

**ORDINANCE NO. 12- 15**

**AN ORDINANCE OF THE CITY OF RICHMOND, KENTUCKY ESTABLISHING REGISTRATATION PROCEDURES FOR ABANDONED RESIDENTIAL PROPERTY AS WELL AS MAINTENANCE RESPONSIBILITIES FOR PROPERTY LOCATED IN RICHMOND, KY.**

**WHEREAS**, the presence of vacant, abandoned residences can lead to neighborhood blight; and,

**WHEREAS**, the presence of vacant, abandoned residences can create an attractive public nuisance; and,

**WHEREAS**, the presence of vacant, abandoned residences can contribute to lower property values; and,

**WHEREAS**, the presence of vacant, abandoned residences can discourage potential buyers from purchasing a home adjacent to, or within neighborhoods with vacant, abandoned residences; and,

**WHEREAS**, many vacant, abandoned residences are often the responsibility of out of state or out of area lenders and trustees; and,

**WHEREAS**, in many instances, the lenders and trustees fail to adequately maintain and secure these vacant, abandoned residences; and,

**WHEREAS**, the City of Richmond has the power to protect its residential neighborhoods from blight, decline and devaluation.

**NOW THEREFORE, BE IT ORDAINED BY THE** City of Richmond as follows:

**SECTION 1**

**PURPOSE**

It is the purpose intent of the City of Richmond, through the adoption of this Chapter, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

**DEFINITIONS**

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

**“Abandoned property”** means a property that is vacant and is under a current (i) Notice of Default ; (ii) Pending mortgage or tax lien sale; (iii) properties that have been the subject of

foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; and/or (iv) any properties transferred under a deed in lieu of foreclosure.

**“Accessible property”** means a property that is accessible through a compromise/breached gate, fence, wall, etc.

**“Accessible structure”** means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

**“Agreement of sale”** means any agreement or written instrument, which provides that title to residential property, shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.

**“Assignment of Rents”** means an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another.

**“Beneficiary”** means a lender under a note secured by a mortgage lien.

**“Buyer”** means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

**“Creditor”** means a federal or state chartered bank, savings bank, savings and loan association, or credit union, and any entity acting on behalf of the creditor named in the debt obligation, including but not limited to servicers;

**“Dangerous building”** means any building/structure that is violation of any condition referenced in Section 108.1.1 of the 2006 International Property Maintenance Code.

**“Days”** means consecutive calendar days.

**“Deed in lieu of foreclosure”** means a deed which conveys residential property to the mortgagee or lender in lieu of such mortgagee’s or lender’s pursuing court foreclosure following default of the underlying secured note.

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

**“Distressed”** means a property that is under a current notice of default or pending mortgage or tax lien sale, properties that have been the subject of foreclosure sale where the title was retained by the mortgagee or lender involved in the foreclosure, and/or any properties transferred to a mortgagee or lender under a deed in lieu of foreclosure.

**“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 and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passerby, 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 through the courts at auction to satisfy the debt if the owner/borrower/mortgagor defaults.

**“Lender/Mortgagee”** means the person or entity who is the secured party under any mortgage instrument.

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

**“Neighborhood standard”** means those conditions that are present on a simple majority of properties within a three hundred (300) foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property within the

three hundred (300) foot radius, shall not be counted toward the simple majority.

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

**“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.

**“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.

**“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 exchanges as “residential” whether or not it is legally permitted and/or zoned for such use.

**“Securing”** means such measures as may be directed by the Director of Codes Enforcement or his or her 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 and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

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

#### **REGISTRATION OF ABANDONED RESIDENTIAL PROPERTY**

Prior to filing a complaint of foreclosure or executing a deed in lieu of foreclosure on a residential property a creditor shall inspect the property to determine whether the property is vacant. If the property is vacant, the creditor shall, on the same day the complaint of foreclosure is filed or executing a deed in lieu of foreclosure is executed, register the property as a vacant property with the City of Richmond Code Enforcement Department for the purpose of minimizing hazards to persons and property as a result of the vacancy.

If a residential property becomes vacant at any time after the creditor files a complaint of foreclosure or executes a deed in lieu of foreclosure, but prior to vesting of title in the creditor or a third party, the creditor shall, within ten (10) days after obtaining knowledge of vacancy, register the property as a vacant property with the City of Richmond Code Enforcement Department for the purpose of minimizing hazards to persons and property as a result of the vacancy.

#### **REGISTRATION**

Any lender/mortgagee, who holds a lien on a property located within the City of Richmond, shall perform an inspection of the property that is the security for the mortgage, prior to filing a complaint of foreclosure or executing a deed in lieu of foreclosure. If the property is found to be vacant or shows evidence of vacancy, it is, by this Ordinance, deemed abandoned and the lender/mortgagee shall, on the same day the complaint of foreclosure is filed or executing a deed in lieu of foreclosure is executed, register the property as a vacant property with the City of Richmond Code Enforcement Department for the purpose of minimizing hazards to persons and

property as a result of the vacancy using the forms provided by the City of Richmond Code Enforcement Department.

If the property is occupied but remains in default it shall be inspected by the lender/mortgagee, or his designee, monthly until 1) The mortgagor or owner or other party remedies the default or 2) It is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within ten (10) days of that inspection, register the property with the City of Richmond Code Enforcement Department on forms provided by the City.

The registration shall contain the name of the lender/mortgagee (corporation or individual), the direct street/office mailing address, a direct contact name and phone number for the lender/mortgagee and, in the case of a corporation or out of area lender/mortgagee, the local property management company responsible for the security, maintenance and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due. This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the lender/mortgagee involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure. Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant. Any person, firm or corporation that has registered a property under this Ordinance must report any change of information contained in the registration within ten (10) days of the change.

#### **MAINTENANCE REQUIREMENTS**

Properties subject to this section shall be, in comparison to the neighborhood standard, kept by the lender/mortgagee free of weeds, dry bush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, accept those required by federal, state or local law, discarded personal items including but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned. The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure. Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed especially for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material. Maintenance includes, but is not limited to regular watering, irrigation, cutting, pruning and mowing of required landscaped and removal of all trimmings. Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the State of Kentucky. Adherence to this section does not relieve the beneficiary/trustee or property owner of any

obligations set forth in any Covenants Conditions and Restrictions and/or Home Owners Association rules and regulations which may apply to the property.

## **SECURITY REQUIREMENTS**

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

*Vacated Building Maintenance Standards:* A building shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if:

1. *Building openings:* Doors, windows, areaways and other openings are weather tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and opening coverings are covered with at least one-half inch of CDX plywood, weather protected, tightly fitted to the opening and secured by screws or bolts.
2. *Roofs:* The roof and flashings are sound, tight, will not admit moisture, and drained to prevent dampness or deterioration in the walls or interior.
3. *Drainage:* The building gutters and downspouts are watertight and entire storm drainage system is adequately sized, installed in an approved manner, functional and discharged in an approved manner.
4. *Building Structure:* The building is maintained in good repair, structurally sound, free from debris, rubbish and garbage, and sanitary, and interior floors, walking surfaces and stairs are structurally sound, and interior walls and ceilings are free of loose or hanging plaster and finishes, so as not to pose a threat to the public health or safety.
5. *Structural Members:* The structural members are free of deterioration and capable of safely bearing imposed dead and live loads.
6. *Foundation Walls:* The foundation walls are plumb, free from open cracks and breaks, and rat-proof.
7. *Exterior Walls:* The exterior walls are free of holes, breaks, and loose or rotting materials. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.
8. *Decorative Features:* The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features are safe, anchored, and in good repair. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.
9. *Structure Extensions:* All balconies, porches, canopies, marquees, signs, metal awnings, cornices, stairways, fire escapes, standpipes, exhaust ducts and similar features are in good repair, anchored, safe and sound. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

10. *Chimneys and Towers*: Chimneys, cooling towers, smokestacks, and similar appurtenances are structurally safe. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.
11. *Sidewalk Openings*: Yard, walks, steps, and openings in sidewalks are safe for pedestrian travel.
12. *Accessory and Appurtenant Structures*: Accessory and appurtenant structures such as garages, sheds, and fences are free from safety, health, and fire hazards.
13. *Premises*: The premise on which a structure is located is clean, safe and sanitary, maintained free of weeds, junk cars, and litter, and does not pose a threat to the public health or safety.

The property shall be posted with name and a 24-hour contact phone number of the lender/mortgagee and of the local property management company. The posting shall be no less than 18" X 24" and shall be of font that is legible from a distance of forty-five (45) feet and shall contain along with the name and 24-hour contact number the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL". The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is visual from the street to the front of the property but not readily accessible to vandals. Exterior postings must be constructed of and printed with weather resistant materials. The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter.

#### **ADDITIONAL AUTHORITY**

In addition to the enforcement remedies established in this Ordinance, the City of Richmond Building Inspector or his or her designee shall have the authority to require the lender/mortgagee and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including but not limited to, securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

#### **FEEES**

The fee for registering an Abandoned Residential Property shall be sixty dollars (\$60.00) made payable to "City of Richmond" and submitted to the City of Richmond Code Enforcement Department, 114 North Second Street, Richmond, Kentucky 40475, along with the required registration application.

#### **ENFORCEMENT/PENALTY**

If a residential property becomes or remains vacant as provided in this ordinance, but prior to vesting of title in the lender/mortgagee or any third party, and the Building Inspector determines the property is in violation of the City's Nuisance or Property Maintenance Ordinance, the Building Inspector shall notify the lender/mortgagee of the violation by providing notice of the

violation by certified mail, return receipt requested, to the person identified in the Registration Application, and shall require the creditor to correct the violation to the extent consistent with the terms of the mortgage.

A Building Inspector that requires a lender/mortgagee to correct a violation pursuant to this ordinance shall include a description of the conditions that give rise to the violation with the notice of violation and shall provide a period of not less than twenty (20) days from the mailing of the notice for the lender/mortgagee to remedy the violation. If the lender/mortgagee fails to remedy the violation within the stated period the local government may issue a citation and impose penalties against the creditor for violation of the applicable ordinance. The violation for failure to comply shall be subject to a fine of two-hundred fifty dollars (\$250.00) payable to the City of Richmond for each day of delinquency.

#### **APPEALS**

Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is allowed to the City of Richmond Ordinance Enforcement Board.

#### **SEVERABILITY**

Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

#### **SECTION II**

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

#### **SECTION III**

This Ordinance shall be in full force and effect upon second reading, adoption and publication according to law.

#### **SECTION IV**

That the City Clerk cause this ordinance to be published in accordance with the appropriate Kentucky Revised Statutes.

**DATE OF FIRST READING: May 8, 2012**

MOTION BY: Commissioner Thomas

SECONDED BY: Commissioner Morgan

**DATE OF SECOND READING: May 22, 2012**

MOTION BY: Commissioner Blythe

SECONDED BY: Commissioner Morgan

**VOTE:**

**YES**

**NO**

Commissioner Baird

x

12-15 Ordinance: Approved

Commissioner Blythe        x  
Commissioner Morgan       x  
Commissioner Thomas      x  
Mayor Barnes                x

Attest:

  
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CITY CLERK

  
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MAYOR