

**MEMORANDUM**

September 16, 2016

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Introduction:** Bill 39-16, Housing and Building Maintenance Standards – Registration of Vacant Property

Bill 39-16, Housing and Building Maintenance Standards – Registration of Vacant Property, sponsored by Lead Sponsor Councilmember Hucker and Co-Sponsors Councilmembers Leventhal and Navarro and Vice President Berliner, is scheduled to be introduced on September 20, 2016. A public hearing is tentatively scheduled for October 18 at 1:30 p.m.

Bill 39-16 would:

- require owners of certain unmaintained vacant buildings to register those vacant buildings with the Director of the Department of Housing and Community Affairs;
- require owners of certain unmaintained vacant buildings to pay certain fees;
- require inspections for certain unmaintained vacant buildings; and
- generally amend County law on housing and building maintenance standards.

Additional background materials from Lead Sponsor Hucker is attached on ©8.

This packet contains:

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Bill No. 39-16  
Concerning: Housing and Building  
Maintenance Standards -  
Registration of Vacant Property  
Revised: 7/14/2016 Draft No. 9  
Introduced: September 20, 2016  
Expires: March 20, 2018  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Hucker  
Co-Sponsors: Councilmembers Leventhal and Navarro and Vice President Berliner

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**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;
- (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

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



28 Unmaintained vacant building means a vacant building not maintained as  
 29 required by Chapter 26, Article 1.

30 Visual blight has the same meaning as in Section 26-2.

31 **26-20. Applicability.**

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

33 (a) owned by:

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

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

36 (3) a foreign government or its instrumentalities;

37 (b) under active construction or undergoing active rehabilitation,  
 38 renovation, or repair, and there is a building permit to make the building  
 39 fit for occupancy that was issued, renewed, or extended within 12  
 40 months of the registration date;

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

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

45 **26-21. Registration of unmaintained vacant buildings; inspection; notification.**

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

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

50 (c) Registration required.

51 (1) Within 90 days after a building becomes an unmaintained vacant  
 52 building, the owner must register the building and pay the  
 53 registration fee required in Section 26-23. An owner must renew

54 a registration annually from the date of initial registration unless  
 55 there is a change in ownership.

56 (2) The Director must identify nonregistered unmaintained vacant  
 57 buildings. The Director must notify the owner that the owner's  
 58 building has been designated as an unmaintained vacant building  
 59 and of the owner's right to appeal this designation.

60 (d) Inspections required.

61 (1) Inspections required. The Director must inspect every  
 62 unmaintained vacant building at least annually to ensure that:

63 (A) the building complies with all applicable laws, including  
 64 Chapter 26, Article I; and

65 (B) vacancy of the building is not;  
 66 (i) detrimental to the public health, safety, and welfare;  
 67 (ii) a hazard to police officers or firefighters entering the  
 68 building in an emergency; or  
 69 (iii) a public nuisance.

70 (2) Additional inspections authorized. The Director may inspect a  
 71 vacant building more often than annually to ensure compliance  
 72 with this Article.

73 (e) County notification. The Director of the Department of Finance must  
 74 notify all property owners of the requirements of this Article at the same  
 75 time as the Director notifies property owners of any real property taxes  
 76 due.

77 **26-22. Exemptions.**

78 (a) The Director may grant an exemption from the registration requirement  
 79 in Section 26-21 for any real property that is:

80 (1) in compliance with 26-21(a) and the property owner has been  
 81 actively seeking in good faith to rent or sell the property if:

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

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

86 (2) for a period not to exceed 12 months, the subject of a pending  
 87 application for a necessary approval for development before the  
 88 Planning Board, Board of Appeals, or Office of Zoning and  
 89 Administrative Hearings; or

90 (3) for a period not to exceed 24 months, the subject of an  
 91 inheritance.

92 (b) The cumulative time period that a vacant building may be exempted  
 93 from this Article must not exceed 3 years.

94 (c) An application for an exemption from the registration requirement must  
 95 be made on a form the Director prescribes.

96 (d) A person that believes the Director has incorrectly denied the person's  
 97 application for an exemption may appeal that decision according to  
 98 Section 26-24.

99 **26-23 Fees.**

100 (a) The County Executive must set one or more fees by regulation under  
 101 Method (2). The fee must increase for larger numbers of inspections  
 102 performed that the Director determines are necessary to ensure  
 103 compliance with this Section.

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

107 **26-24. Right to appeal.**

108 (a) Within 10 days after the designation of an owner's building as a vacant  
109 building, the owner may petition the Director for reconsideration by  
110 filing the form prescribed by the Director. Within 30 days after  
111 receiving the petition, the Director must issue a notice of final  
112 determination.

113 (b) Any person aggrieved by an action of the Director under this Article  
114 may, within 10 days after receiving written notice of the action, appeal  
115 that action to the Circuit Court under the Maryland Rules of Procedure  
116 for judicial review of a final administrative agency decision. An appeal  
117 does not stay the Director's action.

118 *Approved:*

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Nancy Floreen, President, County Council Date

120 *Approved:*

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Isiah Leggett, County Executive Date

122 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 39-16

*Housing and Building Maintenance Standards – Registration of Vacant Property*

- DESCRIPTION:** Bill 39-16 would require owners of certain unmaintained vacant buildings to register those vacant buildings with the Director of the Department of Housing and Community Affairs; require owners of certain unmaintained vacant buildings to pay certain fees; and require inspections for certain unmaintained vacant buildings.
- PROBLEM:** The County has inadequate tools to address vacant homes.
- GOALS AND OBJECTIVES:** To give the County new tools to address the growing number of vacant properties in the County.
- COORDINATION:**
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** To be requested.
- EXPERIENCE ELSEWHERE:** To be researched.
- SOURCE OF INFORMATION:** Amanda Mihill, Legislative Attorney, 240-777-7815
- APPLICATION WITHIN MUNICIPALITIES:** To be researched.
- PENALTIES:** A violation of Chapter 26 is a Class A violation.



**MONTGOMERY COUNTY COUNCIL**  
ROCKVILLE, MARYLAND

**TOM HUCKER**  
COUNCILMEMBER  
DISTRICT 5

**MEMORANDUM**

**TO:** Councilmembers  
**FROM:** Tom Hucker  
**DATE:** July 13, 2016  
**RE:** **Establishing a vacant property registry**

The second part of my housing package is a bill to establish a vacant property registry, which is intended to give the County government new tools to address the growing number of vacant properties in Montgomery County. A review of DHCA's code enforcement data shows that there are more than 350 known vacant properties in the county.

There are also hundreds more unidentified vacant properties because this problem is underreported and not all vacant properties have apparent housing code violations listed. Many of these vacant properties are inherited, owned by out-of-state residents, or by developers who simply have no short-term incentive to care for the property or put it back on the market.

Vacant properties can not only be an eyesore, they also pose serious threats to the community. Research shows they attract squatting, arson and other criminal activity. Vacant properties place a burden on our public safety and housing resources because they are twice as likely to generate a call for fire or police service than a non-vacant property<sup>[2]</sup>, and they have been found to reduce the community's property values by as much as 9%<sup>[3][4]</sup>.

The County has inadequate tools to address vacant homes, which is why many of ours remain empty for so long. Several in my neighborhood in Silver Spring have been the subject of constituent complaints for nearly ten years. I've discussed them with previous DHCA directors, the Maryland Department of Housing and Community Development and the Attorney General, each of whom have claimed that they need stronger authority to incentivize owners to rent, sell or occupy their homes.

As a result, many of the vacant properties we researched have generated dozens of County inspections, citations and minor DHCA actions through the Clean and Lien program. A Clean and Lien occurs when a negligent property owner fails to maintain their vacant property after being cited numerous times. In response, DHCA will cut the grass, secure the doors or windows, remove any trash or debris, and put a lien on the property for the cost of these services.

Unfortunately, this program does not provide enough of an incentive for a negligent property owner to rent, sell, or occupy the property because the cost of these services is so low.

My proposed bill addresses these issues by requiring DHCA to establish and maintain a registry of unmaintained vacant properties. Once the property is registered, DHCA must perform an initial inspection for housing code violations. Any subsequent inspections performed by DHCA will be charged to the homeowner using a graduated fee schedule similar to the False Alarm Response Fee Schedule.<sup>[5]</sup>

The creation of the registry will allow the County to collect data on the number of vacant houses for the first time. The more robust inspection regimen will make the County agencies aware of more violations and will encourage owners to address violations before they become worse, and the increasing fees will give absentee owners more financial incentive to rent, sell, or occupy long-vacant properties.

This is a best-practice approach that is based on successful laws in Chicago, Los Angeles, Wilmington, and other large municipalities. The District of Columbia also has a very successful approach to vacant properties; the City assesses a special tax of \$5.00 per \$100 of assessed value for vacant properties and \$10.00 per \$100 of assessed value for blighted vacant properties. Unfortunately, this option is unavailable to us under Maryland Constitution, but it illustrates the seriousness with which our immediate neighbors address this problem in the District.

Attached is a copy of the bill, an FAQ sheet, and some slides to explain more about the issue. Thank you in advance for your support of this bill. Please let me know if we can provide any additional information, and please contact my office if you would like to cosponsor.

<sup>[1]</sup><http://www.usatoday.com/story/money/personalfinance/2015/02/14/credit-dotcom-foreclosures/23287085/>

<sup>[2]</sup>[http://www.communityprogress.net/filebin/Community\\_Progress\\_Wilmington\\_FINAL\\_REPORT\\_122214.pdf](http://www.communityprogress.net/filebin/Community_Progress_Wilmington_FINAL_REPORT_122214.pdf)

<sup>[3]</sup><http://www.pittsburghquarterly.com/index.php/Region/the-cost-of-blight/All-Pages.html>

<sup>[4]</sup>[http://www.communityprogress.net/filebin/Community\\_Progress\\_Wilmington\\_FINAL\\_REPORT\\_122214.pdf](http://www.communityprogress.net/filebin/Community_Progress_Wilmington_FINAL_REPORT_122214.pdf)

<sup>[5]</sup><http://www.montgomerycountymd.gov/POL/Chief/bureaus/management/mgmtbudget/falsealarm/fee2.html>

## **Unmaintained Vacant Property Frequently Asked Questions**

### **1. What is the intent of this legislation?**

The intent of this legislation is to keep unmaintained vacant properties from becoming a nuisance to the community by requiring that the property owner maintain the property and move towards occupancy.

### **2. What is an unmaintained vacant property?**

Unmaintained vacant properties are residential real properties that have not been continuously occupied and the owner has shown no intent to return. To determine whether a property is vacant, the Department of Housing and Community Affairs (DHCA) must consider utility usage, physical signs of occupancy, and blight or general neglect.

### **3. Why create a registry?**

Unmaintained vacant properties have been shown to reduce the property values of surrounding properties by 6-9%, and they are nearly twice as likely to generate a call for fire service. Given these statistics, the county has a clear and compelling interest in making sure that unmaintained vacant properties are being maintained and not a risk to other homes in the community.

### **4. Are there any exemptions?**

Yes, properties with permits for active renovation, being sold or rented, going through probate proceedings, or being redeveloped are exempt from registering for up to 3 years.

### **5. Will residents that leave for the winter have to register?**

No, residents that leave for the winter will not have to register because they have a clear intent to return.

### **6. Are there any fees and fines associated with registering?**

Yes, the fee for registering the property and the fine for failing to do so will be set by executive regulation.

**7. What happens after a property is registered?**

DHCA will inspect the property for any code violations. The property owner will then have 30-60 days to address the code violations. Any subsequent inspections performed by DHCA will be charged to the homeowner using a graduated fee schedule similar to the False Alarm Response Fee Schedule.

**8. What is the False Alarm Response Fee and how does it work?**

The Montgomery County Police Department is requested to respond to over 45,000 false alarms each year. Responding to false alarm calls reduces the police department's effectiveness and undermines its ability to respond to more critical calls. A false alarm is defined as any alarm signal that elicits a response by police personnel and for which there is no evidence of criminal activity to justify a police response.

Below is the False Alarm Response Fee Schedule.

<b>Occurrence</b>	<b>Residential Fee</b>	<b>Commercial Fee</b>
<b>1st</b>	\$0.00	\$0.00
<b>2nd</b>	\$25.00	\$25.00
<b>3rd</b>	\$50.00	\$50.00
<b>4th</b>	\$75.00	\$75.00
<b>5th</b>	\$100.00	\$100.00
<b>6th</b>	\$150.00	\$150.00
<b>7th</b>	\$200.00	\$200.00
<b>8th</b>	\$250.00	\$250.00
<b>9th</b>	\$300.00	\$300.00
<b>10th</b>	\$400.00	\$400.00
<b>11th</b>	\$500.00	\$500.00
<b>12th</b>	\$600.00	\$600.00

<b>13th</b>	\$700.00	\$700.00
<b>14th</b>	\$800.00	\$800.00
<b>15th</b>	\$1,000.00	\$1,000.00
<b>16th</b>	\$1,500.00	N/A
<b>17th</b>	\$2,000.00	N/A
<b>18th</b>	\$2,500.00	N/A
<b>19th</b>	\$3,000.00	N/A
<b>20th</b>	\$4,000.00	N/A

**9. Who owns unmaintained vacant properties and why are they vacant?**

Research shows that most of these properties are owned by banks or real estate investors that acquired the property through a foreclosure sale. These properties are often vacant because the owners expect to increase profits once the property has appreciated in value.

**10. Is the state doing anything to address this issue?**

In 2012, the General Assembly created the Foreclosed Property Registry, which requires a foreclosure purchaser to register with the state and transfer the title in a timely manner. This law was needed because it typically took property owners nine to eighteen months to transfer the title, which made it difficult for counties to identify the owner responsible for property maintenance and tax payments.

**11. How will this affect property taxes?**

Long-term vacant properties tend to have lower property values than similar non-vacant properties. Therefore, many of these properties are assessed lower property taxes than they would be if the property was being occupied and maintained. This legislation encourages occupancy and maintenance, which would result in the property taxes that are on par with other similar non-vacant properties.

**12. Why impose fees instead of fines?**

Currently, DHCA can impose fines of up to \$500 for code violations that are not addressed within 60-90 days. However, these fines are often contested in court where judges typically extend the deadline for repairs and reduce or eliminate the fines altogether. Fees address these issues because they are charged directly to the property owner for the services provided without the need for judicial intervention. Fees also speed up the process because they escalate with each additional inspection.

**13. Will the county lose money if the property is purchased through a tax sale?**

No, unlike other jurisdictions where the property and land values can be lower than the cost of demolishing or repairing the property, Montgomery County has a healthy real estate market where the land value can exceed the value of the property itself.

**14. How will this affect custom home builders?**

As long as the builder can show good faith efforts to sell the property or renovate, then the property will be exempted from the registry.

**15. What impact do vacant property registries have?**

The vacant property registry in Wilmington, DE, one of the most successful and most awarded in the country, had a 40% decrease in vacant properties two years after it was instituted.