

## Chapter 6.08 Vacant Property and Notice of Default Registration

### 6.08.010 Registration

Responsible parties of vacant residential, multi-family, commercial or industrial property must register with the Revenue Bureau and pay the required registration fee. Responsible parties of residential, multi-family, commercial or industrial properties where notices of default have been issued must register with the Revenue Bureau and pay the required registration fee.

### 6.08.020 Definitions

For purposes of this registration program, unless the context requires otherwise, the terms used in this Chapter will be defined as follows:

**A.** “Responsible Party or Parties” means every person, entity, service company, property manager or real estate broker, who alone or severally with others:

- (1) Has legal or equitable title to any parcel of property, building unit, mobile building unit, or parcel of land, vacant or otherwise, or
- (2) Has care, charge or control of any parcel of property, building unit, mobile building unit or parcel of land, vacant or otherwise, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
- (3) Is a mortgagee of any such property; or
- (4) Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- (5) Is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated a foreclosure process.

**B.** “Notice of Default” means a written notice to a borrower stating that a default on a real estate loan agreement has occurred and that legal action may be taken.

**C.** “Vacant Property” means Property that is not occupied by a human and meets any of the following conditions:

- (1) Is subject to foreclosure action.
- (2) Windows or entrances to the premises are boarded up or closed off, or multiple window panes are broken and unrepaired.
- (3) Doors are smashed through, broken off, unhinged or continuously unlocked.
- (4) Gas, electric, or water service to the premises has been terminated.
- (5) Rubbish, trash or debris has accumulated on the premises.
- (6) The police or sheriff has received reports of trespassers on the premises, or of vandalism or other illegal acts being committed on the premises.
- (7) Has been cited with at least one Title 29 Property Maintenance Regulation violation.

**E.** “Mortgagee” means the creditor, including but not limited to, service companies, lenders of a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor interest and/or assignee of the mortgagee’s rights, interests or obligations under the mortgage agreement.

F. "Property" means as defined in (1), (2), (3) and (4). For purposes of this Chapter, commercial, industrial and multi-family properties shall be considered vacant when 90% or more of the property is unoccupied.

(1) "Residential Property" means property that is designated as a single family or multi-family residence in property tax records and have one, two, three or four independent housing units.

(2) "Multi-Family Property" means property designated a multi-family property in property tax records and has more than four independent housing units.

(3) "Commercial Property" means property that is designated and taxed as commercial property in property tax records.

(4) "Industrial Property" means property that is designated and taxed as industrial property in property tax records.

G. "Director" means the Director of the Revenue Bureau or his or her designee.

#### **6.08.030 Vacant Property Status Change**

When the status of Vacant Property has changed by clear and cogent evidence of renovation, reoccupancy or other such beneficial change the Director may no longer require ongoing annual fees of the Responsible Parties. The Director will adopt administrative rules to assist Responsible Parties in satisfactorily meeting the requirements of such status change.

#### **6.08.040 Administrative Authority**

A. The Director may implement procedures, forms, and written policies for administering the provisions of this Chapter. The Director is authorized to initiate collection actions against one or more Responsible Parties for failure to register and or pay the fee required under this Chapter. The Director is authorized to adopt one or more rules that establish collection, Administrative Review or Appeal of Administrative Review fees.

B. The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with this Chapter.

C. Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will publish a notice in a newspaper of general circulation in the City. The notice must be published not less than ten nor more than thirty days before the hearing, and it must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.

D. At the public hearing, the Director will receive oral and written testimony concerning the proposed rule. The Director will adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted

by the Director will be filed in the Revenue Bureau’s office. Copies of all current rules will be made available to the public upon request.

**E.** Notwithstanding Subsections C. and D. of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph is effective for a period of not longer than 180 days.

**6.08.050 Registration Fee and Annual Fee Schedule**

	Notice of Default Registration	Vacant Property Registration	Vacant Property 2nd Year Fee	Vacant Property 3rd Year Fee	Vacant Property 4th Year Fee
Residential	\$30.00	\$350.00	\$500.00	\$750.00	\$1,000.00
Multi-Family	\$50.00	\$500.00	\$750.00	\$1,000.00	\$1,500.00
Commercial	\$100.00	\$600.00	\$800.00	\$1,250.00	\$1,750.00
Industrial	\$250.00	\$750.00	\$1,000.00	\$1,500.00	\$2,000.00

If an amended Notice of Default is filed, an updated registration is required along with a fee payment of \$10. If a Vacant Property has been designated as a Vacant Property for 5 years or more, the Vacant Property fee will increase in each additional year by the sum of \$1,000 for Residential Property, \$1,500 for Multi-Family Property, \$1,750 for Commercial Property and \$2,000 for Industrial Property.

**6.08.060 Notice of Evidence of Vacancy**

**A.** When the Director receives evidence of a Property meeting the definition of Vacant Property under this Chapter, the Director will send a “Notice of Evidence of Vacancy” to the owner of record of such Property. The notice will inform the owner of record that the owner has 30 days to resolve the issue by providing evidence of Beneficial Changes to the Property so that the Property may no longer meet the definition of Vacant Property under this Chapter. “Beneficial Change” will be defined by administrative rule.

**B.** The time to make Beneficial Changes may be extended by the Director for good cause. Such extensions will be at the discretion of the Director and may not extend for more than 60 days after the original 30 days.

**C.** The Director will review the evidence of Beneficial Change and make a determination as to whether the evidence substantially and satisfactorily corrects any deficiencies that resulted in the original determination. The Director will inform the respondent of its determination.

**D.** If the Director determines the evidence of Beneficial Change provided does not change the designation of the Property as Vacant Property, registration and fee payment will be required within 30 days after the Director’s determination. In such case, the Director will provide information regarding appeal rights with the determination.

E. Failure to provide evidence of Beneficial Changes to the Property designated as Vacant Property or failure to request an extension to provide evidence of Beneficial Changes to the Property will subject the Vacant Property registration and fee payment as directed in this Chapter.

#### **6.08.080 Due Dates**

A. Notice of Default registration and fee payment, including amended filings, are required within 30 days of any Notice of Default or Amended Notice of Default.

B. Vacant Property registration and fee payment is required within 30 days of Notice of Evidence of Vacancy.

(1) Vacant Property registration and fee payment may be extended under Section 6.08.070. In such case, the due dates for registration and fee payment are noted within Section 6.08.070.

C. Vacant Property annual increases (2<sup>nd</sup> year fee, 3<sup>rd</sup> year fee, etc) are due within 30 days after each full year has passed without a change in designation as Vacant Property.

#### **6.08.090 Responsible Party for Fee**

A. For Notice of Default registration, fee payment must be made by the entity or person that filed the Notice of Default.

B. For Vacant Property registration, fee payment must be made by the Responsible Party. Every Responsible Party with respect to any Property shall be jointly and severally liable with every other Responsible Party for the obligations set forth in this Chapter.

#### **6.08.100 Request for Change of Responsible Party**

A. Except as provided in this Section, no registration will be transferable from one person to another.

B. The Director may allow transfer of a registration of both Notice of Default and Vacant Property to a successor or transferee. Any transfer will be reported to the Revenue Bureau in writing or on a form provided by the Director and will be effective when the Director approves the transfer as complete. A transfer fee of \$20.00 must accompany the request for change of Responsible Party.

#### **6.08.110 Administrative Review Process and Appeal Rights**

A. Whenever a Responsible Party has been given a Notice of Evidence of Vacancy pursuant to this Chapter and the Responsible Party believes the finding of the notice was in error, the Responsible Party may have the notice reviewed by the Director through an Administrative Review. If an Administrative Review is sought, the Responsible Party shall submit a written request to the Revenue Bureau within 15 days of the date of the notice and any payment required by one or more administrative rules adopted under this

Chapter. Such review shall be conducted by the Director. The Responsible Party requesting such review shall be given the opportunity to present evidence to the Director, the Director shall issue a written determination.

**B.** An Administrative Review determination issued pursuant to Section 6.08.110 A may be appealed to the Code hearings Officer, as provided for in Chapter 22.10 of City Code. Additionally, any appeal must include any fee payment required by one or more administrative rules adopted under this Chapter.

**C.** All appeals from the Code Hearings Officer's determination pursuant to Section 6.08.110 B will be by writ of review as authorized by Section 22.04.010 of the City Code and ORS 34.010 – 34.100.

#### **6.08.120 Civil Penalties**

**A.** Failure to register a Vacant Property within 30 days of when due will result in a civil penalty of \$500 for the first violation, \$1,000 for the second violation, and \$5,000 for the third and subsequent violations.

**B.** Failure to register a Notice of Default within 30 days of when due will result in a civil penalty of \$50 for the first violation, \$100 for the second violation and \$500 for the third and subsequent violations.