

Town of Bath Ordinance 2026-1
Vacant Structure Registry

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1. PURPOSE.

(a) The Town of Bath (Town) has determined that an uninspected and unmonitored vacant structure may present a fire hazard, may provide temporary occupancy by transients (including drug users and traffickers), may provide a nuisance from pests and vermin, may detract from private and/or public efforts to rehabilitate or maintain surrounding buildings, and that the health, safety and welfare of the public is served by the regulation of such vacant buildings.

(b) Owners of uninspected and unmonitored vacant buildings shall register such vacant buildings with the Town, make payment of a fee for the registration thereof, and otherwise conform to these vacant building regulations.

(c) This ordinance ensures that, through a registration, inspection, and monitoring process, vacant buildings will be kept weather tight and secure from trespassers, will provide safe entry to police officers and firefighters in times of emergency, will not impede private and/or public efforts to rehabilitate or maintain surrounding buildings, and will not present otherwise a public hazard.

(d) The Town, by and through its departments shall inspect and monitor vacant buildings, shall assess the effects of the condition of those buildings on nearby structures, and shall promote substantial efforts to rehabilitate and develop such buildings when appropriate.

2. DEFINITIONS.

(a) Definitions. For purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them as follows:

(1) Boarded: A building or structure subject to the provision of this section shall be deemed to be "boarded" if in place of one or more exterior doors, other than a storm door, or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.

(2) Exterior maintenance and major systems: The phrase "exterior maintenance and major systems" shall mean the safe and lawful maintenance of the facade, windows, doors, roof and other parts of the exterior of the building and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, driveway, if any, area of the lot, as applicable and as enforced by the Town, particularly in connection with codes adopted by the Town as well as all applicable local, state and federal laws.

(3) Occupied: Any building or structure shall be deemed to be occupied if one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this section, evidence offered to prove that a

building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; a valid Town business license, or the most recent, federal or state income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy; or proof of bonafide pre-rental inspection.

(4) Open: A building or structure subject to the provisions of this section shall be deemed to be "open" if anyone or more exterior doors other than a storm door is broken, open and/or closed but, without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion, or any combination of the same.

(5) Owner: An owner of the freehold of the premises or any lesser estate therein, a mortgagee, a vendee-in-possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a building subject to the provisions of this section, and as set forth below.

(6) Vacant: A building or structure shall be deemed to be vacant if no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides, dwells, or lives in any part of the building as the legal or equitable owner(s) or tenant occupant(s), or owner-occupant(s), or tenant(s) on a permanent, non-transient basis. A building or structure shall be deemed vacant and subject to the registration and possible penalty provisions provided herein if the exterior maintenance and major systems of the building and the surrounding real property thereof, as defined in this section, are in violation of the building codes or health and sanitation codes and if there is no proof of continual utility service evidencing actual use of electric, water service, etc. Continued is meant to be without more than one (1) thirty (30) day interruption in any given three-hundred sixty (360) day period. In order for such continual utility service to be considered as being actually in use as described in this section, it must be more than merely registered to the owner for purposes of billing and must be utilized, at a minimum, in order to keep the property and the major systems of the building in compliance with building and safety codes. The person or entity asserting that there has been continued utility service has the burden to produce actual bills evidencing utility service for the relevant period.

(b) Applicability. The requirements of this section shall be applicable to each owner of any building that is found to be vacant pursuant to the language contained herein. Each such owner shall cause to be filed a notarized registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all owners, as hereinafter described, and any other information deemed necessary by the Town. The registration fee(s) as required by this section shall be billed by the Town and shall be paid by last day of the month when the property has been registered. For purposes of this section, the following shall also be applicable:

(1) If the owner is a corporation, the registration statement shall provide the names and residence addresses of all officers and directors of the corporation and shall be accompanied by a copy of the most recent annual franchise tax report filed with the secretary of state;

(2) If an estate, the name and business address of the executor of the estate;

(3) If a trust, the name and address of all trustees, grantors, and beneficiaries;

(4) If a partnership, the names and residence addresses of all partners with an interest of ten percent or greater;

(5) If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;

(6) If an individual person, the name and residence address of that individual person.

3. INSPECTION.

(a) At the time of registration or to assess if registration is required, the Town Engineer, Fire Chief, and/or Chief of Police shall determine whether it is necessary for any or all of them to inspect the structure so as to identify any public safety issues needing addressed. Inspections shall also be available

to verify the status of any property concerning occupancy, vacancy, etc. If an internal inspection is deemed necessary, the owner will be notified of the same and arrangements made for the same. If the owner fails or refuses to consent to and arrange for an inspection, the Town will seek an administrative search warrant from a court of competent jurisdiction to authorize inspection of the premises for the purpose of determining the structural integrity of the building, the repairs necessary to insure its structural integrity and that it will be safe for entry by firefighters and police officers in time of emergency, and that the building and its contents do not present a hazard to the public during the time that the building remains vacant.

(b) All vacant structures are subject to re-inspection on an annual basis or as deemed necessary.

4. CORRECTIVE ACTION.

The property owners shall be notified in writing of any corrective action deemed necessary for life, safety and building code matters by Town officials, the applicable code provisions or ordinances, and will be afforded a reasonable time to the corrective action. Corrective action concerning the occupancy of vacant structures is discussed later herein.

5. REGISTRATION GENERALLY.

(a) At the time of adoption of this ordinance, all owners of realty within the Town that contain a vacant structure, as defined above, shall register the same with the Town. For those structures that qualify as a vacant structure and after the adoption of this ordinance, the owner thereof shall be required to register the structure with the Town within thirty (30) days after the structure is found to meet the definition of a vacant structure. The registration form shall require information from the registrant deemed necessary by the Town Engineer, Fire Chief, and/or Chief of Police, so as to ensure that the purpose of this ordinance is met. Specifically, the above named Town officers shall have the authority to require that the property owner provide a professional opinion (architect, engineer, etc.) to determine the structural integrity of the building, the repairs necessary to ensure its structural integrity and that it will be safe for entry by firefighters and police officers in time of emergency, and that the building and its contents do not present a hazard to the public during the time the building remains vacant. The above named officers shall have the authority to issue orders to the owner for corrective action deemed necessary. The Town Engineer and Fire Chief may rely upon the West Virginia State Building Code and Fire Code, as well as other applicable law, for guidance during any such structural review.

(b) Registration statement and fees; local agent. If none of the persons listed, as above, is shown at an address within the state, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open, or vacant and boarded, and shall be required whenever any building has remained vacant for forty-five (45) consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party for compliance with any other building code or housing code requirement. One registration statement may be filed to include all vacant buildings of the owner so registering, but each structure constitutes a separate fee. The owner of the vacant property as of the last day of the month when the property has been registered of each calendar year shall be responsible for the payment of the non-refundable registration fee.

6. FEES.

Said fee shall be billed by the Town; and based on the duration of the vacancy as determined by the following scale:

- (1) \$500 for properties that are vacant during the first year;
- (2) \$1,000.00 for properties that are vacant for at least one year but less than two years;
- (3) \$1,500.00 for properties that are vacant for at least two years but less than three years;
- (4) \$2,000.00 for properties that are vacant for at least three years but less than four years;
- (5) \$3,000.00 for properties that are vacant for at least four years but less than five years; and
- (6) \$4,000.00 for properties that are vacant for at least five years, plus an additional \$300.00 for each year in excess of five years.

7. RIGHT OF APPEAL.

(a) **Appeal Rights.** The owner shall have the right to appeal the imposition of the registration fees to the Town Council upon filing an application in writing no later than thirty (30) calendar days after the date of the billing statement. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy as defined in this ordinance specifically.

(b) **Waiver of Registration Fee.** A waiver of the registration fee, or an extension of a waiver for up to ninety (90) days from the date of the current billing statement, may be granted by the Town Council, if the owner:

(1) Demonstrates with satisfactory proof to the Town that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and

(2) Objectively demonstrates to the Town a reasonable anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building;

(3) Provides satisfactory proof to the Town was actively attempting to sell or lease the property during the vacancy period; or

(4) Provides satisfactory proof to the Town to be evaluated on a case-by-case basis, that the vacancy is temporary and may be due to illness of the owner, active military service, or some other reasonable explanation believed to be short term in nature and documentable as necessary.

(5) Within thirty (30) days, or as soon thereafter as possible, as the waiver application is received by the Town Council shall grant or deny the waiver, or request for extension, in writing, and dispatch the written decision by mail to the owner. If the owner properly submitted an application for a one-time waiver or request for extension to the Town, and the Town rendered a decision which the owner seeks to appeal to the Town Council, the owner must file an application in writing no later than thirty (30) calendar days from the date of the Town's decision. Town Council shall either grant or deny the appeal.

(6) Thereafter the decision of Town Council is final unless within thirty (30) days of such decision the owner appeals for injunctive relief to the Circuit Court of Morgan County.

8. AMENDING INFORMATION.

(a) **Duty to Amend Registration Statement.** If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the Town within thirty (30) days of the occurrence of such change and advise the division in writing of those changes.

(b) **Exceptions.** This section shall not apply to any building owned by the United States, the State, the County, the Town, or any of their respective agencies or political subdivisions.

(c) **Violations and Penalties for Failure to Register.** The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register a vacant building upon adoption of this ordinance, or to pay any fees required to be paid pursuant to the provisions of this ordinance, within thirty (30) days after they become due, shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than one-hundred dollars (\$100.00) nor more than five-hundred dollars (\$500.00) for each failure or refusal to pay a required vacant building fee, as

applicable. In such cases, whenever the minimum fine of one-hundred dollars (\$100.00) is imposed, it shall not be subject to suspension or reduction for any reason.

9. NON-PAYMENT OF FEES/LIENS.

(a) Delinquent Registration Fees as a Lien. After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal pursuant to section 7(b)(4) above, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the Town and the Town may commence a civil action to collect such unpaid debt.

(b) "Lien" or "Liens" as used in this section shall arise whenever the fees and charges as described in this section are levied or imposed.

(c) If an owner fails to pay the registration fee as assessed and the Town begins the collection action to enforce its lien, then the Town shall post the written notice on the property and send the written notice to the owner(s) by certified and regular mail.

(d) The Town may take action to sell the subject property by means of forfeiture and the court ordered enforcement process to collect the debt owed the Town. Should the Town take the steps necessary to sell the subject property, the Town shall do so, subject to all liens and real and personal property taxes that are due. Purchasers of the subject property shall be similarly responsible for registration pursuant to this section in the same manner as the prior owner and must begin the registration process anew if said property remains vacant.

1ST Reading: January 06, 2026

2nd Reading: January 20, 2026



Approved: Mayor Greg Schene