

## CHAPTER 158: VACANT PROPERTY REGISTRY PROGRAM

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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.  
(Ord. 24-06-01, passed 6-17-24)

#### § 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)