

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 4 OF THE CITY CODE, "BUILDING, PLUMBING AND ELECTRICAL INSTALLATIONS", BY ADDING A NEW ARTICLE 16, "VACANT STRUCTURE REGISTRATION AND MAINTENANCE" AND AMENDING THE DANGEROUS BUILDING AND UNSAFE BUILDING SECTION OF CHAPTER 4.

WHEREAS, there is a need to protect the health, safety and welfare of the public; and,

WHEREAS, buildings which remain vacant and unoccupied for any appreciable period of time become a harborage for rodents, an invitation for illegal occupancy and for illegal activities, as well as a fire hazard; and, which remain vacant for extended periods; and,

WHEREAS, unkempt grounds surrounding unoccupied buildings invite dumping and rubbish thereon, that such buildings become dilapidated and contribute to commercial and residential blight, depressing market values of surrounding property; and,

WHEREAS, vacant and unoccupied buildings require additional City services, endanger the public safety and health, and generally remain detrimental to the public good.

WHEREAS, buildings that remain vacant with access points boarded over are unsightly, unsafe and have a significant and negative effect on their surroundings; and,

WHEREAS, in order to protect the health, safety, morals, and welfare of the citizens of the City of Independence, to preserve and enhance livability, preserve property values of surrounding buildings, and to ensure that buildings are promptly rehabilitated and/or demolished as appropriate;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That a new Article 16, "Vacant Structure Registration and Maintenance", of Chapter 4 of the Code of the City of Independence, Missouri, is hereby added, to read as follows:

"Article 16, VACANT STRUCTURE REGISTRATION AND MAINTENANCE"

SEC. 4.16.001. Statement of Intent and Purpose

It is the finding of the City Council that properties in the process of foreclosure ("foreclosing" properties), vacant buildings, structures and dwellings, and properties that are tagged unsafe and/or dangerous are unsightly, unsafe, and have a negative effect on the community. The proliferation of vacant, unsafe and dangerous buildings, structures and dwellings can cause a deterioration of neighborhoods and areas within the city limits of Independence and can have a negative impact on the value of property in close proximity to these buildings. Vacant, unsafe and dangerous buildings, structures, and dwellings can cause a serious threat to the safety and welfare of the residents of the City and can erode the quality of life of all who live and work in the City. Vacant, unsafe and dangerous buildings, structures and dwellings are places of infestations of rodents, vermin, insects, wild animals and other health-threatening creatures and diseases, provide shelter to individuals to conduct illicit activities and are an attractive nuisance. The purpose of this article is to establish a program for identifying, registering and monitoring such properties, to set forth the responsibility of all

persons with any interest in such properties, including mortgagees, lenders, trustees and service companies, and to speed the rehabilitation and re-occupation of such properties.

Registration fees are reasonably related to and calculated to cover the administrative costs for registering and processing the vacant real property owner registration form and for the costs the City may incur in monitoring and inspecting the vacant or abandoned real property.

SEC 4.16.002 Definitions

For purposes of this Chapter the following words and phrases shall have the following meanings, except where the context clearly indicates a different meaning:

ABANDONED means:

1. Any real property where the owner has surrendered, relinquished or given up rights to the real property with the intention of not reclaiming it; or
2. Any real property that is vacant and is under a current notice of default or notice of trustee's sale and is not currently being offered for rent, lease or sale by the owner. Evidence of being currently offered for rent, lease, or sale shall be by a sign posted on the subject property advertising the property for rent, lease, or sale with contact information and current phone number or an active listing in an electronic database accessible to City staff; or
3. Real property that has been the subject of a foreclosure sale where the title was retained by the beneficiary involved in the foreclosure and any real property transferred under a deed in lieu of foreclosure.

AUTHORIZED REPRESENTATIVE means a person, corporation, limited liability company or other legal entity having charge, care or control of any real property as agent of the owner, or as personal representative, trustee, guardian or conservator of the estate of the owner.

CODE means the City of Independence City Code, the adopted International Building Code, and the adopted International Residential Code as adopted by the City.

DANGEROUS BUILDING means any building reflecting any of the criteria described in Chapter 4, Article 1 of the City of Independence City Code

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 may include, but are not limited to, overgrown and/or dead vegetation, electricity/water/other utilities turned off, statements by neighbors/passersby/delivery agents or government agents, lack of response to notices, returned or forwarded mail, unsecured doors, absence of, or condition of, personal belongings on the property, habitation by vagrants/transients/trespassers, lack of marketing for purposes of selling or renting property, etc.

OCCUPIED means when a property, residence, or structure is being lived in or used in a manner consistent with its intended use.

OWNER means the person, persons, partnership, corporation, beneficiary, trustee, or other legal entity that holds legal title to any real property.

REAL PROPERTY means all land and structures affixed to or built thereon.

RESPONSIBLE PARTY means includes real property owners, mortgagees, lenders, trustees, or any other party with legal interest in the real property, and their authorized representatives or agents.

STATEMENT OF INTENT means a form completed by the owner of a vacant structure or the owner's authorized representative, which contains specific information regarding the structure and the owners' plans for rehabilitation, maintenance, demolition and/or removal.

STRUCTURE means any physical object or edifice that is built or installed and is located on and affixed to the land. The term "structure" shall include any part of a structure.

TRUSTEE means the person, firm, corporation or other legal entity holding a deed of trust secured by real property.

UNDEVELOPED means a parcel of real property that does not have a primary structure built thereon.

UNSAFE BUILDING means any building reflecting any of the criteria described in Chapter 4, Article 1 of the City of Independence City Code.

VACANT means

1. **A building or structure that is not legally occupied as required by the Code.**
2. **Any unsafe or dangerous building.**
3. **Any free standing residential real property that has not been legally occupied for one hundred eighty (180) days.**
4. **Any free standing commercial, office or industrial real property that has less than fifty percent (50%) of the total area of the building (excluding stairwells, elevator shafts, and mechanical rooms) being legally occupied or is not being used for occupancy that was authorized for one hundred eighty (180) days.**
5. **A multifamily residential building or structure containing five (5) or more dwelling units when eighty percent (80%) of the dwelling units are unoccupied.**

VACANT STRUCTURE MAINTENANCE STANDARDS means the maintenance standards, to which the vacant structures, unsafe building and/or dangerous building are subject under this Chapter, are set forth in the City of Independence Municipal Code, as well as the International Property Maintenance Code, the International Building Code, and the International Residential Code, as adopted by the City of Independence, all other applicable chapters of the Independence City Code, including, but not limited to the Building and Zoning Ordinances of the City, as amended from time to time, and all standards contain within this Chapter.

SEC. 4.16.003. Property Registration

- A. **The owner(s) of all real property, or the authorized representative of owner, shall register said real property with the Building Official or designee within fourteen (14) calendar days after the real property meets the definition contained in this Chapter for**

or becomes classified by the City, based upon evidence of vacancy, as vacant or abandoned. The City identify vacant buildings through its routine inspection process as well as through notification by residents, neighborhood associations and other community groups that a building may be eligible for inclusion on the registry.

B. Owners required to register real property pursuant to this Chapter shall submit a copy of a state-issued identification or other valid proof of identification and provide the following information on a form provided by the City:

- 1. The address of the real property.**
- 2. The name, address, and all telephone numbers of the owner(s).**
- 3. A mailing address where correspondence may be sent, if different from the property address, where such correspondence will be acknowledged as received by the owner(s). If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.**
- 4. The names and addresses, telephone numbers, fax numbers, and email address (if known) of all lien holders and all other parties with an ownership interest in the real property.**
- 5. The name, address, telephone number, fax number, and email address (if known) of the person, firm, or corporation responsible for the care and control of the real property. Such person may be the owner if the owner is an individual or may be an authorized representative as defined in this Chapter. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.**
- 6. If the real property is owned by a corporation and/or a beneficiary, trustee, or if the owner is located more than fifty (50) miles away, the corporation, beneficiary, trustee, or owner shall designate a local authorized representative who will be responsible to maintain the real property in compliance with the provisions of this Chapter. A local authorized representative must be located within a fifty (50) mile radius of the City of Independence and be available 24 hours a day 7 days a week for emergency purposes.**
- 7. Permission granting to the City of Independence access to all exterior areas of the real property for inspection purposes.**
- 8. Completed Statement of Intent form setting forth the following:**
 - a. The expected period of vacancy (including the date of initial vacancy);**
 - b. The plan (including timeline) for regular maintenance during the vacancy to comply with the vacant structure maintenance standards of this Chapter and all applicable property maintenance, building and zoning codes of the City;**
 - c. A plan and timeline for the lawful occupancy, rehabilitation, removal or demolition of the structure;**
 - d. Measures/plans (including timelines) to be taken to ensure that the structure will be kept weather tight and secure from trespassers and that it will be safe for entry by police officers, firefighters and code or building inspectors in time of exigent circumstances or emergency as well as at times of reasonable inspection;**
 - e. Measures (and timeline) to be taken to assure that the premises remain free from nuisance conditions and in good order in conformance with the vacant structure maintenance standards;**

- f. A list all persons authorized to be present in the structure; and
 - g. Notices of trespass to the police authorizing the arrest for trespass of individuals not on the above list.
- C. The Owner, within fourteen (14) calendar days of registering the property, shall:
 - 1. Remove all combustible materials from the structure in compliance with the applicable fire regulations; and
 - 2. Remove all waste, rubbish or debris from the interior and exterior of the structure; and
 - 3. Remove all excessive vegetation, including grass in excess of twelve (12) inches from the yard(s) surrounding the vacant structure in accordance with City ordinances; and
 - 4. Secure all windows, doors, and other openings in the structure to prohibit entry by unauthorized persons as provided in Chapter 4, Article 1 of the Independence City Code.
- D. If at any time the information contained in this registration is no longer valid or has changed, the owner or authorized representative has fourteen (14) calendar days to file an amended registration form containing the current information. There shall be no fee required to update the current owner's information.
- E. Obligation to Renew Registration and Continue to Satisfy the Requirements of this Chapter.
 - 1. The owner(s) of all real property, or the authorized representative of owner, shall renew registration of said real property with the Building Official or designee based upon the renewal schedule contained in this Chapter.
 - 2. The obligations of the Owner are continuing obligations which are effective throughout the time of the structure's vacancy, as that term is defined in this Chapter.
- F. Exceptions, Registration.
 - 1. Single family homes or owner occupied 2-family properties that have been used as a residence by the owner for a period of at least five (5) months within the previous twelve (12) months and the owner intends to resume residing at the property, and for those properties which are under active, ongoing rehabilitation or reconstruction and have a building permit from the City. It shall be the responsibility of the owner to demonstrate the applicability of this exception to the City in order to qualify therewith.

SEC. 4.16.004. Maintenance and Safety Requirements

- A. The real property subject to this Chapter shall be maintained in compliance with the Codes as adopted by the City as further defined herein as Vacant Structure Maintenance Standards, which includes:
 - a. Compliance with the Property Maintenance Code in Chapter 4, Article 1 which requires properties shall be kept free of weeds, grass more than twelve (12) inches in height, trash, junk, debris, building materials, accumulation of newspapers, circulars, flyers, notices, except those required by law, discarded items, including but not limited to furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, derelict vehicles, or any other items that give the appearance that the real property is abandoned.
 - b. All visible front and side yards shall be landscaped and properly maintained. Landscaping, includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or mulch designed and maintained in an appropriate manner. Landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed materials, plastic sheeting, indoor-outdoor carpeting or any

- similar material. Maintenance, includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscaping and removal of all trimmings.
- c. Any plant material that is dead or missing shall be replaced with a similar plant material that meets the requirements of Section 14-503 of the Unified Development Ordinance. In instances where adverse weather precludes planting, a deposit in the name of the City for the cost of the landscape material and installation must be provided by the owner or authorized agent. The plant material must be planted within 90 days of acceptance by the City of the deposit. If the owner has not installed the required plant material, the City may specify a landscape installation company to install the plant material and payment for the installation will be deducted from the deposit submitted by the owner.
 - d. Dumpsters shall be screened in accordance with Section 14-503 of the Unified Development Ordinance. The owner shall have the option to remove dumpster in lieu to constructing the dumpster screening.
 - e. All signage and sign structures shall be removed in accordance with Section 14-504-16 of the Unified Development Ordinance.
 - f. Pools, spas, and other water features shall be kept in working order so that water remains clear and free of pollutants and debris, or drained and kept dry and free of debris. In either case, properties with pools or spas must comply with the minimum- security fencing and barrier requirements of Chapter 11, Article 13 of the City Code.
 - g. All fire protection systems shall remain intact and functioning. Any registered owner wishing to disconnect the systems, must provide notification to Community Development, Fire Department and Police Department and ensure that the building no longer contains any materials or fire load beyond the structure itself.
 - h. Any registered owner that disconnects or discontinues use for fire protection systems, shall be notified that future disclosure will be required of said action and upon re-occupation, the fire protection system will be required to be brought up to current City adopted fire code.
 - i. Real properties subject to this Chapter shall be maintained in a weather-tight and secure manner so as not to be accessible to unauthorized persons. Secure manner, includes, but is not limited to, the closure and locking of windows, doors, gates and any other opening of such size that it may allow people, animals, or wildlife to access the interior of the real property. Broken windows must be repaired or replaced within seven (7) days. Boarding up of windows and doors is prohibited except as a temporary measure.
 - 1. It is the policy of the City that boarding up of a vacant property is a temporary solution to prevent unauthorized entry into a vacant building and that boarded buildings are a public nuisance. A vacant structure may not remain boarded up for longer than six (6) months unless an extension of that time is approved by the City in writing.

SEC. 4.16.005. Registration Fees; Renewal

A. Single Family and Two-Family Residential Properties

- a. The owner of a vacant or abandoned real property shall pay a fee of three hundred fifty dollars (\$350.00) per real property for the initial six (6) month registration of the property no later than fourteen (14) calendar days after the real property meets the definition contained herein for or becomes classified by the City, based upon evidence of vacancy, as vacant or abandoned.

- b. The fee for renewing the vacant property registration shall be three hundred fifty dollars (\$350) and shall cover a period of six (6) months following renewal.
 - c. If a property remains abandoned or vacant beyond twenty-four (24) months, the following shall apply based on continuing and/or increased enforcement-related activities and administrative cost:
 - 1. A renewal registration fee of five hundred dollars (\$500.00) per six (6) month period that such properties remain in foreclosure, abandoned or vacant.
 - 2. A fee of one hundred dollars (\$100.00) per month for properties that are vacant for at least thirty-six (36) months and thereafter.
 - 3. This renewal registration fee and monthly fee schedule are intended to run with the land not with the Owner, such that the twenty-four (24) months do not begin again if a new Owner or other party becomes involved with the property.
- B. Multi-Family and Commercial/Office/Industrial Properties
 - a. The owner of a vacant or abandoned real property shall pay a fee of five hundred dollars (\$500.00) per real property for the initial six (6) month registration of the property no later than fourteen (14) calendar days after the real property meets the definition contained herein for or becomes classified by the City, based upon evidence of vacancy, as vacant or abandoned.
 - b. The fee for renewing the vacant property registration shall be five hundred dollars (\$500.00) and shall cover a period of six (6) months following renewal.
 - c. If a property remains abandoned or vacant beyond twenty-four (24) months, the following shall apply based on continuing and/or increased enforcement-related activities and administrative cost:
 - 4. A renewal registration fee of six hundred fifty dollars (\$650.00) per six (6) month period that such properties remain in foreclosure, abandoned or vacant.
 - 5. A fee of one hundred fifty dollars (\$150.00) per month for properties that are vacant for at least thirty-six (36) months and thereafter.
 - 6. This renewal registration fee and monthly fee schedule are intended to run with the land not with the Owner, such that the twenty-four (24) months do not begin again if a new Owner or other party becomes involved with the property.
- C. All fees and penalties required by this Chapter shall be paid in full prior to the issuance of any building or occupancy permit. All delinquent fees and penalties shall be paid in full prior to any transfer of an ownership interest in any vacant or abandoned real property. If a transfer occurs prior to the payment of any outstanding fee or penalty, the new owner shall accept responsibility for payment of all delinquent fees; and, shall make payment no later than thirty (30) days after the transfer of ownership and subsequent semi-annual fees shall be due fourteen (14) calendar days after each successive six (6) month period.
- D. Payment of the applicable registration fee(s) does not relieve or exempt the Owner or other Person from paying any and all fines, penalties, costs or other such charges assessed for non-compliance with property maintenance standards or other code provisions in this article or elsewhere in the City's ordinances.

SEC. 4.16.006. Enforcement, Remedies and Penalties

- A. This Chapter shall be enforced by the Building Official or designee.
- B. Any owner or responsible party that fails to comply with the registration requirements of this Chapter shall be subject to the general penalty provisions as provided in Chapter 4 of the Independence City Code.
- C. Notwithstanding the provisions of this article, the City shall retain the right afforded under relevant State or local law to declare a non-compliant vacant structure unsafe and/or a public nuisance. The City may pursue whatever legal recourse afforded to it by

law, including, but not limited to, action to abate a public nuisance or an action seeking the demolition of a dangerous and unsafe building.

SEC. 4.16.007. Responsible Parties; Liens

Every responsible party with respect to any vacant property shall be jointly and severally liable with every other responsible party for the obligations set forth in this Chapter. All fees, costs and charges assessed or incurred by the City shall constitute a lien on the real estate upon which such vacant structure is situated.

SECTION 2. That Section 4.01.008.C. of Chapter 4 of the Code of the City of Independence, Missouri, is hereby amended, to read as follows:

C. Every building or structure deemed a “dangerous building” by the Building Inspector or Building Official is hereby declared a public nuisance detrimental to the health, safety and welfare of the residents of the City of Independence, Missouri **and shall be subject to the requirements of Article 16, Chapter 4, Vacant Structure and Maintenance.**

SECTION 3. That Section 4.01.009 of Chapter 4 of the Code of the City of Independence, Missouri, is hereby amended, to read as follows:

F. Every building or structure deemed an “unsafe building” by the Building Inspector or Building Official shall be subject to the requirements of Article 16, Chapter 4, Vacant Structure and Maintenance.

PASSED THIS _____ DAY OF _____, 2020, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY

City Manager

NOTE: Words struck through and bolded are being removed by this ordinance and words underscored and bolded are being added by this ordinance.