

## Recommendations of the Midway Property Maintenance Committee

Revision 031912dr

Where as the scope of the Midway Property Maintenance Code (MPMC) is to protect public health, safety and welfare, the following recommendations are submitted by the Midway Property Maintenance Code Committee:

1. Establish Midway Property Maintenance Code ordinance(s) including, but not limited to, the recommendations of this committee.
2. Statement of Purpose. The property maintenance code ordinance should include a statement of purpose at the beginning of the ordinance addressing concerns about the negative impact of blighted properties on health, safety, neighborhood property values
3. Define terms used in proposed ordinance including, but not limited to:
  - a. Planning & Zoning (P&Z)
  - b. Acceptable Standards for Property.
  - c. Blighted property
  - d. Vacant property
  - e. Neglected property
  - f. Health risks
  - g. Safety risks
  - h. Financial damage
  - i. Condemnation procedures.
4. Filing complaints
  - a. The City may initiate the filing of a complaint with Planning and Zoning when it becomes aware of a property that is unattended (occupied or unoccupied) and causing a nuisance as defined in the ordinance.
  - b. A citizen may submit a written a complaint to the City, which will then be filed with P&Z within five days.
5. Enforcement Personnel. The provisions of the current PMC continue to be enforced by the code inspector of the P&Z.
6. Property Maintenance Code Inspection Process The inspection process as outlined in the attached understanding of the process as reviewed by P&Z and the City continue to be followed, and updated as changes occur.
7. Timely Performance on a Complaint: The MPMC committee could not find defined time frames in the current Property Maintenance Code that would outline clear, functioning processes which will expedite the correction of blighted property. The MPMC committee recommends that the Mayor

and/or other City representatives meet with P&Z to establish a policy eliminating the open-ended time frames and unlimited extensions now used.

- a. Allow P&Z to defend the basis of the current actions or;
- b. Allow P&Z to state if they need additional legislation by the city in order to enforce more time-sensitive performance by property owners.

8. Notification of Property Owner. P&Z send a written request to inspect the property to the owner of the property *by certified mail within five days of receipt of the complaint from the city.* The request to inspect will require response from the owner *within ten days (of receipt).* An inspection will take place *within ten days of response from the owner to P&Z.*
  - a. Search for property owner. If the owner has *not been located within fifteen days,* P&Z will notify the City. Likewise, if P&Z is unable to locate the owner, after the notice process (define) has been exhausted, P&Z will notify the City. P&Z will *make monthly reports of the status of the search process* to the City.
  - b. The City will initiate a search for the owner and legal actions will be taken to identify responsible parties, or, if unsuccessful, to clear the title by abandonment or condemnation or tax sale processes
9. Notification of required improvements. When contact with the owner is made by P&Z and inspection is completed, P&Z will notify the owner of needed improvements to the property *with a thirty-day deadline* from receipt for the owner to perform these improvements. Copy to the City (The owner may request a longer time line for improvements citing extenuating circumstances, which must be in the form of a written request to the city.)
10. Inspection after improvements. At the completion of improvements or *within five (5) days of the deadline for completion,* P&Z will conduct an inspection to determine if the corrections have been completed.
11. Nonperformance by the owner. If, at the end of the time allotted for improvements, improvements have not been completed and inspection of the property by P&Z determines the property has not been put in compliance for habitable condition, P&Z will inform the owner, by certified mail of the condemnation procedure and the process of appeal to a *Midway Property Review Commission.* The City and the Commission will be copied on all such communication. If legal counsel determines vacant property is not required to be habitable, counsel will advise the City of other legal remedies available to the City to rid its boundaries of blighted properties.

12. Freezing Occupancy of Blighted Property. Collaborate with P&Z to create a protocol whereby P&Z may prevent occupancy of such structures not in compliance, including those properties not made available for inspection; these protocols to include posting signage, notices or other means of notification, including the words, "Notice, Inspection Required before Occupancy". Likewise, P&Z must require the posting of a "Certificate of Occupancy" before the property can be released.
  - a. Current MPC 107.5 Prohibits sale, transfer, mortgage, lease, or otherwise disposal of the property to another until notice of violation or compliance order have been complied with, unless the owner gives the code officer a signed and notarized statement from the receiving party (specifies in the code) acknowledging receipt of such compliance order or notice of violation. *(Current code allows but does not require filing with the clerk's office. This would have prevented recent rental of property purchased by the bank, and rented while still out of compliance.)*
  - b. Recommend Filing notice with the clerk's office for all properties being Posted with "Notice, Inspection Required before Occupancy"
13. Penalty Fees. *A separate section should outline penalty fees established, if any, for refusal to bring property up to acceptable standards (a term in need of definition).*
14. Refusal or Failure to Comply. Upon notification by the Code Enforcement Officer that a property owner has refused to make the property available for inspection, or that a property owner failed to respond to the inspection check list and remains out of compliance, City clerks shall advise the Mayor and City Council, who will send a written referral to the City Attorney for action, with copies to P&Z and the individual property file
15. Active Property Files for Referred Properties. The City of Midway should establish individual case files and/or computer files for properties referred to the Code Inspection office. All correspondence, email, etc. related to this property should be placed in each property's file. *(Mayor advises manual files have now been developed and are maintained).*
16. Tracking Property Activity. The City should maintain a "tickler file" or other means to track all properties that received an inspection notice with documentation of all requested and proposed actions and notifications indicated, and timetables for action.

17. Sworn officers and firefighters *The City should develop with the assistance of their police (Versailles Police) and fire department (Midway Fire Department) procedures to protect officers and fire personnel from unnecessary risk associated with abandoned buildings and properties. These may include:*
- a. Securing entrances and openings to identified buildings
  - b. Temporary signage provided by the City to indicate "Repair personnel are in the building"
  - c. Emergency demolition of unsafe abandoned buildings quickly after a fire. (Indianapolis fire departments notify code enforcement officers and city structural engineers after fires and if inspection determines a building is unsafe it is torn down within hours)
18. Doors and Window ordinance Recommendation of a Door and Window ordinance that requires property owners to install and maintain functioning doors and windows on all vacant or abandoned properties. Doors and windows secure properties from people and animals, improvement appearance, reduce complaints from neighboring residents. (Philadelphia has a "W&D" ordinance allowing the City to charge owners \$300 per day for every opening that is not covered with a functioning window or door.)
19. Abandoned Urban Property Ordinance *Recommend a new ordinance establishing a new classification of real property known as "Abandoned Urban Property" to allow the levying of the highest permitted tax rate for such property.*
- a. *Ordinance No. 2011-32, City of Versailles is an example of this type ordinance. Copies were provided to council members at last mtg.*
  - b. Midway Property Review Commission A separate section should describe the Commission, its selection, responsibilities and procedures.
20. Noise Ordinance The Committee also requests the development of an ordinance preventing noise at levels that disturb the peace, preventing residents from enjoying their homes.

Although it is not a recommendation of the MPMC committee at this time, as it has not been reviewed while in committee, an additional option the City may wish to consider is a "Blighted and Deteriorated Property ordinance. The City of Richmond ordinance 156, 156.01 through 156.05, also establishes an independent "Vacant Property Review Commission" and procedures to "institute eminent domain proceedings in accordance with the provisions of KRS Chapter 416" to eliminate such properties and prepare them for sale, lease, development or redevelopment. The committee will review this option.