

CHAPTER 157: PROPERTY MAINTENANCE

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PROPERTY MAINTENANCE CODE

§ 157.01 ADOPTION BY REFERENCE.

A certain document, three (3) copies of which are on file in the office of the City Clerk, being marked and designated as the International Property Maintenance Code, 2003 Edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the city for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; and each and all regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City Clerk are hereby referred to, adopted and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed by § 157.02. (Ord. 24:94, passed 11-14-94; Am. Ord. 4:2004, passed 1-12-04)

§ 157.02 AMENDMENTS, REVISIONS, EXCEPTIONS, PENALTY.

(A) The International Property Maintenance Code shall be amended as follows:

(1) Section 101.1: The name City of Morehead, Kentucky shall be inserted for the name of the jurisdiction.

(2) Section 103.5: This section shall be deleted in its entirety.

(3) Section 106.4: This section shall be deleted in its entirety and amended to read as follows:

(a) Any person, firm, association, or corporation violating any section of this chapter may be issued a Notice of Violation by a Code Enforcement Officer allowing the offender a specified time to remedy the violation without a fine. If the violation is not remedied, the offender shall be issued a citation by the Code Enforcement Officer. If the Code Enforcement Officer believes that the violation presents a serious threat to the public health, safety, and welfare, or if, in the absence of immediate action, the effects of the violation will be irreparable or irreversible or the violation is a repeated violation, the Code Enforcement Officer may issue a citation without a Notice of Violation. If the citation is not contested by the offender, the following penalties shall apply; however, the Code Enforcement Board may waive all or any portion of said penalty in its discretion, if the Code Enforcement Board determines that such waiver will promote compliance with Chapter 157.

- 1. First offense: \$ 100.00
- 2. Second offense: \$ 125.00
- 3. All others: \$ 150.00

(b) If the citation is contested and hearing before the Code Enforcement Board is required, the following maximum penalties may be imposed at the discretion of the Code Enforcement Board:

- 1. First offense: \$ 500.00
- 2. Second offense: \$ 750.00
- 3. All others: \$1,000.00

(4) Section 304.14: The dates referenced in this section shall be May 1 - October 1.

(5) Section 602.3: The dates referenced in this section shall be September 1 - April 15.

(6) Section 602.4: The dates referenced in this section shall be September 1 - April 15.

(B) If any section, subsection, sentence, clause or phrase of this subchapter is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this subchapter. The City Council hereby declares that it would have passed this subchapter, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

(C) Nothing in this subchapter or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this section; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this subchapter.

(Ord. 24:94, passed 11-14-94; Am. Ord. 39:97, passed 12-8-97; Am. Ord. 04:2004, passed 1-12-04)

BLIGHTED OR DETERIORATED PROPERTY

§ 157.10 DEFINITIONS.

For purposes of this subchapter, the following definitions shall apply, unless the context clearly requires a different meaning:

"BLIGHTED OR DETERIORATED PROPERTY." Any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:

(A) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with the city's property maintenance code, building, plumbing, fire or related code;

(B) Which because of physical condition, use or occupancy is considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences or structures;

(C) Which because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the property maintenance code has been designated by the board responsible for enforcement of the code as unfit for human habitation;

(D) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

(E) From which the utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

(F) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

(G) Which has been tax delinquent for a period of at least three (3) years; or

(H) Which has not been rehabilitated with the time constraints placed upon the owner by the appropriate code enforcement agency.

"PROPERTY MAINTENANCE APPEALS AND REVIEW COMMISSION." A commission established by ordinance to review vacant properties to make a written determination of blight and deterioration.

"REDEVELOPMENT." The planning or replanning, design or redesign, acquisition, clearance, development and disposal or any combination of these, of a property in the preparation of such property for residential and related uses, as may be appropriate or necessary.

"RESIDENTIAL AND RELATED USE." Residential property for sale or rental and related use; including, but not limited to, park and recreation areas, neighborhood community service, and neighborhood parking lots. (Ord. 25:94, passed 11-14-94)

Cross-reference:

Nuisances, see Ch. 92

§ 157.11 COMMISSION ESTABLISHED.

There is hereby established in the city a Property Maintenance Appeals and Review Commission which shall certify properties. Duties of the Commission shall be to investigate complaints relative to vacant properties, and report these complaints to the City Council and recommend appropriate action to be taken thereon. The number of members of the Commission shall be five (5); terms shall be for four years with the original appointments being staggered from one (1) through four (4) years. The members of the Commission shall be appointed by the Mayor with the approval of the City Council. The members of the Commission shall serve without pay, and shall have no liability in any manner whatsoever for any action taken in their official capacity as a member of the Commission. (Ord. 25:94, passed 11-14-94)

§ 157.12 PROCEDURES FOR CERTIFICATION OF BLIGHTED OR DETERIORATED PROPERTY.

(A) Any property which has been investigated by the Commission may only be certified as blighted or deteriorated after the Commission has determined:

(1) The owner of the property or designated agent has been sent an order by the city Building Inspector, Property Maintenance Code Official or other appropriate official to eliminate the conditions which are in violation of local codes or law;

(2) The property is vacant;

(3) The property is blighted and deteriorated; and

(4) The Commission has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of the condition has expired and the property owner or agent has failed to comply with the notice.

(B) The findings required by subsection (A) shall be in writing and included in a report to the legislative body.

(C) The Commission shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the city under KRS 99.705 to 99.730. Notice shall be mailed to the owner or designated agency by certified mail, return receipt requested. However, if the address of the owner or designated agent is unknown and cannot be ascertained by the Commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his agent shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the condition within ninety (90) days of receipt of the notice.

(D) An extension of the ninety (90) day time period may be granted by the commission if the owner or designated agency demonstrates that the period is insufficient to correct the conditions cited in the notice.
(Ord. 25:94, passed 11-14-94)

§ 157.13 CITY AUTHORIZED TO ACQUIRE PROPERTY.

(A) The city may acquire by eminent domain, pursuant to KRS Chapter 416, any property determined to be blighted or deteriorated pursuant to the provisions of this subchapter. The city shall have the power to hold, clear, manage, or dispose of the property so acquired for residential and related use, pursuant to KRS 99.705 to 99.730.

(B) The City Council may institute eminent domain proceedings pursuant to KRS Chapter 416 against any property which has been certified as blighted or deteriorated by the Commission if it finds:

(1) The property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare;

(2) The property is likely to continue to deteriorate unless corrected;

(3) The continued deterioration of the property may contribute to the blighting or deterioration of the area immediately surrounding the property; and

(4) The owner of such property has failed to correct the deterioration of the property.
(Ord. 25:94, passed 11-14-94)

§ 157.14 ADOPTION OF STATE PROCEDURES.

The City Council adopts the provisions of KRS 99.700 to 99.730 in their totality.
(Ord. 25:94, passed 11-14-94)

157.15 ABANDONED URBAN PROPERTY AS REAL PROPERTY.

(A) This section shall be designated as "Abandoned Urban Property Classified Real Property".

(B) Abandoned urban property is established as a separate classification of real property for the purpose of ad valorem taxation. As used in the subchapter, "ABANDONED URBAN PROPERTY" shall be defined as:

(1) Any vacant structure or vacant unimproved lot or parcel of ground in the city which has been vacant or unimproved for a period of at least one (1) year and which:

(a) Because it is dilapidated, unsanitary, unsafe, varmint infested or otherwise dangerous to the safety of persons, it is unfit for its intended use; or

(b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris; or has become infested with rodents or other varmints; or

(c) Has been tax delinquent for a period of at least three (3) years.

(2) Any property in the city that has been identified as "blighted" or "deteriorated" by the Property Maintenance Appeals and Review Commission.

(C) The rate of taxation levied upon abandoned urban properties is fifty cents (\$0.50) on each one hundred dollars (\$100.00) of assessed value.

(D) The Code Enforcement Officer shall, each year, determine which properties in the city are "abandoned urban properties" and shall prepare and furnish a list of abandoned urban properties located in the city to the County Property Valuation Administrator prior to January 1 of each year.

(E) Except as otherwise provided in division (F) of this section, a property classified by the Code Enforcement Officer as abandoned property as of January 1 shall be taxed as abandoned urban property for such year. If the owner repairs, rehabilitates, or otherwise returns the property to productive use so that the property is no longer abandoned urban property, he/she shall notify the Code Enforcement Officer of the city. If the Code Enforcement Officer finds the property no longer abandoned urban property, he/she shall notify the Rowan County Property Valuation Administrator to strike the property from the list of abandoned urban properties as of the succeeding January 1.

(F) No later than March 1 of each year, the Code Enforcement Officer shall mail by first class mail to owners of each abandoned urban property, as are listed in the records of the Rowan County Property Valuation Administrator a notice that their properties have been classified as

abandoned urban property. Each owner may appeal such classification to the Property Maintenance Appeals and Review Commission. Such appeal shall be in writing and shall be made no later than April 1 of the year the notice is received. The Commission shall afford the owner the opportunity for a hearing. If the Commission finds that the property was incorrectly classified as abandoned urban property, it shall cause the property to be removed from the list of property so classified. The Commission shall develop policies and procedures for conducting such appeals.
(Ord. 31:2005, passed 10-10-05)

VACANT RESIDENTIAL AND COMMERCIAL PROPERTY
REGISTRATION AND MAINTENANCE PROGRAM

§ 157.20 PURPOSE.

It is the purpose and intent of this subchapter to establish a vacant residential and commercial property registration and maintenance program as a mechanism to protect neighborhoods and minimize hazards to persons and property as a result of the vacancy.
(Ord. 03:2011, passed 2-14-11)

§ 157.21 DEFINITIONS.

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

"CREDITOR." A federal or state chartered bank, savings bank, savings and loan association, or credit union and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to servicers.

"RESIDENTIAL PROPERTY." Real property with one (1) to four (4) dwelling units.

"COMMERCIAL PROPERTY." Real property that is used for business activities.

"VACANT." A residential or commercial property with no legal resident or tenant. Evidence of vacancy includes any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include but are not limited to overgrown or dead vegetation, accumulation of flyers, mail or trash, disconnected utilities, the absence of window coverings or furniture, and statements by neighbors, delivery persons or government employees.
(Ord. 03:2011, passed 2-14-11)

§ 157.22 REGISTRATION.

(A) Prior to filing a complaint of foreclosure or executing a deed in lieu of foreclosure on a residential or commercial property located in the city, a creditor shall inspect the property to determine whether the property is vacant. If the property is vacant, the creditor shall, on the same day the complaint of foreclosure is filed or the deed in lieu of

foreclosure is executed, register the property as a vacant property with the Building Inspector of the city in which the property is located for the purpose of minimizing hazards to persons and property as a result of the vacancy.

(B) If a residential or commercial property becomes vacant at any time after a creditor files a complaint of foreclosure or executed a deed in lieu of foreclosure, but prior to vesting of title in the creditor or a third party, the creditor shall, within ten (10) business days after obtaining knowledge of the vacancy, register the property as a vacant property with the city.

(Ord. 03:2011, passed 2-14-11) Penalty, see § 157.99

§ 157.23 MAINTENANCE.

(A) Registration of a residential and commercial property as a vacant property shall include the address of the property and the name and contact information of a person located within the Commonwealth of Kentucky who is authorized to accept service on behalf of the creditor.

(B) If a residential or commercial property becomes or remains vacant as provided in § 157.22, but prior to vesting of title in the creditor or any third party, and the city determines the property is in violation of any ordinance regulating a nuisance, the city may notify the creditor of the violation by providing notice of the violation by certified mail, return receipt requested to the person identified in division (A) of this section, and may require the creditor to correct the violation to the extent consistent with the terms of the mortgage.

(C) A notice of violation shall include a description of the conditions that give rise to the violation with the notice of violation and shall provide a period of not less than twenty (20) days from the creditor's receipt of the notice for the creditor to remedy the violation.
(Ord. 03:2011, passed 2-14-11)

§ 157.99 PENALTY.

(A) If the creditor fails to remedy the violation within the stated period, the city may issue a citation and impose penalties against the creditor for violation of any ordinance regulating a nuisance.

(B) Any creditor that fails to register vacant residential or commercial property with the city shall be subject to a civil fine of one hundred dollars (\$100) payable to the city for each day of delinquency.
(Ord. 03:2011, passed 2-14-11)