit structures with four (4) units or less, and accessory structures that were constructed on or before December 31, 1945, and that have either: been locally designated as historic and carry a historic zoning overlay (H, HL, HS, or HE); or, are located within a Neighborhood Conservation District (NCD) and carry a NCD zoning overlay.
 - (2) Phase II shall take effect on January 1, 2023. Deconstruction requirements shall apply to demolition permit applications for:
 - A. Residential single-family structures, multi-unit structures four (4) units or less, and accessory structures that were constructed on or before December 31, 1920, regardless of zoning overlay; and
 - B. Residential single-family structures, multi-unit structures four (4) units or less, and accessory structures that were constructed on or before December 31, 1945, and that have either: been locally designated as historic and carry a historic zoning overlay (H, HL, HS, or HE); or, are located within a Neighborhood Conservation District (NCD) and carry a NCD zoning overlay.
 - (3) Phase III shall take effect on January 1, 2025. Deconstruction requirements shall apply to demolition permit applications for:
 - A. Residential single-family structures, multi-unit structures eight (8) units or less, and accessory structures that were constructed on or before December 31, 1945, regardless of zoning overlay; and
 - B. Residential single-family structures, multi-unit structures eight (8) units or less, and accessory structures that were constructed on or before December 31, 1960, and that have either: been locally designated as historic and carry a historic zoning overlay (H, HL, HS, or HE); or, that are located within a Neighborhood Conservation District (NCD) and carry a NCD zoning overlay.
- (c) The Director is authorized to administer and enforce the provisions of this article and adopt rules, procedures, and forms to implement the provisions of this article.
- (d) The Director may temporarily suspend or modify the requirements of this article based on a determination that such requirements are temporarily infeasible due to economic or technical circumstances. The Director shall temporarily suspend the requirements of this article if, at any time, there are less than three (3) Certified Deconstruction Contractors registered with the City.

Sec. 12-23. Demolition Permit and Deconstruction Requirements.

- (a) *Permit Required*. No person shall demolish a residential or accessory structure that is eligible for deconstruction under this article without first obtaining a demolition permit from the City.
 - (1) *Pre-Application Conference*. An applicant requesting to demolish a structure that meets the criteria for deconstruction, may meet with the Office of Historic Preservation to discuss the

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procedures and requirements pursuant to this Code. The required forms may be obtained from the Office of Historic Preservation prior to or at the time of application.

- (2) *Applications.* All applications for demolition of a residential structure shall be referred to the Office of Historic Preservation for a determination of applicability for deconstruction. The Director shall determine, in writing, the construction date, original use, and applicability for deconstruction. If the provisions of this article apply, the City shall notify the applicant of the Director's decision and of the deconstruction requirements of the demolition permit within ten (10) business days after an application for demolition permit is filed with the City's Development Services Department. The Director, at his or her discretion, may refer the applicability of criteria to a property to the Historic and Design Review Commission (HDRC) for a recommendation before determination is made. An appeal of the Director's decision may be made as set forth in section 12-25 of this article.
 - (3) *Issuance of a Permit.* A demolition permit for deconstruction shall only be issued to a Certified Deconstruction Contractor who shall be responsible for the deconstruction activities of the subject application throughout the Period of Deconstruction.
- (b) *Deconstruction Requirements.* Upon issuance of a permit, a Certified Deconstruction Contractor shall adhere to the applicable deconstruction requirements and submit to the Office of Historic Preservation the following forms and documentation for review and approval before the post-work evaluation is performed.
- (1) *Pre-Deconstruction Form.* The Certified Deconstruction Contractor of a structure subject to deconstruction under this article shall complete and submit a Pre-Deconstruction Form to the Office of Historic Preservation.
 - (2) *Post-Deconstruction Form.* The Certified Deconstruction Contractor of a structure subject to deconstruction under this article shall complete and submit a Post-Deconstruction Form to the Office of Historic Preservation within ten (10) calendar days after completion of the deconstruction work.
 - (3) *Documentation.* The Certified Deconstruction Contractor of a structure subject to deconstruction under this article shall submit documentation identifying the destination for all materials removed to the Office of Historic Preservation no more than ten (10) calendar days after completion of the deconstruction work as part of a complete Post-Deconstruction Form. The Office of Historic Preservation shall review and approve the documentation before conducting the post-work evaluation. The Certified Deconstruction Contractor shall be responsible for providing the Office of Historic Preservation Office copies of documentation requirements as provided by staff:
 - A. Photographs of deconstruction in progress, to be taken weekly at a minimum;
 - B. Itemized receipt of materials and quantities donated to a nonprofit or community organization;
 - C. Itemized receipt of materials and quantities sold;
 - D. Itemized list and photographs of salvaged material that will be re-used on site or at another site;
 - E. Transaction receipt or weight tickets for the disposal of hazardous material abated during the course of deconstruction; and
 - F. Transaction receipts or weight tickets for all materials taken to a transfer facility, material recovery facility, and/or landfill.

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- (4) *Site Posting.* The Office of Historic Preservation shall provide the Certified Deconstruction Contractor a sign(s) when the deconstruction permit is issued. The Certified Deconstruction Contractor shall post the sign(s) on site before the first day of deconstruction activity and it shall remain on site until the deconstruction is complete. The sign(s) shall indicate that the structure is being deconstructed and must provide City contact information for questions or concerns.
 - A. The sign(s) must remain in place throughout the Period of Deconstruction;
 - B. The sign(s) must be placed on each street frontage of the site; and
 - C. The sign(s) must be posted within (five) 5 feet of a street lot line and must remain visible to pedestrians and motorists. Signs are not required along street frontages that are not improved or not named, and/or do not allow motor vehicle access.
- (5) *Building removal.* Building removal shall be performed by a Certified Deconstruction Contractor as follows:
 - A. Building removal shall be completed within the Period of Deconstruction;
 - B. Materials shall be removed by hand to the fullest extent possible while maintaining original sizes and dimensions;
 - C. Nails, screws, or items used to secure materials in place shall be removed and prepared for re-use where feasible; and
 - D. Removal and disposal of hazardous materials shall be in accordance with this article, and any other local, state, or federal laws, rules, or regulations.
- (6) *Salvageable Materials.* The property owner may re-use, sell, or donate salvage materials from a deconstruction site before the materials leave the site, provided that the distribution of the materials meets the documentation requirements under section 12-23 (b) of this article. The rules and procedures outlined in Chapter 16, Article XIII. – Garage Sales do not apply to active deconstruction sites.
- (7) *Site Storage.* Materials shall be stored and covered to protect them from exposure to rain and permeable ground contact during the Period of Deconstruction. Materials from the deconstructed building may only be safely stored on site during the Period of Deconstruction, provided that they are safely stacked and secured. The property owner shall remove all materials not sold, donated, or re-used from the deconstruction site by the deconstruction completion date and within the Period of Deconstruction.
- (8) *Deconstruction Review.* Before post-deconstruction review is approved by the Director, the Certified Deconstruction Contractor of a structure shall submit a Post-Deconstruction Form and all required documentation to the Office of Historic Preservation.
- (c) *Site Inspections.* Upon the written consent of the property owner of the subject application, the Director is authorized to conduct site inspections throughout the Period of Deconstruction to assure compliance with this article.

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- (d) *Compliance.* Any demolition work that exceeds or violates the provisions of this article shall be subject to penalties set forth in section 12-26 of this article. Compliance with the provisions of this article does not exempt the demolition of buildings or structures from any other requirement. Certified Deconstruction
- (1) Contractors shall follow all deconstruction, building related and licensing requirements, regulations, and laws.
 - (2) Failure to complete deconstruction, removal of materials, and obtain approval of the Post Deconstruction Form within the Period of Deconstruction shall result in the City completing the abatement of the property at cost of the property owner.
- (di) *Suspension or Revocation of Deconstruction Certification.* In the event a Certified Deconstruction Contractor fails or refuses to comply with requirements of this article, performs demolition work that exceeds or violates the deconstruction requirements of the demolition permit issued, or does not complete the deconstruction activities and documentation of a permit issued under this article, then the Director may suspend or revoke the deconstruction certification of such contractor, cancel all unexecuted permits issued to such contractor, and stop all work being done by such contractor, and withhold approval of further permits for deconstruction work until any or all incomplete or defective work of such contractor is fully completed by such contractor. Suspension or revocation of deconstruction contractor certification is accomplished by mailing to the holder of such certification a written notice by certified mail stating the permit or certification is suspended or revoked or by personally delivering to the holder thereof a written notice stating the permit or certification is suspended or revoked. An appeal of the Director's decision may be made as set forth in section 12-25 of this article.

Sec. 12-24. Exemptions.

- (a) *Exemptions.* Building conditions, damage, catastrophic events, or other factors may limit suitability for deconstruction and the amount of material that can be reasonably or safely salvaged. The following are exempt from the requirements of this article:
- (1) A structure is unsuitable for deconstruction because:
 - A. The structure has been determined to be a clear and imminent danger to life, safety, or property under San Antonio City Code Chapter 6, Section 6-175 Emergency Demolitions; or
 - B. A large majority of material in the structure is not suitable for reuse as determined by the Director upon review of a request from exemption from the Certified Deconstruction Contractor assigned to the project.
- (b) *Determination of an Exemption.* The Director will decide exemptions based on evidence submitted as well as by an inspection of the conditions of the property to confirm unsuitability. Upon determining that the request for an exemption contains all the required information, the Office of Historic Preservation will contact the applicant within five (5) business days to request a site visit on a mutually agreed upon date and time. Within five (5) business days of the site visit, the Director will either approve, deny, in whole or in part, or request additional information. Receipt of requested additional information will be reviewed and a determination will be made within five (5) days of receipt. The Director, at his or her discretion, may refer the criteria for exemption to the Historic and Design Review Commission (HDRC) for a recommendation before determination is made. The Director's decision may be appealed in accordance with section 12-25 of this article.

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Sec. 12-25. Appeals.

- (a) *Notice of Appeal.* An appeal of the Director's decision may be made by the property owner of the subject application. The property owner shall file a notice of appeal with the Office of Historic Preservation within ten (10) business days after the issuance of the Director's decision. Upon receipt of a notice of appeal, the Director shall transmit to the Board of Adjustment for the City of San Antonio all original documents and materials, or true copies thereof, constituting the record upon which the decision appealed from was based.
- (b) *Appeal Hearing.* The Board of Adjustment (BOA) shall decide the appeal within sixty (60) days after receipt of a notice of appeal. The property owner may appear at the appeal hearing in person or by agent or attorney. The BOA shall consider the same criteria as the Director. The BOA may reverse or affirm, in whole or in part, or modify the Director's decision by the concurring vote of seventy-five percent (75%) of the members.
- (c) *Building Standards Board.* Notwithstanding any other language in this section, demolition orders issued by the Building Standards Board (BSB) requiring compliance with this Article shall follow appeal procedures in accordance with Chapter 6, Article VIII, Section 6-173 of the City Code.

Sec. 12-26. Violations, penalties, and enforcement.

- (a) *Violations.* It shall be unlawful for a person to fail to adhere to any provision of this article. Each violation of a particular section of this article shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this article.
- (b) *Penalties.*
 - (1) *Criminal.* A conviction for violation of any provision of this article shall constitute a Class C misdemeanor. A person convicted of a violation shall be fined an amount not to exceed five hundred (\$500) dollars per violation. A culpable mental state is not required to prove an offense under this article.
 - (2) *Civil.* A person found liable for violation of any provision of this article shall be subject to a civil penalty in an amount not to exceed one thousand dollars (\$1000.00) per violation.
 - (3) *Administrative.* The Director, at his or her discretion, is authorized to take any and all appropriate administrative actions against violators of this Chapter and upon a finding thereof, including but not limited to recommendations that registrations to conduct business within the City be revoked for a set length of time, revocations of certificates of deconstruction, and denial or revocation of present and future permits for a set length of time. Appeals of any administrative action taken will follow the process laid out in their respective Chapters.
- (c) Nothing in this article shall limit the remedies available to the City as provided by law in seeking to enforce the provisions of this Deconstruction Code. The Director shall have authority to designate trained personnel to issue notices of violation and to make accompanying affidavits to enforce this Code for the benefit of the public health, safety, and welfare.