

COUNCIL BILL NO. 039
ORDINANCE NO. 3171 (012-11)

AN ORDINANCE TO AMEND TITLE V. BUILDING AND CONSTRUCTION, CHAPTER 500: BUILDING AND PROPERTY MAINTENANCE CODES OF THE CODE OF ORDINANCES OF THE CITY OF HARRISONVILLE, MISSOURI BY ENACTING A NEW ARTICLE VII ENTITLED; ABANDONED RESIDENTIAL PROPERTY REGISTRATION, WITHIN THE CITY OF HARRISONVILLE, MISSOURI.

WHEREAS the City of Harrisonville Board of Alderman desire to establish an abandoned residential property registration program for properties which are in the process of foreclosure as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and adequate security of abandoned properties; and

WHEREAS the City of Harrisonville Board of Alderman are concerned for the health, safety and general welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section 1: That Article VII, Abandoned Residential Property Registration be enacted and read as follows:

SECTION 500.250: Definitions.

For the purposes of this chapter, certain words and phrases used in this article are defined as follows:

Abandoned means a property that is vacant and under a current Notice of Default or Notice of Sale, or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

Accessible property means a property that is accessible through a compromised, breached or broken gate, fence or other entry point.

Accessible structure means a structure that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.

Beneficiary means a lender under a note secured by a deed of trust.

Days means consecutive calendar days.

Deed in lieu of foreclosure or sale means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

Deed of trust means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition includes any subsequent deeds of trust.

Default means the failure to fulfill a contractual obligation, monetary or conditional.

Evidence of vacancy means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) under a deed of trust defaults.

Local means within forty (40) road/driving miles distance of the subject property.

Notice of default means a notice, issued pursuant to the applicable real estate security document or Section 408.554, RSMo, which a default has occurred under a deed of trust.

Out of area means in excess of forty (40) road/driving miles distance of the subject property.

Owner means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

Owner of record means the person having recorded title to the property at the point in time the record is provided by the Cass County Recorder's Office.

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

Registered Representative means the person designated by a beneficiary as the beneficiary's representative for purposes of accepting notice, service and summons on behalf of the beneficiary and for otherwise ensuring compliance with the requirements of this article.

Residential building means any improved real property or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as "residential" whether or not it is legally permitted or zoned for such use.

Securing means such measures as may be directed by the Director of Codes Administration or his designee that assist in rendering the property inaccessible to

unauthorized persons, including but not limited to the repairing of fences and walls, chaining/pad locking of gates, the repair or boarding of door, window or other openings.

Trustee means the person, firm or corporation holding a deed of trust on a property.

Trustor means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

Vacant means a building/structure that is not legally occupied.

SECTION 500.260: Registration.

- A. Any beneficiary under a deed of trust covering a property located within the City of Harrisonville shall cause an inspection to be performed of the property that is the security for the deed of trust within fifteen (15) days of issuing a notice of default to the trustor. The beneficiary shall, within ten (10) days of the inspection, register the property with the Director of Codes Administration or his designee on forms provided by the City.
- B. The registration shall contain the full legal name of the beneficiary and the registered representative, the direct street/office mailing address of the beneficiary and the registered representative (no P. O. Boxes), a direct contact name and phone number for the beneficiary and registered representative, and, if applicable, the local property management company responsible for the security, maintenance and marketing of the property.
- C. The registration shall be valid as long as the subject property remains vacant and shall be amended as needed.
- D. This section shall also apply to properties that have been the subject of a foreclosure sale where title to the property was transferred to the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.
- E. Properties subject to this article shall remain under the security and maintenance standards of this section as long as they remain vacant.
- F. Any person, firm or corporation that has registered a property under this article must report any change of information contained in the registration within ten (10) days of the change.

SECTION 500.270: Maintenance requirements.

Properties subject to this article shall be in compliance with the City of Harrisonville Property Maintenance Code. Adherence to this section does not relieve the beneficiary or property owner of any obligations set forth in any covenants conditions and restrictions or homeowner's association rules and regulations which may apply to the property.

SECTION 500.280: Security requirements.

- A. Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and/or structure(s). In the case of broken windows "securing" means the reglazing or boarding of the window.
- B. If the beneficiary is an out of area beneficiary, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.
- C. The beneficiary shall cause the property to be inspected on a weekly basis to determine if the property is in compliance with the requirements of this article.

SECTION 500.290: Compliance with other authority.

The requirements of this article are in addition to any other maintenance and security measures required by the Code of Ordinances. The requirements of this article shall not serve to lessen or abrogate any other applicable provisions of the Code of Ordinances.

SECTION 500.300: Violations.

- A. Any beneficiary, registered representative, or local property management company that violates any provision of this article shall be in violation of this article, and a General Ordinance Summons (GOS) may be issued against the beneficiary's representative for such violation. In addition to any other penalties which may be assessed for a violation of this article, any person or entity who violates a provision of this article shall be assessed a fine of five hundred dollars (\$500.00) per violation, or imprisonment not exceeding ninety (90) days, or both such fine and imprisonment.

Section 2: Effective Date. This ordinance shall be in full force and effect from and after the date of its passage and approval.

Vote taken as follows:

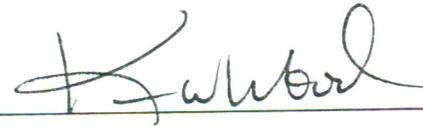
Ayes: Aldermen Dickerson, Licht, Stull, Meyer, Reece, Pfautsch, Coburn

Nays: None

Absent: Alderman Mollenhour

Abstain: None

Read two times by title only on August 1, 2011, and passed by the Board of Aldermen of the City of Harrisonville, Missouri, and approved by the Mayor this 1st day of August 2011.



Kevin Wood, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:



Kim Hubbard, Deputy City Clerk

APPROVED by the Mayor this 1st day of August 2011.