WEST VIRGINIA CODE: §8-12-16C

§8-12-16c. Registration of vacant buildings; registration fees; procedures for administration and enforcement.

(a) The governing body of a municipality shall have plenary power and authority to establish by ordinance a vacant building and property registration and maintenance program.

(b) For purposes of this section:

(1) "Owner" or "property owner" means a person who individually or jointly with others:

(A) Has legal title to the property, with or without actual possession of the property;

(B) Has charge, care or control of the property as owner or agent of the owner;

(C) Is an executor, administrator, trustee or guardian of the estate of the owner;

(D) Is the agent of the owner for the purpose of managing, controlling or collecting rents; or

(E) Is entitled to control or direct the management or disposition of the property.

(2) "Vacant building" means a building or other structure that is unoccupied, or unsecured and occupied by one or more unauthorized persons for an amount of time as determined by the ordinance. A new building under construction or a building that by definition is exempted by ordinance of the municipality, is not deemed a vacant building. The governing body of a municipality, on a case-by-case basis, upon request by the property owner, shall exempt a vacant building from registration upon a finding for good cause shown that the person will be unable to occupy the building for a determinant period of time.

(3) "Vacant property" means a property on which no building is erected and no routine activity occurs.

(c) An owner of real property subject to registration and maintenance requirements may be charged a fee or fees as provided by ordinance. The ordinance shall provide administrative procedures for the administration and enforcement of registration and payment and collection of registration fees.

(d) The ordinance may require that when the owner of the vacant building or property resides outside of the state that the owner provide the name and address of a person who resides within the state who is authorized to accept service of process and notices of fees due under this section on behalf of the owner and who is designated as a responsible, local party or agent for the purposes of notification in the event of an emergency affecting the public health, safety or welfare.

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(e) The ordinance may authorize the municipality to institute a civil action against the property owner and/or file a lien on real property for unpaid and delinquent vacant building registration fees. Before any lien is filed, the municipality shall give notice to the property owner or owner's agent, by certified mail, return receipt requested, that the municipality will file the lien unless the delinquent fees are paid by a date stated in the notice, which must be no less than thirty days from the date the notice is received by the owner or the owner's agent, which shall be the date of delivery shown on the signed certified mail return receipt card. The ordinance may provide for alternative means of service when service cannot be obtained by certified mail.

(f) The ordinance may require that the owner maintain the vacant building or property to a standard deemed reasonable by the governing body. The ordinance may include authority for the municipality, following notice to the owner, to act to bring the vacant building or property into compliance with the standard, or otherwise eliminate the public nuisance caused by any noncomplaint conditions: Provided, That nothing in this section is to be interpreted to impose a duty, obligation or requirement that a municipality must undertake such repairs, demolition or maintenance measures which remain as obligations and responsibilities of the owner. Cost of the repairs, demolition and maintenance and related legal and administrative costs incurred by the municipality are to be paid by the owner. Collection of these costs may be enforced in civil proceedings against the owner.

(g) The ordinance shall permit a property owner to challenge any determination made pursuant to the ordinance. The administrative procedures adopted pursuant to the ordinance shall include the right to appeal to the circuit court of the county in which the property is located.

(h) The governing body of a municipality shall deposit the fee into a separate account, which shall be used to:

(1) Improve public safety efforts, especially for police and fire personnel, who most often contend with the dangerous situations manifested in vacant properties;

(2) Monitor and administer this section; and

(3) Repair, close or demolish a vacant structure as authorized by section sixteen of this article.

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