

Special Session

Agenda Item #	1
Meeting Date	March 2, 2016
Prepared By	Linda S. Perlman Assistant City Attorney
Approved By	Suzanne Ludlow City Manager

Discussion Item	Ordinance Requiring the Registration of Vacant Properties and Establishing Vacant Property Maintenance and Security Standards.
Background	<p>This Ordinance is intended to address the problem of vacant properties (residential, multi-family, and commercial) in the City by requiring the registration of vacant properties and imposing maintenance and security requirements for vacant properties. <u>All</u> vacant properties are subject to the vacant property maintenance and security requirements set forth in §6.38.100 of the Ordinance. Property that remains furnished, has utilities connected or in use, and is maintained while the owner is absent is not considered “vacant property” and does not need to be registered—unless the property is vacant for more than 1 year. Similarly, buildings under active construction or renovation do not need to be registered as vacant property. Vacant properties that are actively for sale or rent are exempt for the registration requirement for a 6-month period (which may be renewed for an additional 6 months). <i>See</i> definition of “vacant property” in §6.38.030.</p> <p>The penalty for failure to register a vacant property and for failure to maintain or secure a vacant building have been increased from a Class C (\$200 fine) to a Class A (\$500 fine) municipal infraction violation.</p>
Policy	The City wants to discourage the neglect of unsafe vacant properties in the City and to maintain a livable community that is vibrant, healthy, and safe for all of its residents.
Fiscal Impact	To be determined.
Attachments	Ordinance Requiring the Registration of Vacant Properties and Establishing Vacant Property Maintenance and Security Standards.
Recommendation	Consider the Ordinance for a first reading of the Council.
Special Consideration	

1 Introduced by:

First Reading:

2 Second Reading:

3 Effective Date:

4
5 **CITY OF TAKOMA PARK, MARYLAND**

6
7 **ORDINANCE NO. 2016-__**

8
9 **AN ORDINANCE REQUIRING THE REGISTRATION OF VACANT**
10 **PROPERTIES AND ESTABLISHING VACANT PROPERTY**
11 **MAINTENANCE AND SECURITY STANDARDS**
12

13 **WHEREAS**, the presence of vacant, abandoned, unsafe, and foreclosed properties can lead
14 to neighborhood decline, create an attractive public nuisance, contribute to lower property values,
15 and discourage potential buyers from purchasing a property adjacent to or in neighborhoods with
16 the aforementioned properties; and

17 **WHEREAS**, the City of Takoma Park wishes to protect its neighborhoods from decline and
18 devaluation; and

19 **WHEREAS**, the City of Takoma Park wishes to establish a vacant property registration
20 program as a mechanism to protect residential and commercial neighborhoods from becoming
21 blighted through lack of adequate maintenance and for the security of vacant and abandoned
22 properties.

23 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
24 **TAKOMA PARK, MARYLAND.**

25 **SECTION 1.** Title 6, Housing, of the *Takoma Park Code* is amended by adding a new
26 Chapter 6.38, Vacant Property Registration, as follows:

27 **6.38.010 Purpose.**

28 It is the purpose and intent of the City of Takoma Park, through the adoption of this Chapter,
29 to establish a vacant property registration program as a mechanism to protect residential and
30 commercial neighborhoods from becoming blighted through the lack of adequate maintenance and
31 for the security of distressed properties and vacant properties.

32 **6.38.020 Scope.**

33 The provisions of this Chapter shall apply to all existing, residential, commercial, multi-
34 family, industrial, and institutional properties and structures. This Chapter does not relieve an owner
35 from compliance with all applicable City ordinances and regulations or all applicable Montgomery
36 County and State of Maryland laws and regulations.

38 **6.38.030 Definitions.**

39 **“Beneficiary”** means a lender or other entity under a note secured by a deed of trust or
40 mortgage lien.

41 **“Building”** means a structure with a roof supported by columns or walls to serve as a shelter
42 or enclosure.

43 **“Default”** means the failure to perform a contractual obligation, monetary or conditional.

44 **“Distressed property”** means a property that is under a current (1) ~~notice of default or~~
45 ~~delinquent on the mortgage;~~ (2) pending foreclosure or tax lien sale; (23) properties that have been
46 the subject of foreclosure sale where the title was retained by the lender or beneficiary of a deed of
47 trust involved in the foreclosure; and/or (34) any properties transferred under a deed in lieu of
48 foreclosure. “Distressed property” also can include property that is vacant as a result of probate or
49 the death of the owner of record.

50 **“Evidence of vacancy”** means any condition that, on its own or combined with other
51 conditions present, would lead a reasonable person to believe that the property is vacant. Such
52 conditions include but are not limited to: overgrown and/or dead vegetation; accumulation of
53 newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities;
54 accumulation of trash, junk and/or debris; broken or boarded windows; abandoned vehicles and/or
55 auto parts or materials; the absence of window coverings such as curtains, blinds and/or shutters;
56 the absence of furnishings and/or personal items consistent with habitation; and/or statements by
57 neighbors, passersby, delivery agents, or government employees that the property is vacant.

58 **“Foreclosure”** means the process by which a property, placed as security for a real estate
59 loan, is sold through the courts at auction to satisfy the debt if the owner/borrower/mortgagor
60 defaults.

61 **“Lender/Mortgagee”** means the person or entity who is the secured party under any
62 mortgage or deed of trust instrument, or who has a fiduciary interest in the property, which can
63 include the mortgage servicer.

64 **“Notice of Default”** means a notice that a default has occurred under a mortgage or deed of
65 trust and that the beneficiary intends to proceed with a trustee’s or foreclosure sale.

66 **“Owner”** means any person, partnership, corporation, unincorporated association, limited
67 liability entity, trust, estate, or fiduciary having legal or equitable title to or interest in any real
68 property.

69 **“Owner of record”** means the person having record title to the property as shown in the
70 Land Records of Montgomery County, Maryland.

71 **“Property”** means any unimproved or improved real property, or portion thereof, situated in
72 the City and includes the buildings or structures located on the property regardless of condition.

73 **“Responsible party”** means the beneficiary that is pursuing foreclosure of a property
74 subject to this Chapter secured by a mortgage, deed of trust or similar instrument or a property that
75 has been acquired by the lender or beneficiary of a deed of trust involved in the foreclosure.

76 Responsible party may also include a mortgage servicer or the property preservation company or
77 property management company instructed with the security and maintenance of the property.

78 “Securing” means such measures as may be directed by the City Manager, or his or her
79 designee, that assist in rendering the property inaccessible to unauthorized persons, including but
80 not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding
81 of door, window and/or other openings. Boarding shall be completed to a minimum of the securing
82 standards set forth in *Takoma Park Code* section 6.36.060.C, as amended, at the time the boarding
83 is completed or required. Locking includes measures that require a key, keycard, tool or special
84 knowledge to open or gain access.

85 “Vacant” means no person or persons currently conduct a lawful business or lawfully reside
86 or live in any part of the building or structure as the legal or equitable owner(s) or tenant-
87 occupant(s) on a permanent, non-transient basis. A property is vacant when there is no habitual
88 presence of persons who have a legal right to be on the premises, or all lawful business or
89 construction activity or residential occupancy has substantially ceased, or which is substantially
90 devoid of contents. In the case of mixed-use buildings, a separate tenanted portion of the building
91 which meets these criteria may also be deemed vacant.

92 “Vacant property” means a lot or parcel of real property with at least one building,
93 structure, or portion that is not currently used or occupied for a period in excess of thirty (30) days.
94 A building or structure that remains furnished, has utilities connected or in use, and on property that
95 is maintained while the owner is absent shall not be considered vacant unless the building or
96 structure is vacant for a period greater than one (1) year. A building or structure that is under active
97 construction or undergoing active rehabilitation, renovation or repair, and there is a building permit
98 to make the building fit for occupancy that was issued, renewed or extended within six (6) months
99 of the date of vacancy shall not be subject to the vacant property registration requirement of this
100 Chapter; provided, however, that the cessation of active construction, rehabilitation, repair or
101 demolition activity for more than 30 days will result in the property being deemed a vacant property
102 and subject to the registration, security, and maintenance requirements of this Chapter.

103 A building that the owner or owner’s agent is actively trying to sell or rent (as evidenced by a sign
104 posted on the property advertising the property for sale or rent with contact information and current
105 telephone number, listing agreement with realty contact information, MRIS or MLS electronic
106 listing, or other advertisement of sale or rent) shall not be considered a vacant property provided
107 that the time period for sale or rent shall not exceed six (6) months from the initial listing, offer or
108 advertisement of sale or rent. The exemption from the vacant property registration requirement for a
109 building for sale or rent may be extended for one additional period upon a showing that the building
110 is still actively for sale or rent and provided that the building is in compliance with the vacant
111 property maintenance requirements of this Chapter.

112 **6.38.040 Inspections of Distressed Property.**

113 A. Prior to filing a complaint of foreclosure or notice of default or accepting a deed in
114 lieu of foreclosure, the responsible party, or their designee, shall inspect a distressed property to
115 determine whether the property is vacant. If the distressed property is found to be vacant or shows
116 evidence of vacancy, the responsible party shall, within 30 days, register the property as a vacant

117 distressed property with the City for the purpose of minimizing hazards to persons and property as a
118 result of the vacancy.

119 B. If a distressed property is occupied, but remains in default, it shall be inspected by
120 the responsible party, or their designee, monthly until: (1) the default is remedied; or (2) the
121 property is found to be vacant or shows evidence of vacancy. The responsible party or their
122 designee shall, within 30 days after obtaining knowledge of vacancy, register the property as a
123 vacant distressed property with the City for the purpose of minimizing hazards to persons and
124 property as a result of the vacancy.

125 **6.38.050 Registration of Vacant Distressed Property.**

126
127 A. The responsible party or their designee shall register a vacant distressed property by
128 completing and submitting the Vacant Distressed Property Registration form and submitting the
129 registration form to the City, along with the required fee.

130 B. The Vacant Distressed Property Registration form shall include the following:

131 1. The address of the vacant distressed property.

132 2. The name, current street/office mailing address (no post office boxes),
133 telephone number, and email of all owners of the vacant distressed property.

134 3. The name of the responsible party, the street/office mailing address of the
135 responsible party (no post office boxes), a responsible party direct contact name, telephone number
136 and email, and the name, address, telephone number, and email of the property management
137 company, field service provider, property preservation or real estate owned (REO) section or
138 department responsible for inspecting, securing, and maintaining the property.

139 4. An explanation as to the reason for the vacancy of the property.

140 C. If a vacant distressed property is not registered, then the City may give the
141 responsible party or their designee a written notice of vacancy and the responsible party or their
142 designee shall register the vacant distressed property with the City within 30 days of receipt of a
143 notice of vacancy from the City.

144 D. Registration of a vacant distressed property shall be valid and effective for a period
145 not to exceed one (1) year, beginning July 1 and ending the next June 30, and shall be renewed
146 annually thereafter until the property is no longer a vacant distressed property.

147 E. Vacant distressed property shall remain under the registration requirement, security
148 and maintenance standards of to this Chapter so long as the property is distressed property.

149 F. The responsible party shall inform the City of any pending action, such as a
150 bankruptcy or other court or administrative action, that would prohibit the responsible party from
151 taking any of the actions required by this Chapter. The responsible party shall provide the City with
152 complete information about any pending action that it alleges prevents the responsible party from
153 complying with this Chapter, including the security and maintenance standards set forth herein.

154 G. Failure to register a vacant distressed property is a Class A municipal infraction
155 offense.

156 **6.38.060 Owner Registration of Vacant Property.**

157 A. An owner of vacant property located in the City shall register the vacant property
158 with the City within 30 days of the vacancy.

159 B. If a vacant property is not registered, then the City may give the owner of record a
160 written notice of vacancy and the owner shall register the vacant property with the City within 30
161 days of receipt of the notice of vacancy from the City.

162 C. Owners who are required to register their vacant properties pursuant to this Chapter
163 shall do so by completing and submitting the Vacant Property Registration form to the City, along
164 with the required fee. The Vacant Property Registration form may be signed by an agent for an
165 owner provided the agent's written authorization from the owner is also provided. The Vacant
166 Property Registration form shall include the following:

167 1. The name, current street/office mailing address (no post office boxes),
168 telephone number, and email of all owners of the vacant property. If any owner of the vacant
169 property is not the same as the owner of record, then an explanation of the reasons for the difference
170 in ownership shall be provided.

171 2. The name of an individual or legal entity responsible for the care and control
172 of the vacant property. Such individual may be the owner, if the owner is an individual, or may be
173 someone other than the owner provided that the owner has contracted with such a person or entity to
174 act as his or her agent for purposes of this Chapter.

175
176 3. A current street/office mailing address (no post office boxes), telephone
177 number and email of the owner's agent, along with a direct contact name, telephone number, and
178 email for the direct contact of the owner's agent.

179 4. A certificate of property insurance in an amount equal to or greater than the
180 tax assessed value of the property.

181 5. An explanation as to the reason for the vacancy of the property.

182 D. Registration of a vacant property shall be valid and effective for a period not to
183 exceed one (1) year, beginning July 1 and ending the next June 30, and shall be renewed annually
184 thereafter until the property is no longer a vacant distressed property.

185 E. Vacant property shall remain under the registration requirement, security and
186 maintenance standards of this Chapter so long as the property is vacant.

187 F. The owner or owner's agent shall inform the City of any pending action, such as a
188 bankruptcy or other court or administrative action, that would prohibit the owner or owner's agent
189 from taking any of the actions required by this Chapter. The owner or owner's agent shall provide
190 the City with complete information about any pending action that it alleges prevents the owner or

191 owner's agent from complying with this Chapter, including the security and maintenance standards
192 set forth herein.

193 G. Failure to register a vacant distressed property is a Class A€ municipal infraction
194 offense.

195 **6.38.070 Fire Damaged Property.**

196 If a building or structure is damaged in a fire or other casualty, the owner has 90 days from
197 the date of the fire or other casualty to apply for a permit to start construction, rehabilitation, repair
198 or demolition and 30 days after the date of permit issuance to commence construction,
199 rehabilitation, repair or demolition of the fire damaged building or structure. Failure to do or the
200 cessation of active construction, rehabilitation, repair or demolition activity for more than 30 days
201 will result in the property being deemed a vacant property and subject to the registration, security,
202 and maintenance requirements of this Chapter.

203 **6.38.080 Registration Fee.**

204 The annual fee for registering a Vacant Distressed Property or a Vacant Property shall be
205 \$200.00 payable to the City of Takoma Park and submitted to the City, along with the required
206 registration form and all supporting information and documentation. Registration of a Vacant
207 Distressed Property or a Vacant Property is for the fiscal year beginning July 1 and ending the next
208 June 30. Unpaid registration fees shall be charged a late fee of 2% for each month or portion of a
209 month that the registration fee remains unpaid. Registration fees are non-refundable and are not
210 prorated in the event a registration fee is paid for a partial year. Unpaid registration fees are a lien
211 on the property and may be collected in the same manner as taxes are collected.

212 **6.38.090 Requirement to Keep Information Current.**

213 If at any time the information contained in the responsible party's Vacant Distressed
214 Property Registration or the owner's Vacant Property Registration form is no longer valid, then the
215 responsible party or owner, as applicable, has 15 days to file a new form containing valid, current
216 information. There shall be no fee to update an existing registered responsible party's or owner's
217 current information.

218 **6.38.100 Vacant Property Maintenance and Security Requirements.**

219 A. *Maintenance Requirements.* The responsible party of a vacant distressed property
220 and the owner or owner's agent of a vacant property shall comply with the following maintenance
221 requirements:

222 1. The exterior of the property shall be kept free of weeds, dry bush, dead
223 vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers,
224 notices, except those required by federal, state or local law, discarded personal items including but
225 not limited to, furniture, clothing, large and small appliances, printed material or any other items
226 that give the appearance that the property is vacant and abandoned.

227 2. The property shall be maintained free of graffiti, tagging or similar markings
228 by removal or painting over with an exterior grade paint that matches the color of the exterior of the
229 structure.

230 3. All visible front and side yards shall be landscaped and properly maintained
231 during the vacancy of the property. Landscaping includes, but is not limited to, grass, ground
232 covers, bushes, shrubs, hedges or similar plantings. Maintenance includes, but is not limited to
233 cutting, pruning and mowing of required landscaped and removal of all trimmings.

234 4. Pools, spas, and other water features shall be kept in working order so the
235 water remains clear and free of pollutants and debris or drained and kept dry. Properties with pools
236 and/or spas must comply with applicable security fencing requirements.

237 5. Adherence to the maintenance requirements of this section does not relieve
238 the responsible party, owner or owner's agent of any obligations set forth in any Covenants,
239 Conditions, and Restrictions and/or Homeowners Association rules and regulations which may
240 apply to the property.

241 **B. *Security Requirements.*** The responsible party of a vacant distressed property and the
242 owner or owner's agent of a vacant property shall maintain the property in a secure manner so as
243 not to be accessible to unauthorized persons. All vacant property shall be deemed adequately
244 protected from intrusion by trespassers and from deterioration by the weather if:

245 1. *Building openings:* Doors, windows, areaways and other openings are
246 weather tight and secured against entry by birds, vermin, and trespassers. Missing or broken doors,
247 windows and opening coverings are covered with at least one-half inch of CDX plywood
248 completely painted in accordance with the predominant tone of the building, weather protected,
249 tightly fitted to the opening and secured by screws or bolts.

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

252 3. *Drainage:* The building gutters and downspouts are watertight and entire
253 storm drainage system is adequately sized, installed in an approved manner, functional and
254 discharged in an approved manner.

255 4. *Exterior Building Structure:* The building is maintained in good repair,
256 structurally sound, free from debris, rubbish and garbage, and sanitary, walking surfaces and stairs
257 are structurally sound, so as not to pose a threat to the public health or safety.

258 5. *Structural Members:* The structural members are free of deterioration and
259 capable of safely bearing imposed dead and live loads.

260 6. *Foundation Walls:* The foundation walls are plumb, free from open cracks
261 and breaks, and rat-proof.

262 7. *Exterior Walls:* The exterior walls are free of holes, breaks, and loose or
263 rotting materials. Exposed metal and wood surfaces are protected from the elements and against

264 decay or rust by periodic application of weather coating materials, such as paint or similar surface
265 treatment.

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

271 9. *Chimneys and Towers:* Chimneys, cooling towers, smokestacks, and similar
272 appurtenances are structurally safe. Exposed metal and wood surfaces are protected from the
273 elements and against decay or rust by periodic application of weather coating materials, such as
274 paint or similar surface treatment.

275 10. *Sidewalk Openings:* Yard, walks, steps, and openings in sidewalks are safe
276 for pedestrian travel.

277 11. *Accessory and Appurtenant Structures:* Accessory and appurtenant structures
278 such as garages, sheds, and fences are free from safety and health hazards.

279 12. *Premises:* The premises on which a structure is located is clean, safe and
280 sanitary, maintained free of weeds, junk vehicles, and litter, and does not pose a threat to the public
281 health or safety.

282 C. *Inspections.* Vacant property and vacant distressed property required to be registered
283 in accordance with this Chapter shall be inspected by the owner or owner's agent or by the
284 responsible party on a monthly basis to determine if the property is in compliance with the
285 requirements of this Chapter.

286 **6.38.110 Posting of Notices.**

287 Vacant property and vacant distressed property required to be registered in accordance with
288 this Chapter shall be posted with the name and a 24-hour contact telephone number of the
289 owner/owner's agent or responsible party, including any local property management company. The
290 posting shall contain along with the contact name and contact telephone number, words
291 substantially similar to "THIS PROPERTY PRESERVED BY _____" and "TO REPORT
292 PROBLEMS OR CONCERNS CALL _____". The notice shall be placed on the interior of a
293 window facing the street to the front of the property so it is visible from the street, or secured to the
294 exterior of the building/structure facing the street to the front of the property so it is visible from the
295 street or if no such area exists, on a stake of sufficient size to support the posting in a location that is
296 visual from the street to the front of the property but not readily accessible to vandals. Exterior
297 postings must be constructed of and printed with weather resistant materials. The owner or owner's
298 agent or the responsible party, property preservation company or property management company
299 shall inspect the vacant or distressed property on at least a monthly basis to determine if the
300 property remains in compliance with the notice posting requirements of this section.

301

