

Bill No. 39-16
Concerning: Housing and Building
Maintenance Standards –
Registration of Vacant Property
Revised: 5/2/2017 Draft No. 11
Introduced: September 20, 2016
Enacted: May 2, 2017
Executive: May 12, 2017
Effective: August 11, 2017
Sunset Date: None
Ch. 11, Laws of Mont. Co. 2017

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Hucker
Co-Sponsors: Councilmembers Leventhal and Navarro, Vice President Berliner, Councilmembers
Elrich, Riemer, and Rice, and Council President Floreen

AN ACT to:

- (1) require ~~[[owners of certain unmaintained vacant buildings to register those vacant buildings with]]~~ the Director of the Department of Housing and Community Affairs to identify unmaintained vacant dwellings;
- (2) require owners of certain unmaintained vacant buildings to pay certain fees;
- (3) require inspections for certain unmaintained vacant buildings; and
- (4) generally amend County law on housing and building maintenance standards.

By adding

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
~~[[Article I, General
Article II, Registration of Vacant Property
Sections 26-19, 26-20, 26-21, 26-22, 26-23, and 26-24]]~~

Article III, Unmaintained Vacant Property
Sections 26-20, 26-21, 26-22, 26-23, 26-24, 26-25, and 26-26

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Chapter 26 is amended by adding [[Articles I and II (Sections**
2 **26-19, 26-20, 26-21, 26-22, 26-23, and 26-24)]] Article III (Sections 26-20, 26-21,**
3 **26-22, 26-23, 26-24, 26-25, and 26-26) as follows:**

4 **Article I. General.**

5 * * *

6 **Article III. [[Registration of]] Unmaintained Vacant Property.**

7 **[[26-19]] 26-20. Definitions.**

8 In this Article, the following terms have the meanings indicated:

9 Department means the Department of Housing and Community Affairs.

10 Director means the Director of the Department or the Director’s designee.

11 [[Dwelling unit has the same meaning as in Section 26-2.]]

12 Fit for occupancy means ready for immediate occupancy [[by a tenant without
13 more than minor cosmetic changes]] as a residence.

14 Occupied means the use of one’s dwelling as a residence [[in improved real
15 property]] on a regular basis.

16 Public nuisance has the same meaning as in Section 26-2.

17 Vacant [[building]] dwelling means residential real property improved by a
18 dwelling which is not occupied. A vacant dwelling includes a unit in a
19 condominium. A [[building]] dwelling is only a vacant [[building]] dwelling
20 if the Director determines that there is no resident for which an intent to return
21 and occupy the [[building]] dwelling can be shown. To determine whether a
22 dwelling is vacant, the Director must consider:

- 23 (1) past due utility notices and/or disconnected utilities;
24 (2) accumulated mail;
25 (3) no window covering;
26 (4) no furniture observable;
27 (5) open accessibility;

28 (6) deferred maintenance; and

29 (7) the dwelling is boarded up.

30 Unmaintained vacant ~~[[building]] dwelling means a vacant ~~[[building]]~~~~
31 dwelling not maintained as required by Chapter 26, Article 1.

32 [[Visual blight has the same meaning as in Section 26-2.]]

33 **[[26-20]] 26-21. Applicability.**

34 This Article does not apply to any real property that is

35 (a) owned by:

36 (1) the government of the United States or its instrumentalities;

37 (2) the State of Maryland or its instrumentalities; or

38 (3) a foreign government or its instrumentalities;

39 (b) under active construction or undergoing active rehabilitation,
40 renovation, ~~[[or]] repair, or demolition, ~~[[and there is]] or under a~~~~
41 building permit to make the building fit for occupancy or to be
42 demolished ~~[[that was issued, renewed, or extended within 12 months of~~
43 the registration date]]];

44 (c) for a period not to exceed 24 months, the subject of a probate
45 proceeding or the title is the subject of litigation, including a foreclosure
46 proceeding; or

47 (d) maintained as required by Chapter 26, Article 1.

48 **[[26-21. Registration of unmaintained vacant buildings; inspection;**
49 **notification]] 26-22. Designation of unmaintained vacant dwellings; inspection.**

50 (a) [[Building maintenance required. The owner of a vacant building must
51 maintain the building as required by Chapter 26, Article 1.

52 (b) Unmaintained vacant buildings registry. The Department must maintain
53 a list of unmaintained vacant buildings.

54 (c) Registration required.

55 (1) Within 90 days after a building becomes an unmaintained vacant
 56 building, the owner must register the building and pay the
 57 registration fee required in Section 26-23. An owner must renew
 58 a registration annually from the date of initial registration unless
 59 there is a change in ownership.

60 (2)]] The Director must identify [[nonregistered]] unmaintained vacant
 61 [[building]] dwellings throughout the County. The Director must
 62 notify the owner in writing that the owner's [[building]] dwelling
 63 has been designated as an unmaintained vacant [[building]]
 64 dwelling and of the owner's right to [[appeal]] seek
 65 reconsideration of this designation and appeal the decision under
 66 Section 26-25.

67 [[d)]] (b) Inspections required.

68 (1) Inspections required. The Director must inspect every
 69 unmaintained vacant [[building]] dwelling at least annually to
 70 ensure that:

71 (A) the [[building]] dwelling complies with all applicable laws,
 72 including Chapter 26, Article I; and

73 (B) vacancy of the [[building]] dwelling is not;

74 (i) detrimental to the public health, safety, and welfare;

75 (ii) a hazard to police officers or firefighters entering the
 76 [[building]] dwelling in an emergency; or

77 (iii) a public nuisance.

78 (2) Additional inspections authorized. The Director may inspect [[a]]
 79 an unmaintained vacant [[building]] dwelling more often than
 80 annually to ensure compliance with this Article.

81 [(e) County notification. The Director of the Department of Finance must
 82 notify all property owners of the requirements of this Article at the same
 83 time as the Director notifies property owners of any real property taxes
 84 due.]]

85 **[[26-22]] 26-23. Exemptions.**

86 (a) The Director may grant an exemption from the [[registration]]
 87 requirement in Section [[26-21]] 26-22 for any real property that is:

88 (1) in compliance with [[26-21]] 26-22(a) and the property owner
 89 has been actively seeking in good faith to rent [[of]] or sell the
 90 property if:

91 (A) the time period for sale or rent does not exceed 1 year from
 92 the initial listing, offer, or advertisement of sale or rent of a
 93 residential building; and

94 (B) the building has a valid certificate of occupancy;

95 (2) for a period not to exceed 12 months, the subject of a pending
 96 application for a necessary approval for development before the
 97 Planning Board, Board of Appeals, or Office of Zoning and
 98 Administrative Hearings; or

99 (3) for a period not to exceed 24 months, the subject of [[an
 100 inheritance]] a probate proceeding.

101 (b) The cumulative time period that a vacant [[building]] dwelling may be
 102 exempted from this Article must not exceed 3 years.

103 (c) An application for an exemption [[from the registration requirement]]
 104 must be made on a form the Director prescribes.

105 (d) A person that believes the Director has incorrectly denied the person's
 106 application for an exemption may appeal that decision [[according to]]
 107 under Section [[26-24]] 26-25.

108 **[[26-23]] 26-24. Fees; lien.**

109 [[a)] (a) Fees. The County Executive must set one or more fees by regulation
 110 under Method (2). The fee must increase for larger numbers of
 111 inspections performed that the Director determines are necessary to
 112 ensure compliance with this Section.

113 [[b) A vacant building owned by the County or its instrumentalities must
 114 comply with the registration requirement of Section 26-21, but is not
 115 subject to any fees required in paragraph (a).]]

116 (b) Lien. Any unpaid fee under this Article constitutes a lien on the property
 117 and may be collected in the same manner as taxes are collected.

118 **[[26-24]] 26-25. Right to appeal.**

119 (a) Within 10 days after the [[designation of an owner's building as a]
 120 Director sends written notice that an owner's property has been
 121 designated as an unmaintained vacant [[building]] dwelling, the owner
 122 may petition the Director for reconsideration by filing the form
 123 prescribed by the Director. Within 30 days after receiving the petition,
 124 the Director must issue a notice of final determination.

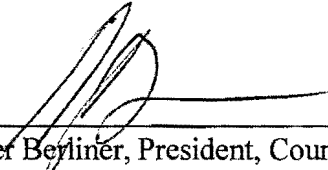
125 (b) Any person aggrieved by [[an]] a designation or notice of final action of
 126 the Director under this Article may, within [[10 days after receiving]] 15
 127 days after the Director sends written notice of the action, appeal that
 128 action to the Circuit Court under the Maryland Rules of Procedure for
 129 judicial review of a final administrative agency decision. An appeal
 130 does not stay the Director's action. A party aggrieved by the decision of
 131 the Circuit Court may appeal that decision to the Court of Special
 132 Appeals.

133 **26-26. Annual report.**

134 By March 1 each year, the Director must submit to the County Executive and
135 County Council a report on the Department's activities related to unmaintained
136 vacant dwellings. The report must include:

- 137 (a) the zip code of each property inspected during the prior calendar year;
- 138 (b) for each property inspected, a summary of violations by number found
139 and number corrected;
- 140 (c) the number of citations issued to each property owner during the prior
141 calendar year; and
- 142 (d) the amount of fees collected from each property owner during the prior
143 calendar year.

Approved:

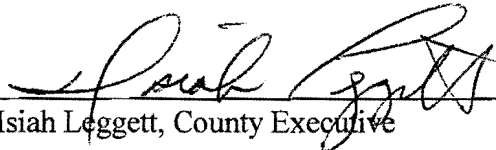


Roger Beyliner, President, County Council

May 2, 2017

Date

Approved:

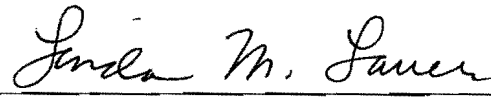


Isiah Leggett, County Executive

May 12, 2017

Date

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

May 15, 2017

Date