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## **CHAPTER 156: BLIGHTED AND DETERIORATED PROPERTIES**

### Section

#### *General Provisions*

- [156.01](#) Declarations
- [156.02](#) Definitions
- [156.03](#) Vacant Property Review Commission
- [156.04](#) Procedures
- [156.05](#) Eminent domain proceedings
- [156.06](#) Use of the property by the City of Richmond

#### *Abandoned Residential Properties*

- [156.20](#) Purpose
- [156.21](#) Definitions
- [156.22](#) Registration of abandoned residential properties
- [156.23](#) Registration
- [156.24](#) Maintenance requirements
- [156.25](#) Security requirements
- [156.26](#) Additional authority
- [156.27](#) Fees
- [156.28](#) Enforcement; penalty
- [156.29](#) Appeals

## **GENERAL PROVISIONS**

### **§ 156.01 DECLARATIONS.**

It is hereby declared:

(A) It is the policy of the city to protect and promote the health, safety, and welfare of the residents of the city by eliminating the blight and deterioration of neighborhoods through the elimination of blighted and deteriorated properties within these neighborhoods.

(B) The elimination of such blight and deterioration and the preparation of the properties for sale or lease, for development, or for redevelopment constitute a public use and purpose for which public money may be expended and private property acquired and these are governmental functions in the interest of the health, safety, and welfare of the residents of the city.

(C) The necessity in the public interest for the provisions enacted herein is hereby declared to be a legislative determination.

(Ord. 07-35, passed 11-13-07)

### **§ 156.02 DEFINITIONS.**

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or 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 which:

- (1) Because of physical condition or use is regarded as a public nuisance at common law;
- (2) Is considered an attractive nuisance to children by reason of structures and appurtenances therein or thereon, including but not limited to abandoned wells, shafts, basements, excavations, or the unsafe condition of any structures or fences thereon;
- (3) Because it is dilapidated, unsanitary, unsafe, vermin infested, or lacking in the facilities and equipment required by the city's housing or maintenance codes, has been designated by the codes enforcement office as being unfit for human habitation;
- (4) Is a fire hazard or is otherwise dangerous to the safety of persons or property;
- (5) Has had the utilities, plumbing, heating, sewerage, or other facilities disconnected therefrom, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;
- (6) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or a haven for rodents or other vermin; or
- (7) Has not been rehabilitated within the time constraints placed upon the owner by the appropriate codes enforcement agency.

***REDEVELOPMENT.*** The planning or replanning, design or redesign, acquisition, clearance, development, or disposal 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 uses, including but not limited to park and recreation areas, neighborhood community service, and neighborhood parking lots.

***VACANT PROPERTY REVIEW COMMISSION.*** The Commission established by this chapter to review vacant properties and to make a written determination of blight and deterioration.

(Ord. 07-35, passed 11-13-07)

 **§ 156.03 VACANT PROPERTY REVIEW COMMISSION.**

(A) There is hereby established and created a Vacant Property Review Commission (the Commission) for the City of Richmond. The Commission shall be composed of five members who shall be appointed by the Mayor with the approval of the Board of Commissioners. Members of the Commission shall be residents of the city and shall serve for terms of five years and until their successors are duly appointed and qualified, except that the members first appointed shall be so appointed that the term of one member shall expire annually thereafter. Vacancies shall be filled in the same manner as regular appointments and for the unexpired term of the vacancy. Members shall serve without pay. No officer or employee of the city whose duties include enforcement of housing, building, plumbing, fire, maintenance, or related codes shall be appointed to the Commission.

(B) The Commission shall be charged with the duty of determining whether a property within city limits is blighted or deteriorated in accordance with the definition of those terms as hereinabove set forth and of carrying out the substantive and procedural directives associated with that determination as herein set forth.

(C) The Commission shall conduct its business at meetings scheduled and held in conformity with the requirements of the Kentucky Open Meetings Act. Meetings shall be called by the city's Director of Codes Enforcement (the Director) when and as necessary to consider properties alleged by the Director to be blighted or deteriorated within the meaning of this chapter. (Ord. 07-35, passed 11-13-07)

#### § 156.04 PROCEDURES.

(A) When the city's Director of Codes Enforcement considers any property within the city to be blighted or deteriorated, the Director shall give to the owner of the property a Notice and Order setting forth the conditions of the property which are in violation of local codes or law and a time period for the correction and abatement of such conditions. Such Notice and Order shall further state that the property is deemed to be blighted or deteriorated within the meaning of this chapter and that the failure to make correction and abatement within the time period set forth will result in the referral of the matter to the Vacant Property Review Commission for further proceedings in conformity with this chapter.

(B) If the conditions set forth in the Director's Notice and Order are not in full corrected and abated within the time period therein set forth, the Director shall:

(1) Place the matter on the agendas for the next workshop and formal meeting of the city's Planning and Zoning Commission for that body's determination of whether the reuse of the property for residential and related uses is in keeping with the city's comprehensive plan;

(2) If the Planning and Zoning Commission shall determine that the reuse of the property for residential and related uses is in keeping with the city's comprehensive plan, the Director shall convene a meeting of the Vacant Property Review Commission for the purpose of that body's consideration of whether the property is blighted or deteriorated. The Director shall notify the owner of the time, date, and location of the meeting and shall advise the City Clerk of the meeting so as to permit the Clerk to make due advertisement of the meeting as may be required by applicable law.

(C) If after consideration of the evidence adduced before it at such meeting the Commission shall, by a preponderance of the evidence, find that the property is vacant and blighted or deteriorated within the meaning of this chapter, 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 same shall render the property subject to condemnation by the city. Such notice shall describe the conditions that render the property blighted or deteriorated and shall demand correction and abatement of the conditions within 90 days of the receipt of such notice. An extension of the 90-day period may be granted by the Commission if it is demonstrated to the satisfaction of the Commission that such period is insufficient to correct the conditions cited in the notice.

(D) (1) If correction and abatement in full shall not have been effected within such period of time as the Commission shall have determined as above set forth, the Commission shall certify to the city's Board of Commissioners that the property is blighted or deteriorated. Such certification shall further set forth the Commission's determination that:

(a) The owner of the property or designated agent has been sent a Notice and Order by the Director to eliminate the conditions which are in violation of local codes or law within a time certain, that such Notice and Order further set forth that the property is deemed to be blighted or deteriorated within the meaning of this chapter and that the failure to make correction and abatement would result in the matter being referred to the Vacant Property Review Commission for further proceedings in conformity with this chapter;

(b) The conditions set forth in the Notice and Order were not corrected and abated within the time period therein set forth;

(c) The property is vacant;

(d) 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 such condition granted by the Commission has expired and the property owner or agent has failed to comply with the notice; and

(e) The Planning and Zoning Commission has determined that the reuse of the property for residential and related use is in keeping with the city's comprehensive plan.

(2) The certification and findings required by this section shall be in writing signed by the chairperson of the Commission and included in the Commission's report to the city's Board of Commissioners.

(E) Notice which may be, or is required to be, given under the terms of this chapter shall be in writing and sent via first class mail, sufficient postage prepaid, and certified, return receipt requested, and a copy of any such notice shall further be posted in a conspicuous place on the property affected. Unless the owner of the property in question shall have notified the Director otherwise, the identity of the owner and the owner's mailing address shall be conclusively presumed to be as appear as such in the records maintained in the office of the Madison County Property Valuation Administrator. Notice given in accordance with the foregoing shall be deemed effective on the date of receipt; provided, however, that same shall conclusively be deemed to have been received not later than the fifth business day following the date when same was delivered to the post office.

(Ord. 07-35, passed 11-13-07)

#### § 156.05 EMINENT DOMAIN PROCEEDINGS.

(A) The Board of Commissioners of the city may institute eminent domain proceedings in accordance with the provisions of KRS Chapter 416 against any property, and may through such proceedings acquire any property, which has been certified as blighted or deteriorated by the Commission if it finds:

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

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

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

(4) That the owner of such property has failed to correct the deterioration of the property.

(B) The findings required as above set forth shall be included in any Order of the Board of Commissioners authorizing the institution of eminent domain proceedings.

(Ord. 07-35, passed 11-13-07)

#### § 156.06 USE OF THE PROPERTY BY THE CITY OF RICHMOND.

The city, following its acquisition of blighted or deteriorated property in accordance with the foregoing provisions, shall have the power to hold, clear, manage, or dispose of the property so acquired for residential and related use.

(Ord. 07-35, passed 11-13-07)

## **ABANDONED RESIDENTIAL PROPERTIES**

### **§ 156.20 PURPOSE.**

It is the purpose intent of the City of Richmond, through the adoption of this Chapter, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

(Ord. 12-15, passed 5-22-12)

### **§ 156.21 DEFINITIONS.**

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

***ABANDONED PROPERTY.*** a property that is vacant and is under a current (i) notice of default; (ii) Pending mortgage or tax lien sale; (iii) properties that have been the subject of foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; and/or (iv) any properties transferred under a deed in lieu of foreclosure.

***ACCESSIBLE PROPERTY.*** a property that is accessible through a compromised/breached gate, fence, wall, and the like.

***ACCESSIBLE STRUCTURE.*** A structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

***AGREEMENT OF SALE.*** Any agreement or written instrument, which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.

***ASSIGNMENT OF RENTS.*** An instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another.

***BENEFICIARY.*** A lender under a note secured by a mortgage lien.

***BUYER.*** Any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this section.

***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.

**DANGEROUS BUILDING.** Any building/structure that is in violation of any condition referenced in § 108.1.1 of the 2006 International Property Maintenance Code.

**DAYS.** Consecutive calendar days.

**DEED IN LIEU OF FORECLOSURE.** A deed which conveys residential property to the mortgagee or lender in lieu of such mortgagee's or lender's pursuing court foreclosure following default of the underlying secured note.

**DEFAULT.** The failure to fulfill a contractual obligation, monetary or conditional.

**DISTRESSED.** A property that is under a current notice of default or pending mortgage or tax lien sale, properties that have been the subject of foreclosure sale where the title was retained by the mortgagee or lender involved in the foreclosure, and/or any properties transferred to a mortgagee or lender under a deed in lieu of foreclosure.

**EVIDENCE OF VACANCY.** 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 and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passerby, delivery agents, government employees that the property is vacant.

**FORECLOSURE.** The process by which a property, placed as security for a real estate loan, is sold through the courts at auction to satisfy the debt if the owner/borrower/mortgagor defaults.

**LENDER/MORTGAGEE.** The person or entity who is the secured party under any mortgage instrument.

**LOCAL.** Within 40 road/driving miles distance of the subject property.

**NEIGHBORHOOD STANDARD.** Those conditions that are present on a simple majority of properties within a 300 foot radius of an individual property. A property that is the subject of a **NEIGHBORHOOD STANDARD** comparison, or any other abandoned property within the 300 foot radius, shall not be counted toward the simple majority.

**NOTICE OF DEFAULT.** A recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.

**OUT OF AREA.** In excess of 40 road/driving miles distance of the subject property.

**OWNER.** Any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

**OWNER OF RECORD.** The person having recorded title to the property.

**PROPERTY.** Any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

**RESIDENTIAL BUILDING.** Any improved real property, or portion thereof, situated in the city, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchanges as “residential” whether or not it is legally permitted and/or zoned for such use.

**SECURING.** Such measures as may be directed by the Director of Codes Enforcement or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/pad locking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

**VACANT.** means a building/structure that is not legally occupied.  
(Ord. 12-15, passed 5-22-12)

 **§ 156.22 REGISTRATION OF ABANDONED RESIDENTIAL PROPERTY.**

(A) Prior to filing a complaint of foreclosure or executing a deed in lieu of foreclosure on a residential property 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 executing a deed in lieu of foreclosure is executed, register the property as a vacant property with the city’s Code Enforcement Department for the purpose of minimizing hazards to persons and property as a result of the vacancy.

(B) If a residential property becomes vacant at any time after the creditor files a complaint of foreclosure or executes a deed in lieu of foreclosure, but prior to vesting of title in the creditor or a third party, the creditor shall, within ten days after obtaining knowledge of vacancy, register the property as a vacant property with the city’s Code Enforcement Department for the purpose of minimizing hazards to persons and property as a result of the vacancy.  
(Ord. 12-15, passed 5-22-12)

 **§ 156.23 REGISTRATION.**

(A) Any lender/mortgagee, who holds a lien on a property located within the city shall perform an inspection of the property that is the security for the mortgage, prior to filing a complaint of foreclosure or executing a deed in lieu of foreclosure. If the property is found to be vacant or shows evidence of vacancy, it is, by this subchapter, deemed abandoned and the lender/mortgagee shall, on the same day the complaint of foreclosure is filed or executing a deed in lieu of foreclosure is executed, register the property as a vacant property with the city’s Code Enforcement Department for the purpose of minimizing hazards to persons and property as a result of the vacancy using the forms provided by the city’s Code Enforcement Department.

(B) If the property is occupied but remains in default it shall be inspected by the lender/mortgagee, or his or her designee, monthly until 1) the mortgagor or owner or other party remedies the default or 2) It is found to be vacant or shows evidence of vacancy at which time it

is deemed abandoned, and the trustee shall, within ten days of that inspection, register the property with the city's Code Enforcement Department on forms provided by the city.

(C) The registration shall contain the name of the lender/mortgagee (corporation or individual), the direct street/office mailing address, a direct contact name and phone number for the lender/mortgagee and, in the case of a corporation or out of area lender/mortgagee, the local property management company responsible for the security, maintenance and marketing of the property. Registration fees will not be prorated.

(D) An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1 of each year and must be received no later than January 31 of the year due. This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the lender/mortgagee involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure. Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant. Any person, firm or corporation that has registered a property under this subchapter must report any change of information contained in the registration within ten days of the change.

(Ord. 12-15, passed 5-22-12)

#### § 156.24 MAINTENANCE REQUIREMENTS.

Properties subject to this subchapter shall be, in comparison to the neighborhood standard, kept by the lender/mortgagee free of weeds, dry bush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, accept those required by federal, state or local law, discarded personal items including but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned. The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure. Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed especially for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material. Maintenance includes, but is not limited to regular watering, irrigation, cutting, pruning and mowing of required landscaped and removal of all trimmings. Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the State of Kentucky.

Adherence to this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any covenants conditions and restrictions and/or home owners association rules and regulations which may apply to the property.

(Ord. 12-15, passed 5-22-12) Penalty, see § [156.28](#)

#### § 156.25 SECURITY REQUIREMENTS.

(A) Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.



(B) *Vacated building maintenance standards.* A building shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if:

(1) *Building openings:* doors, windows, areaways and other openings are weather tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and opening coverings are covered with at least one-half inch of CDX plywood, weather protected, tightly fitted to the opening and secured by screws or bolts. The use of plywood for such purposes shall be a temporary measure intended to address security concerns only; the plywood shall be removed and replaced with a door or a window, as the case may be, within such time as is specified in a notice from a City Building Inspector and/or Ordinance Enforcement Officer as set forth in the provisions of § [156.28](#).

(2) *Roofs:* the roof and flashings are sound, tight, will not admit moisture, and drained to prevent dampness or deterioration in the walls or interior.

(3) *Drainage:* the building gutters and downspouts are watertight and entire storm drainage system is adequately sized, installed in an approved manner, functional and discharged in an approved manner.

(4) *Building structure:* the building is maintained in good repair, structurally sound, free from debris, rubbish and garbage, and sanitary, and interior floors, walking surfaces and stairs are structurally sound, and interior walls and ceilings are free of loose or hanging plaster and finishes, so as not to pose a threat to the public health or safety.

(5) *Structural members:* the structural members are free of deterioration and capable of safely bearing imposed dead and live loads.

(6) *Foundation walls:* the foundation walls are plumb, free from open cracks and breaks, and rat-proof.

(7) *Exterior walls:* the exterior walls are free of holes, breaks, and loose or rotting materials. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(8) *Decorative features:* the cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features are safe, anchored, and in good repair. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(9) *Structure extensions:* all balconies, porches, canopies, marquees, signs, metal awnings, cornices, stairways, fire escapes, standpipes, exhaust ducts and similar features are in good repair, anchored, safe and sound. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(10) *Chimneys and towers:* chimneys, cooling towers, smokestacks, and similar appurtenances are structurally safe. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(11) *Sidewalk openings:* yard, walks, steps, and openings in sidewalks are safe for pedestrian travel.

(12) *Accessory and appurtenant structures:* accessory and appurtenant structures such as garages, sheds, and fences are free from safety, health, and fire hazards.

(13) *Premises:* the premise on which a structure is located is clean, safe and sanitary, maintained free of weeds, junk cars, and litter, and does not pose a threat to the public health or safety.

(C) The property shall be posted with name and a 24-hour contact phone number of the lender/mortgagee and of the local property management company. The posting shall be no less than 18" x 24" and shall be of font that is legible from a distance of 45 feet and shall contain along with the name and 24-hour contact number the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL". The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is visual from the street to the front of the property but not readily accessible to vandals. Exterior postings must be constructed of and printed with weather resistant materials. The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this subchapter.

(Ord. 12-15, passed 5-22-12; Am. Ord. 14-08, passed 4-8-14) Penalty, see § [156.28](#)

#### § 156.26 ADDITIONAL AUTHORITY.

In addition to the enforcement remedies established in this subchapter, the city's Building Inspector or his or her designee shall have the authority to require the lender/mortgagee and/or owner of record of any property affected by this subchapter, to implement additional maintenance and/or security measures including but not limited to, securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

(Ord. 12-15, passed 5-22-12)

#### § 156.27 FEES.

The fee for registering an abandoned residential property shall be \$60 made payable to "City of Richmond" and submitted to the city's Code Enforcement Department, 114 North Second Street, Richmond, Kentucky 40475, along with the required registration application.

(Ord. 12-15, passed 5-22-12)


#### § 156.28 ENFORCEMENT; PENALTY.

(A) If a residential property becomes or remains vacant as provided in this subchapter, but prior to vesting of title in the lender/mortgagee or any third party, and the Building Inspector determines the property is in violation of the city's nuisance or property maintenance ordinance, the Building Inspector shall notify the lender/mortgagee of the violation by providing notice of the violation by certified mail, return receipt requested, to the person identified in the registration application, and shall require the creditor to correct the violation to the extent consistent with the terms of the mortgage.

(B) A Building Inspector that requires a lender/mortgagee to correct a violation pursuant to this subchapter 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 20 days from the mailing of the notice for the lender/mortgagee to remedy the violation. If the lender/mortgagee fails to remedy the violation within the stated period the local government may issue a citation and impose penalties against the creditor for violation of the applicable ordinance. The violation for failure

to comply shall be subject to a fine of \$250 payable to the City of Richmond for each day of delinquency.

(Ord. 12-15, passed 5-22-12)

 **§ 156.29 APPEALS.**

Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is allowed to the city's Codes Enforcement Board.

(Ord. 12-15, passed 5-22-12)