

CHAPTER 157: PROPERTY MAINTENANCE CODE

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§ 157.01 SCOPE; RESPONSIBILITY; VACANT STRUCTURES AND LAND.

(A) *Scope.* The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

(B) *Responsibility.* The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in Sections PM-306.0 and PM-307.0. A person shall not occupy as owner-occupant or permit another person to occupy premises which do not comply with the requirements of this chapter.

(C) *Vacant structures and land.* All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.
(Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17)

§ 157.02 DEFINITIONS.

The following words and terms shall for the purposes of this chapter and as stated elsewhere in this code, have the meanings shown herein.

BASEMENT. That portion of a building which is partly or completely below grade.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serves as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

OCCUPANT. Any person living or sleeping in a building; or having possession of a space within a building.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property; including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PREMISES. A lot, plot or parcel of land including any structures thereon.

PUBLIC NUISANCE. Includes any of the following:

(1) The physical condition or occupancy of any premises regarded as a public nuisance at common law;

(2) Any physical condition or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures;

(3) Any premises that has unsanitary sewage or plumbing facilities;

(4) Any premises designated as unsafe for human habitation;

(5) Any premises that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecured so as to endanger life, limb or property;

(6) Any premises from which the plumbing, heating or facilities required by this code have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided;

(7) Any premises that is unsanitary, or that is littered with rubbish or garbage, or that has an uncontrolled growth of weeds; or

(8) Any structure that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent so as not to provide shelter; in danger of collapse or failure; and dangerous to anyone on or near the premises.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust and other similar materials.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

YARD. An open space on the same lot with a structure.
(Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17)

§ 157.03 EXTERIOR PROPERTY AREAS.

(A) *Sanitation.* All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

(B) *Grading and drainage.* All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Exception: water retention areas and reservoirs approved by the code official.

(C) *Sidewalks and driveways.* All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. Stairs shall comply with the requirements of Sections PM-304.10 and PM-702.9.

(D) *Weeds.* All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten inches (254 mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

(E) *Rat harborage.* All structures and exterior property shall be kept free from rat infestation. Where rats are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

(F) *Exhaust vents.* Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(G) *Accessory structures.* All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

(H) *Motor vehicles.* Motor vehicles shall read as follows:

(1) Except as provided for in other regulations, no currently unregistered or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time, be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

(2) Exception: a vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure, or similarly enclosed area designed and approved for such purposes. Any vehicle in a state of good repair and fully operable may be kept in a structure designed for vehicle storage.

(I) *Brush and leaves.* Bagged leaves and brush piles no larger than what would fit in a half-ton pickup truck bed shall be left on the side of the road on a day and time as specified by the mayor to be picked up by city workers on a weekly bases. Piles and accumulations of brush and un-bagged leaves shall not be left on the roadside in excess of the size limits of this paragraph. Logs with a diameter in excess of 6 inches or that cannot be lifted by two city workers, that are felled and/or intentionally cut shall be disposed of by the property owner and shall not be collected by the city. Ditches, culverts and

drainage areas shall be kept clear of leaves, gross clipping and brush so as not to cause water to flow onto roadways or sidewalks. Exception: the Mayor, by executive order, may alleviate the size restrictions and/or may permit extra pick up days for brush piles that are to be picked up by city workers in the event of a large storm or event giving rise to an uncommon and particular need for brush pick up, and shall inform the public of such.

(J) *Creeks*. Dumping brush, garbage, refuse, debris, and the like into creek beds shall be strictly prohibited. Creek banks and creek beds are to be kept clear of accumulations. (Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17; Am. Ord. 17-11-01, passed 11-20-17)

§ 157.04 EXTERIOR STRUCTURE.

(A) *General*. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(B) *Exterior painting*. All wood and metal surfaces, including but not limited to, window frames, doors, door frames, cornices, porches and trim shall be maintained in good condition. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted.

(C) *Street numbers*. Each structure to which a street number has been assigned shall have such number displayed in a position easily observed and readable from the public right-of-way. All numbers shall be in Arabic numerals at least three inches (76 mm) high and 1/2 - inch (13 mm) stroke.

(D) *Structural members*. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

(E) *Foundation walls*. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rats.

(F) *Exterior walls*. All exterior walls shall be free from holes, breaks, loose or rotting materials; and maintained weatherproof and property surface coated where required to prevent deterioration.

(G) *Roofs and drainage*. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

(H) *Decorative features*. All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood

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.

(I) *Overhand extensions.* All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts and similar overhand extensions shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood 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.

(J) *Stair and walking surfaces.* Every stair, ramp, balcony, porch, deck or other walking surface shall comply with the provisions of Section PM-702.9.

(K) *Stairways, decks, porches and balconies.* Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(L) *Chimneys and towers.* All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound and in good repair. All exposed surfaces of metal or wood 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.

(M) *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(N) *Window and door frames.* Every window, door and frame shall be kept in sound condition, good repair and weather tight.

(1) *Glazing.* All glazing materials shall be maintained free from cracks and holes.

(2) *Openable windows.* Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

(O) *Insect screens.* During the period from May 15 to October 15, every door, window and other outside opening utilized or required for ventilation purposes serving any structure containing habitable rooms, food preparation areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

(P) *Doors.* All exterior doors and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door.

(Q) *Basement hatchways.* Every basement hatchway shall be maintained to prevent the entrance of rats, rain and surface drainage water.

(R) *Guards for basement windows.* Every basement window that is openable shall be supplied with rat proof shields storm windows or other approved protection against the entry of rats.

(S) *Outdoor signs.* All outdoor signs shall be in compliance with § 155.054 of Chapter 155 related to the maintenance of outdoor signs. Any sign which no longer advertises a bona fide business or organization located on the premises shall be taken down and removed by the owner, his agent, or person having the beneficial use of the building, structure, or lot.

(Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17; Am. Ord. 24-11-02, passed 11-18-24)

§ 157.05 INTERIOR STRUCTURE.

(A) *General.* The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Every occupant shall keep that part of the structure which such occupant occupies or controls in a clean and sanitary condition. Every owner of a structure containing a rooming house, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

(B) *Structural members.* All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

(C) *Interior surfaces.* All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling paint, cracked or loose plaster, decayed woods, or other defective surface conditions shall be corrected.

(D) *Lead-based paint.* Interior and exterior painted surfaces of dwellings and child and day care facilities, including fences and outbuildings, which contain lead levels equal to or greater than 1.0 milligram per square centimeter or in excess of 0.50% lead by weight shall be maintained in a condition free from peeling, chipping and flaking paint or removed or covered in an approved manner. Any surface to be covered shall first be identified by approved warnings as to the lead content of such surface.

(E) *Stairs and railing.* All interior stairs and railing shall be maintained in sound condition and good repair.

(F) *Stairs and walking surfaces.* Every stair, ramp, balcony, porch, deck or other walking surface shall comply with the provisions of Section PM-702.9.

(G) *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17)

§ 157.06 RUBBISH AND GARBAGE.

(A) *Accumulation of rubbish or garbage.* All exterior property and premises, and the interior of every structure shall be free from any accumulation of rubbish or garbage.

(B) *Disposal of rubbish.* Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

(C) *Rubbish storage facilities.* The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

(D) *Disposal of garbage.* Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage facility or approved garbage containers.

(1) *Garbage facilities.* The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leak proof, covered outside garbage container.

(2) *Containers.* The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

(Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17)

§ 157.07 EXTERMINATION.

(A) *Infestation.* All structures shall be kept free from insect and rat infestation. All structures in which insects or rats are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

(B) *Owner.* The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

(C) *Single occupant.* The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

(D) *Multiple occupancy.* The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupants shall be responsible for extermination.

(E) *Occupant.* The occupant of any structure shall be responsible for the continued rat-free condition of the structure, and if the occupant fails to maintain the rat-free condition, the cost of extermination shall be the responsibility of the occupant. Exception: where rat infestations are caused by defects in the structure, the owner shall be responsible for extermination.
(Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17)

§ 157.08 RESERVED.

§ 157.09 UNSAFE STRUCTURES AND EQUIPMENT.

(A) *General.* When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provision of this code.

(1) *Unsafe structure.* An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, the partial or complete collapse is likely.

(2) *Unsafe equipment.* Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

(3) *Structure unfit for human occupancy.* A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(4) *Unlawful structure.* An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

(B) *Closing of vacant structures.* If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(C) *Notice.* Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with this chapter. The notice shall be in the form set forth above.

(D) *Placarding.* Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment, a placard bearing the word "condemned" and a statement of the penalties provided for occupying the premise, operating the equipment or removing the placard.

(E) *Prohibited occupancy.* Any person who shall occupy placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

(F) *Removal of placard.* The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

(Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17)

§ 157.10 EMERGENCY MEASURES.

(A) *Imminent danger.* When, in the opinion of the code official, there is imminent danger or failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors of the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "this structure is unsafe and its occupancy has been prohibited by the code official." it shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

(B) *Temporary safeguards.* Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

(C) *Closing streets.* When necessary for the public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

(D) *Emergency repairs.* For the purpose of this section, the code official may in extreme emergencies employ the necessary labor and materials to perform the required work as expeditiously as possible.

(E) *Costs of emergency repairs.* Costs incurred in the performance of emergency work shall be paid from the general fund of the city on approval of the Mayor. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of all such costs and expense.

(F) *Hearing.* Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as provided for in this chapter.

(Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17)

§ 157.11 DEMOLITION.

(A) *General.* The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to raze and remove such structure; or is such structure is capable of being made safe by repairs to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to raze and remove such structure.

(B) *Orders.* All notices and orders shall comply with this chapter.

(C) *Failure to comply.* If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official may cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(D) *Salvage materials.* When any structure has been ordered razed and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after

deducting the expenses of such razing and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expenses and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

(Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17)

§ 157.99 PENALTY AND ENFORCEMENT.

(A) It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, maintain, fail to maintain, provide, fail to provide, occupy, let to another to occupy or permit another person to occupy any premises, property, structure or equipment regulated by this chapter, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this chapter, or to fail to obey a lawful order of the code official, or to remove or deface a placard or notice posted under the provisions of this chapter.

(B) Any violation of this chapter may be enforced by the Benton City Police Department or Marshall County Sheriff's Department as a Class A misdemeanor through District Court unless a stronger penalty is allowed by the KRS.

(C) As an alternative to enforcement through District Court, any violation of this chapter shall constitute a civil offense pursuant to KRS 65.8808(1) unless otherwise prohibited by KRS 65.8808(3) and enforced by Benton's Code Enforcement Board under Chapter 41 of the Benton Code of Ordinances with the amount of the penalties being as follows:

<i>Violation</i>	<i>Amount</i>
157.03 - Exterior property	\$50 per day not to exceed \$5,000
157.04 - Exterior structure	\$50 per day not to exceed \$5,000
157.05 - Interior structure	\$50 per day not to exceed \$5,000
157.06 - Rubbish and garbage	\$50 per day not to exceed \$5,000
157.07 - Extermination	\$25 per day not to exceed \$5,000
Any offense of the chapter not otherwise specifically addressed	\$100

(D) In the event a violation is enforced as a civil penalty then the same violation shall not be enforced as a criminal penalty.

(E) The city may abate the nuisance and bring the property in compliance with the provisions of this chapter. In addition to any penalties or fines for violating the provisions of this chapter, the city may charge the violator, or owner of the property where the violation occurred, with the reasonable cost of abatement. Abatement cost shall be the cost incurred for the abatement. All abatement cost can be taxed to the violator/owner and if not paid within 30 days after notice of the abatement cost incurred, a lien may be placed on the violator's/owner's property for the unpaid abatement cost.

(F) Each day during which a stationary violation continues, except in cases in which a given time has been allowed for corrective action to be taken, shall be a separate and distinct offense. (Ord. 10-09-02, passed 9-20-10; Am. Ord. 17-05-01, passed 5-15-17; Am. Ord. 23-03-19, passed 3-20-23)

CHAPTER 158: VACANT PROPERTY REGISTRY PROGRAM

Section

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§ 158.01 PURPOSE.

(A) The city recognizes that vacant properties negatively impact surrounding neighborhoods, decrease property values, creates safety hazards, attract criminal activity, and become a public menace. The establishment of a vacant property registry program focuses on protecting the public health, safety, and welfare by identifying and registering vacant properties and establishing lines of communication with the property owners. It is the responsibility of property owners to prevent buildings from becoming burdens to their communities and threats to public health and safety. The city recognizes the need to maintain an accurate registration of all vacant buildings and properties to prevent blight and encourage economic development.

(B) This program also establishes minimum standards for the maintenance of all vacant commercial and non-residential properties in the city, preserving the integrity of the commercial districts, reducing the risk of damage from fire or flooding, and minimizing loss of property value to surrounding properties. The provisions of this program apply to all non-residential and commercial properties within the city limits and under limited circumstances

(Ord. 11-02-01, passed 2-21-11; Am. Ord. 24-06-01, passed 6-17-24)

§ 158.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Benton.

EVIDENCE OF VACANCY. Any condition or circumstance that on its own or in combination with other conditions or circumstances would lead a reasonable person to believe that a building is vacant or unoccupied. Such conditions or circumstances may include, but are not limited to:

- (1) Overgrown or dead vegetation, including grass, shrubbery, vines, or other plantings;
- (2) An accumulation of abandoned personal property, trash, or other waste;
- (3) Visible deterioration or lack of maintenance of any building or structure on the property;
- (4) Graffiti or other defacement of any building or structure on the property; or

(5) Any other condition or circumstance reasonably indicating that the property is not lawfully occupied or being used for the operation of a lawful business.

LOCAL AGENT. A person residing in Marshall County designated by the property owner and is authorized to receive communication, inquiries, and notices related to the vacant property in the event that the property owner does not reside in Marshall County.

PROPERTY OWNER. The person(s) shown to be the owner(s) of record on the register of deeds.

VACANT. An unoccupied building or structure that exhibits evidence of vacancy.
(Ord. 11-02-01, passed 2-21-11; Am. Ord. 24-06-01, passed 6-17-24)

§ 158.03 VACANCY REGISTRATION OF NON-RESIDENTIAL BUILDINGS.

(A) The property owner of a vacant non-residential building shall register the property with the city if the property has been vacant for 180 days or longer. A vacant property registration form shall be submitted to the city and shall include the following information (the form can be obtained from the city and is available online at the city home page):

- (1) The name, street address, mailing address, telephone number, and email address of the property owner;
- (2) The street address and parcel identification number of the vacant property;

(3) The name, mailing address, telephone number, and email address of the local agent (applicable if the property owner does not reside in Marshall County, Kentucky); and

(4) The date on which the property became vacant.

(B) The registration shall remain valid for 12 months from the date of filing. The property owner shall be required to renew the registration every 12 months as long the property remains vacant.

(C) The property owner shall notify the city of any changes in the information supplied as part of the vacant building registry within 30 days of the change. Removal of the property from the vacant property registry shall occur when the property is no longer vacant.

(D) Vacant properties shall remain subject to the registration, maintenance, and security requirements of this chapter as long as they remain vacant.

(Ord. 11-02-01, passed 2-21-11; Am. Ord. 24-06-01, passed 6-17-24) Penalty, see § 158.99

§ 158.04 VACANT PROPERTY FEES.

(A) At the time of filing the registry form, the property owner or local agent shall pay an annual registration fee of \$300. No registration statement shall be deemed filed unless the fee has been paid.

(B) The fee shall be paid in full at the time of filing of the registration form provided by the city.

(C) Failure to file the registration fee shall empower the city to file a lien on the property on the amount due pursuant to this chapter.

(D) The city shall be further empowered to foreclose any property subject to a lien pursuant to this chapter.

(E) Any fees due shall be paid in full prior to the issuance of any city zoning permits for building permits.

(Ord. 24-06-01, passed 6-17-24) Penalty, see § 158.99

§ 158.05 EXEMPTIONS.

The following vacant properties shall be exempt from registration and fee requirements:

(A) A vacant property under construction or renovation pursuant to a validly issued building permit.

(B) A vacant property which is subject to ongoing divorce, probate, or estate proceedings.

(C) Any building advertised for lease or for sale at an amount comparable to other buildings shall be deemed to be advertised in good faith for lease or for sale. The burden of proving this exemption shall be on the owner and the standard of proof shall be by clear and convincing evidence.

(D) A vacant property which is not suitable for commercial use as determined by the Benton Board of Adjustment giving consideration to the location, parking and other relevant factors.
(Ord. 24-06-01, passed 6-17-24; Am. Ord. 24-11-01, passed 11-18-24)

§ 158.06 GENERAL MAINTENANCE OF VACANT PROPERTIES.

In addition to the city's property maintenance codes, all commercial and non-residential properties subject to this chapter, shall be maintained in such a way as to minimize the appearance of vacancy and shall be kept in compliance with the following maintenance requirements:

(A) *Building exterior.* The exteriors of building(s) or structure(s) on the property shall be painted and maintained in a way that does not exhibit any evidence of vacancy.

(1) All exterior surfaces, which require paint or sealing in order to protect the underlying surface from deterioration shall be painted or sealed.

(2) All exterior surfaces, which have been painted, shall be maintained free of peeling and flaking paint or stucco. Where 33% or more of the aggregate of any painted or stuccoed walls have peeling or flaking paint or stucco worn away, the entire wall shall be scraped and repainted or recovered with stucco.

(3) All wood and masonry materials shall be maintained, repaired, or replaced when necessary to prevent deterioration or presence of rot.

(B) *Windows and doors.* The windows and doors of building(s) and structure(s) on the property shall be intact and shall be maintained in a way that does not provide evidence of vacancy.

(C) *Storefronts and facades.* The storefronts and facades of buildings shall be maintained in a way that does not provide evidence of vacancy.

(1) All awnings and signs must not have more than 30% of the area that is torn, tattered, or missing for a period longer than 90 days.

(2) The balconies, decks, porches, or exterior stairways located on the property shall be maintained in a way that does not provide evidence of vacancy.

(D) *Building interior.* The interiors, when visible to passersby through storefront windows, shall be maintained in a way that does not exhibit evidence of vacancy.

(E) *Yards and landscaping.*

(1) The yard(s) of the property shall be maintained in a way that does not provide evidence of vacancy.

(2) Landscaped areas shall be maintained in a manner equal to the intent of the original landscaping plan. Shrubs, trees, turf, and other landscape material should not have an overgrown or unkempt appearance or provide evidence of vacancy.

(F) *Property grounds.* The property, including all external grounds, shall be maintained so as to exhibit no evidence of vacancy.

(1) Where a parking lot or area is constructed as part of the property or as a business itself and covered by an impermeable surface, the parking lot and all curbing, surfacing, sidewalks, and other parts thereof shall be maintained free of broken/cracked surfaces, holes or other similar conditions. All parking areas so described herein, shall be repaired or replaced with like material.

(2) Where curb cuts are abandoned due to new construction, change of access, or general discontinuation of use, said curb cut shall be closed and replaced with a standard sidewalk and curb and gutter arrangement in accordance with city regulations and policies.
(Ord. 24-06-01, passed 6-17-24) Penalty, see § 158.99

§ 158.07 SECURITY REQUIREMENT.

All commercial and non-residential properties subject to this chapter, shall be maintained in such a way as to minimize the appearance of vacancy and subject to this chapter shall be kept in compliance with the following security and requirements:

(A) *Securing the premises.* The property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (including but not limited to walk-through, sliding, and garage), gates, pet doors, and any other such opening of such size that it may allow a child to access the interior of the property or structure(s).

(B) *Broken windows and doors.* Broken windows shall be replaced and/or re-glazed. Windows and doors at street level shall not be boarded up, except as a temporary security measure when approved by the Code Enforcement Officer. Temporary security measures such as boarded window(s) or door(s) shall be installed in a clean and professional manner, and shall be installed to fit the size of the interior opening and painted black.

(C) *Expenses.* The property owner will be billed by the city for any and all reasonable cost incurred by the city for emergency response, boarding and securing, or otherwise mitigating public safety concerns created by the vacant structure. Failure by the property owner to pay for billed expenses

associated with their vacant property within 90 days of the date of billing shall empower the city to record a lien as to the property and to foreclose any such lien in accordance with provision applicable to such liens. The city is not required to provide any notice prior to filing of such a lien.
 (Ord. 24-06-01, passed 6-17-24) Penalty, see § 158.99

§ 158.08 INSPECTIONS.

The Code Enforcement Officer, or his or her designees, shall have the authority and the duty to inspect properties subject to this chapter for compliance and to issue citations for any violations. The Code Enforcement Officer shall have the discretion to determine when and how such inspections are to be made, provided that their policies are reasonably calculated to ensure that this chapter is enforced. If it is determined that the property is in violation of this chapter, the property owner will be required to make necessary repairs or secure the property based upon a reasonable timetable.
 (Ord. 24-06-01, passed 6-17-24)

§ 158.99 ENFORCEMENT, VIOLATIONS, AND PENALTIES.

(A) Any violation of this chapter shall constitute a civil offense pursuant to KRS 65.8808(1) unless otherwise prohibited by KRS 65.8808(3), and enforced by the Code Enforcement Board under Chapter 41 of this code with the amount of the penalties being as follows:

<i>Violation</i>	<i>Amount</i>
Failure to register vacant property	\$100 per day
Failure to comply with general maintenance	\$50 per day
Any other offense of the chapter	\$50 per day

(B) The city may abate the failure to comply with the maintenance requirements stated above and bring the property in compliance with the provisions of this chapter. In addition to any penalties or fines for violating the provisions of this chapter, the city may charge the owner of the property where the violation occurred, with the reasonable cost of abatement. Abatement may include but is not limited to, the mowing and clean up of the property; reasonable cost of abatement, including mowing cost, shall be the cost incurred for the abatement or in the case of mowing, as determined by the City Council. All abatement cost can be taxed to the owner and if not paid within 30 days after notice of abatement cost incurred, a lien may be placed on the owner’s property for the unpaid abatement cost.

(C) Each day during which a stationary violation continues, except in cases in which a given time has been allowed for corrective action to be taken, shall be a separate and distinct offense.
 (Ord. 11-02-01, passed 2-21-11; Am. Ord. 24-06-01, passed 6-17-24)