

Kansas City, Missouri
Registration of Vacant Properties and Foreclosing Properties

Effective May 1, 2009

Information Provided By



South & Associates, P.C.

THIRD COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 081277, AS AMENDED
Amending Chapter 56, Code of Ordinances, by adding Article VI, Registration of vacant
properties and foreclosing properties.

WHEREAS, the increasing number of vacant properties and properties in the process of
foreclosure have created serious concerns on the national and local levels; and

WHEREAS, the presence of vacant and foreclosing properties discourage potential home buyers
in areas adjacent to or in neighborhoods with such properties; and

WHEREAS, in many instances, the owners fail to adequately maintain and secure these vacant
properties; and

WHEREAS, the presence of vacant and foreclosing properties assist in the decline of
neighborhoods, creating an attractive public nuisance and contributing to lower property values;
and

WHEREAS, the City of Kansas City, Missouri desires to protect residential neighborhoods from
decline and devaluation; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 56, Code of Ordinances of the City of Kansas City, Missouri, is hereby
amended adding Article VI, Registration of vacant properties and foreclosing properties, to read
as follows:

ARTICLE VI.
REGISTRATION OF VACANT PROPERTIES AND
FORECLOSING PROPERTIES

Sec. 56-571. Purpose.

The purpose of this article is:

- (a) To identify those properties citywide that are vacant or foreclosing and to gain contact
information for code enforcement and emergency situations; and
- (b) To protect neighborhoods from becoming blighted through the lack of adequate maintenance
and security of vacant properties and foreclosing properties.

Sec. 56-572. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings
ascribed to them in this section, except where the context clearly indicates a different meaning,
and any words not defined here but defined elsewhere in this chapter shall have the meaning
ascribed to them previously:

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

City means the City of Kansas City, Missouri.

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

Foreclosing and *Foreclosure* have the same meaning, that being the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower (trustor) under a deed of trust defaults.

Initiation of the foreclosure process means taking any of the following actions: (i) delivering a notice of default to the borrower; (ii) delivering the mortgagee's notice of intention to foreclose to the borrower; or (iii) commencing a foreclosure action on a property in a court of law.

Local means within fifty (50) road/driving miles distance of the city

Mortgagee means the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

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

Owner means any person, mortgagee, or property trust trustee who alone or jointly or severally with others, with or without the right of possession, is entitled under any agreement to the control or direction of the management or disposition of the building or property or of any part of the building or property. Unless otherwise specifically provided, the owner, his agent for the purpose of managing, controlling or collecting rents and any other person managing or controlling a building or property in any part of which there is a violation of the provisions of this ordinance, shall be liable for any violation therein, existing or occurring, or which may have existed or occurred, at or during any time when such person is or was the person owning or managing, controlling, or acting as agent in regard to said buildings or property and is subject to injunctions, abatement orders or other remedial orders. The liabilities and obligations imposed on an owner shall attach to:

(1) any mortgage company or any other person with or without an interest in the building or property who knowingly takes any action in any judicial or administrative proceeding that is intended to delay issuance or enforcement of any remedy for any violation of the Property Maintenance Code then in existence; provided that with respect to fines such person shall be liable only for fines which accrue on or after the date of such action; and further provided that no liability shall be imposed under this ordinance for any action taken in any proceeding, including a proceeding to foreclose on a lien, that does not delay or prevent the prosecution of any action brought by the city to enforce the city's Property Maintenance Code.

(2) a property trust trustee under a property trust, unless said trustee in a proceeding under said provisions of this ordinance discloses in a verified pleading or in an affidavit filed with the court, the name and last known address of each person who was a beneficiary of the trust at the time of the alleged violation and of each person, if any, who was then acting as agent for the purpose of managing, controlling or collecting rents, as the same may appear on the records of the trust.

Out of Area means in excess of fifty (50) road/driving miles distance of the city.

Property means any improved real property, or portion thereof, located in the city, including buildings or structures situated on the property.

Property Trust Trustee means one who holds title to a building, structure or property under a property trust with or without the right of possession, management or control.

Registration Period means June 1 of each year through May 31 of the subsequent year.

Securing means measures that assist in making 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 as security for the payment of a debt.

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 property which is lacking habitual presence of human beings who have a legal right to be on the property, or at which substantially all lawful business operations or residential occupancy has ceased. In determining whether a property is vacant, it is relevant to consider, among other factors, the percentage of the overall square footage of any building on the property or floor to the occupied space, the condition and value of any items in the property and the presence of rental or for sale signs on the property; provided that multi-family residential property containing five (5) or more dwelling units shall be considered vacant when the majority of all of the dwelling units become unoccupied and a majority remain unoccupied. A property shall not be considered vacant which is being currently marketed by a licensed real estate professional hired by the former or current occupant of the property and to which water service has not been shut-off.

Sec. 56-573. Annual Registration of vacant and/or foreclosing properties required.

(a) This subdivision shall apply to all vacant and/or foreclosing properties, as defined in this chapter, including properties owned, operated, or subsidized by public or nonprofit agencies. Effective May 1, 2009, the annual vacant and/or foreclosing properties registration requirement established by this article shall go into effect.

(b) Adherence to this article does not relieve the owner or any other party of any applicable obligations set forth in any other ordinance which may apply to the property.

(c) Registering vacant or foreclosing properties pursuant to this article does not relieve any party of any obligation to otherwise record property information.

(d) All owners must register vacant and/or foreclosing properties as defined in this chapter annually with the neighborhood and community services department of the city by submitting a vacant/foreclosing property registration form provided by the department.

(1) All vacant property, within 90 days of becoming and remaining vacant, shall be registered by the owner.

(2) All foreclosing properties, within 14 days of initiation of the foreclosure process as defined in this chapter, must be registered by the party initiating the foreclosure process.

(i) This registration must certify that the property was inspected for occupancy and identify whether the property is vacant at the time of registration. If the property is not vacant at the time of registration, a monthly inspection shall be conducted by the owner to determine if the property has become vacant. If, upon subsequent inspection, a property is determined to be vacant, an updated registration form shall be filed with the city.

(ii) At the time of registration with the city, the party initiating the foreclosure process must send written notice addressed to the occupant of the property that the foreclosure process has been initiated. Notice shall be sent by regular United States mail, postage pre-paid.

(e) Prior to June 1, 2009 the owner of each vacant or foreclosing property shall register the property. There shall be no fee charged for this registration.

(f) All registrations submitted under this article shall expire on May 31 of each registration period for which they were submitted and shall be subject to renewal annually. Application for renewal of registration in any period will be accepted beginning May 1 and may be made without penalty through May 31.

(g) All owners shall apply for registration and renewal on a form provided by the department which shall include provision for the following owner, agent and other information:

(1) The common name of the property, if any, the exact street address of the property, the primary intended use of the property and the number of units in each building on the property.

(2) An identification of the owner(s) by full name, telephone number, mailing address, e-mail address and date of birth. The mailing address may not be a P.O. Box. If the property is owned by a corporation, limited liability company, partnership, limited partnership, trust or real estate investment trust, the name and address of any of the following shall be provided:

i. For a corporation, a corporate officer and the chief operating officer;

ii. For a partnership, the managing partner;

iii. For a limited liability company, the managing or administrative member;

iv. For a limited partnership, a general partner;

v. For a trust, a trustee; or

vi. For a real estate investment trust, a general partner or an officer.

(3) Name and address of all lien holders and any other party with an ownership interest in the property.

(4) If the owner does not reside within the city, he or she shall designate a local agent who shall be authorized to receive on behalf of the owner service of any notice, order or summons issued because of a violation of this code. Such agent must be an individual over the age of 18 years and must reside within the city or customarily and regularly attend a business office located within the city. A partner, associate or corporate principal who meets these qualifications may be designated and registered as the agent. All official notices may be served on the responsible local agent and any notice so served shall be deemed to have been served upon the owner of record.

(5) The full name, telephone number, mailing address and email address of an agent, if one is so designated by the owner, to receive service of any notice, order or summons issued because of a violation of this code.

(6) The names, addresses, and phone numbers of designated employees or authorized representatives who may be contacted in the event of an emergency.

(7) The name, mailing address, telephone number and email address for the person or entity, whether it be the owner, tenant, manager or agent, responsible for securing and maintaining the property. If the owner resides out of area, he must designate a local agent responsible for securing and maintaining the property

(8) The signature of the owner, an officer if the owner is a corporation, a partner if the owner is a partnership, a member if the owner is a limited liability company and the registered agent if so designated. A registered agents signature shall indicate consent to the designation.

Sec. 56-574. Posting.

Within 7 days of registering the property, every owner of a vacant property shall post an exterior-facing notice in a front window furnishing the 24-hour contact name and phone number for a person responsible for maintaining the property. The address of the contact shall also be provided on the posting. The posting shall be hung from the interior of the window, and should be on paper no smaller than 8 by 5 inches and printed in a font size no less than 12 point.

Sec. 56-575. Change in registration information.

The owner of a vacant or foreclosing property already registered with the city shall register any changes of the previously submitted registration information within 30 days of said change. There shall be no fee for this registration update if done within the 30 days.

Sec. 56-576. Notice on sale of property.

(a) Every owner selling a vacant or foreclosing property registered as provided in this article shall give notice in writing to the department within 30 days of closing. This notice shall include the name and address of the buyer.

(b) The new owner shall have 30 days from the date the change of ownership occurred to file a new registration with the department. There shall be no fee for this new registration.

Sec. 56-577. Notice on occupancy of property.

Every owner of a vacant or foreclosing property registered as provided in this article that becomes occupied shall give notice in writing to the department within 30 days of occupancy.

Sec. 56-578. Inaccurate or incomplete registration information.

It shall be a violation of this code for an owner or a responsible person to provide inaccurate information for the registration of vacant or foreclosing properties or to fail to provide information required by the city for the registration.

Sec. 56-579. Appeal.

Any determination that a property is vacant or foreclosing made by the city, and any fine for failing to register such property may be administratively appealed as provided for in this chapter or Chapter 48.

Sec. 56-580. Affirmative Defenses.

It shall be an affirmative defense to any citation or administrative penalty issued under this Article that:

(a) The property is the subject of probate proceedings or its title is otherwise the subject of current litigation, not including foreclosure proceedings. This defense shall not be applicable for more than 24 months without permission of the director; or

(b) The property has been used as a residence by a person entitled to possession for a period of at least three months within the previous nine months and the same person intends to resume residing at the property.

Sec. 56-581. Penalty for violation of Article VI.

It shall be a violation of this code to fail to register or re-register any vacant or foreclosing property regulated by article VI, and to fail or refuse, upon proper request, to provide full and correct information specified by this article. Registration requirements shall not preclude the city from taking appropriate actions to secure the property; or to issue notices of violation or notices to abate; or from acting upon imminent hazard(s). Penalties for failing to register or re-register shall be imposed as administrative citation fines. The amount of the penalty for late filings is \$50 for the first 30 days and escalates by an additional \$50 for each additional 30 days of delinquency until a maximum of \$500 is reached per registration period.

Sec. 56-582. Violations.

Any owner who fails to comply with the requirements of this ordinance shall be guilty of an ordinance violation and upon conviction thereof shall be punishable as set forth in section 56-583.

Sec. 56-583. Penalties.

(a) Any person convicted of a violation of this article shall be punished for that violation by a fine of not less than \$200.00, but not more than \$1,000.00, or by imprisonment of not more than 180 days or by both such fine and imprisonment. Whenever the penalty is to be a fine or a fine and imprisonment, the fine shall be no less than the minimum amount set out in the following schedule:

(1)	First offense	Not less than \$200.00 but not more than \$1,000.00
(2)	Second offense	Not less than \$300.00 but not more than \$1,000.00
(3)	Third offense	Not less than \$500.00 but not more than \$1,000.00
(4)	Fourth and subsequent offenses	\$1,000.00

(b) Every day that a violation continues shall be considered a separate offense, for which the violator may be arrested, tried and convicted without necessity of further notice.

(c) The administrative citation fines as described in Sec. 56-36 may also be imposed for violations of this article and such fines shall be subject to the administrative fine provisions and processes as described elsewhere in article VI.

Sec. 56-584. Program reporting and evaluation.

The city council shall review the program provisions and requirements at least every two years and determine whether to maintain, modify or terminate the program.

Approved as to form and legality:

Katherine James

Assistant City Attorney

Questions or comments?

Contact Doug Hick for more information

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