

**CITY OF MIDWAY
ORDINANCE NO. 2012-006**

**AN ORDINANCE RELATING TO THE ELIMINATION OF BLIGHTED
AND DETERIORATED PROPERTIES**

WHEREAS, the Midway City Council desires to enact an ordinance to protect and promote the health, safety, and welfare of the residents of the city by eliminating the blight and deterioration of neighborhoods;

WHEREAS, the Midway City Council desires to create a Vacant Property Review Board to certify property as blighted or deteriorated, and to establish an ordinance related thereto;

WHEREAS, the Midway City Council desires to enact an ordinance authorizing the City of Midway to exercise the power of eminent domain over aforementioned blighted or deteriorated property;

WHEREAS, KRS 99.705-730 authorizes a City to enact such an Ordinance to address such properties;

NOW, THEREFORE, be it ordained by the Midway City Council as follows:

Section

- 152.01 Declarations
- 152.02 Definitions
- 152.03 Vacant Property Review Board
- 152.04 Procedures
- 152.05 Eminent Domain Proceedings
- 152.06 Use of the property by the City of Midway

SECTION 152.01 DECLARATIONS.

It is hereby declared:

(A) It is the policy of the city to protect and promote the health, safety, and welfare of the residents of the city by eliminating the blight and deterioration of neighborhoods through the elimination of blighted and deteriorated properties within these neighborhoods.

(B) The elimination of such blight and deterioration and the preparation of such properties for sale or lease, for development, or for redevelopment constitute a public use and purpose for which public money may be expended and private property acquired and these are

governmental functions in the interest of the health, safety, and welfare of the residents of the city.

(C) The necessity in the public interest for the provisions enacted herein is hereby declared to be a legislative determination.

SECTION 152.02 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“BLIGHTED OR DETERIORATED PROPERTY” means a vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood which:

(1) Is because of physical condition or use regarded as a public nuisance at common law;

(2) Is considered an attractive nuisance to children by reason of structures and appurtenances therein or thereon, including but not limited to abandoned wells, shafts, basements, excavations, or the unsafe condition of any structures or fences thereon;

(3) Is dilapidated, unsanitary, unsafe, vermin infested, or is lacking in the facilities and equipment required by the city’s housing or maintenance codes, has been designated by the Building Inspector as being unfit for human habitation;

(4) Is a fire hazard or is otherwise dangerous to the safety of persons or property;

(5) Has had the utilities, plumbing, heating, sewerage, or other facilities disconnected therefrom, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

(6) Has by reason of neglect or lack of maintenance become a place for the accumulation of trash and debris, or a haven for rodents or other vermin; or

(7) Has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency.

“REDEVELOPMENT” means the planning or replanning, design or redesign, acquisition, clearance, development, or disposal of a property in the preparation of such property for residential and related uses, as may be appropriate or necessary.

“RESIDENTIAL AND RELATED USE” means residential property for sale or rental and related uses, including but not limited to, park and recreation areas, neighborhood community service, and neighborhood parking lots.

“VACANT PROPERTY REVIEW BOARD” means the Board established by this chapter to review vacant properties and to make a written determination of blight and deterioration.

SECTION 152.03 VACANT PROPERTY REVIEW BOARD

(A) There is hereby established and created a Vacant Property Review Board (the Board) for the City of Midway. The Board shall be composed of three (3) members who shall be appointed by the Mayor with the approval of the City Council. Members of the Board shall be either property owners or residents of Midway and shall serve for terms of three (3) years and until their successors are duly appointed and qualified, except that the members first appointed shall be so appointed that the term of one member shall expire annually thereafter. Vacancies shall be filled in the same manner as regular appointments and for the unexpired term of the vacancy. Members shall serve without pay. No officer or employee of the city whose duties include enforcement of housing, building, plumbing, fire, maintenance, or related codes shall be appointed to the Board.

(B) The Board shall be charged with the duty of determining whether a property within city limits is blighted or deteriorated in accordance with the definition of those terms as hereinabove set forth and of carrying out the substantive and procedural directives associated with that determination as herein set forth.

(C) The Board shall conduct its business at meetings scheduled and held in conformity with the requirements of the Kentucky Open Meetings Act. Meetings shall be called by the Mayor when and as necessary to consider properties alleged by the Building Inspector to be blighted or deteriorated within the meaning of this chapter.

SECTION 152.04 PROCEDURES.

(A) When the Versailles-Midway-Woodford County Planning Commission Building & Zoning Inspector considers any property within the city to be blighted or deteriorated, the Inspector shall give to the owner of the property a Notice and Order setting forth the conditions of the property which are in violation of local codes or law and a time period by which to correct and abate such conditions. Such Notice and Order shall further state that the property is deemed to be blighted or deteriorated within the meaning of this chapter and that the failure to make correction and abatement within the time period set forth will result in the referral of the matter to the Vacant Property Review Board for further proceedings in conformity with this chapter.

(B) If the conditions set forth in the Inspector's Notice and Order are not in full corrected and abated within the time period therein set forth, the Inspector shall:

(1) Contact the Planning Director of the Planning and Zoning Commission for determination of whether the reuse of the property for residential and related uses is keeping with the city's comprehensive plan and zoning ordinances;

(2) If the Planning Director determines that the reuse of the property for residential and related uses is in keeping with the city's comprehensive plan and zoning ordinances, the Building Inspector shall notify the Mayor who shall notify the Vacant Property Review Board for the purpose of that body's consideration of whether the property is blighted or deteriorated. The Mayor shall notify the owner of the time, date, and location of the meeting and shall advise the City Clerk of the meeting so as to permit the Clerk to make due advertisement of the meeting as may be required by applicable law.

(C) If after consideration of the evidence presented before it at such meeting the Board shall, by a preponderance of the evidence, find that the property is vacant and blighted or deteriorated within the meaning of this chapter, the Board shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that

failure to eliminate the conditions causing same shall render the property subject to condemnation by the city. Such notice shall describe the conditions that render the property blighted or deteriorated and shall demand correction and abatement of the conditions within 90 days of the receipt of such notice. An extension of the 90-day period may be granted by the Board if it is demonstrated to the satisfaction of the Board that such period is insufficient to correct the conditions cited in the notice.

(D) (1) If the correction and abatement in full shall not have been effected within such period of time as the Board shall have determined as above set forth, the Board shall certify to the Midway City Council that the property is blighted or deteriorated. Such certification shall further set forth the Board's determination that:

(a) The owner of the property or designated agent has been sent a Notice and Order by the Building Inspector to eliminate the conditions which are in violation of local codes or law within a time certain; that such Notice and Order further set forth that the property is deemed to be blighted or deteriorated within the meaning of this chapter; and, that the failure to make correction and abatement would result in the matter being referred to the Vacant Property Review Board for further proceedings in conformity with this chapter;

(b) The conditions set forth in the Notice and Order were not corrected and abated within the time period therein set forth;

(c) The property is vacant;

(d) The Board has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition granted by the Board has expired and the property owner or agent has failed to comply with the notice; and

(e) The Planning Director has determined that the reuse of the property for residential and related use is in keeping with the city's comprehensive plan and zoning ordinances.

(2) The certification and findings required by this section shall be in writing signed by the chairperson of the Board and included in the Board's report to the City Council.

(E) Notice which may be, or is required to be, given under the terms of this chapter shall be in writing and sent via first class mail, sufficient postage prepaid, and certified, return receipt requested, and a copy of any such notice shall further be posted in a conspicuous place on the property affected. Unless the owner of the property in question shall have notified the Building Inspector otherwise, the identity of the owner and the owner's mailing address shall be conclusively presumed to be as appear as such in the records maintained in the office of the Woodford County Property Valuation Administrator. Notice given in accordance with the foregoing shall be deemed effective on the date of receipt; provided, however, that same shall conclusively be deemed to have been received not later than the fifth business day following the date when same was delivered to the post office.

SECTION 152.05 EMINENT DOMAIN PROCEEDINGS.

(A) The City Council may institute eminent domain proceedings in accordance with the provisions of KRS Chapter 416 against any property, and may through such proceedings acquire any property which has been certified as blighted or deteriorated by the Board if it finds:

- (1) That the property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety, and welfare;
- (2) That such property is likely to continue to deteriorate unless corrected;
- (3) That the continued deterioration of such property may contribute to the blighting or deterioration of the area immediately surrounding the property; and
- (4) That the owner of such property has failed to correct the deterioration of the property.

(B) The findings required as above set forth shall be included in any Order of the Council authorizing the institution of eminent domain proceedings.

SECTION 152.06 USE OF THE PROPERTY BY THE CITY OF MIDWAY.

The city, following its acquisition by eminent domain of a blighted or deteriorated property in accordance with the foregoing provisions, shall have the power to hold, clear, manage, or dispose of the property so acquired for residential and related use.

SECTION 152.07 ABANDONED URBAN PROPERTIES CLASSIFIED AS REAL PROPERTY.

Abandoned urban property is established as a separate classification of real property for the purpose of ad valorem taxation. As used in this section, “abandoned urban property” as defined in Section A or Section B below shall mean:

(A) Any vacant structure or vacant or unimproved lot or parcel of ground in the city that has been vacant or unimproved for a period of at least one (1) year and which:

- (1) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or
- (2) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or
- (3) Has been tax delinquent for a period of at least three (3) years.

(B) Any property in the city that has been identified as “blighted” or “deteriorated” as defined in Section 152.02 and certified as such by the Vacant Property Review Board.

SECTION 152.08 RATE OF TAXATION FOR ABANDONED URBAN PROPERTIES.

The rate of taxation levied upon abandoned urban properties is .75 cents on each \$100.00 of assessed value.

SECTION 152.09 CLASSIFICATION OF PROPERTY AS ABANDONED URBAN PROPERTY; RIGHT TO APPEAL.

(A) The Vacant Property Review Board shall each year determine which properties in Midway are abandoned urban properties and shall prepare and furnish a list of abandoned and urban properties located in the city to the City Clerk prior to January 1 of each year.

(B) Except as otherwise provided herein, a property classified by the city as abandoned urban property as of January 1 shall be taxed as abandoned urban property for such tax year. If the owner repairs, rehabilitates, or otherwise returns the property to productive use so that the property is no longer abandoned urban property, the owner shall notify the Vacant Property Review Board, which shall, if it finds the property is no longer abandoned urban property, notify the City Clerk to strike the property from the list of abandoned urban properties as of the succeeding January 1.

(C) No later than March 1 of each year, the City Clerk shall mail, by first-class mail, to the owner(s) of each abandoned urban property, as those name(s) are listed in the records of the Vacant Property Review Board, a notice that this property has been classified as abandoned urban property.

(D) The owner of any abandoned urban property who believes that their property has been incorrectly classified may appeal such classification to the city's Vacant Property Review Board. Such appeal shall be in writing and shall be made no later than April 1 of that year. The city shall afford the owner the opportunity for a hearing. If the Vacant Property Review Board finds that the property was incorrectly classified as abandoned urban property, it shall cause the property to be removed from the list of properties so classified.

INTRODUCED and given a first reading at a meeting of the Midway City Council on the ___ day of August 2012, and fully adopted after the second reading at a meeting of said Council held on the _____ day of August 2012.

CITY OF MIDWAY

BY: _____
Tom Bozarth, Mayor

ATTEST:

Phyllis Hudson, City Clerk/Treasurer