

**CITY OF HIGHLAND HEIGHTS, KENTUCKY
ORDINANCE NO. 03-2013**

AN ORDINANCE IMPOSING REGULATIONS TO MAINTAIN
VACANT FORECLOSED PROPERTIES AND ALERT CITY
OFFICIALS TO THE PROPERTIES LOCATION.

BE IT ORDAINED BY THE CITY OF HIGHLAND HEIGHTS, KENTUCKY AS FOLLOWS:

WHEREAS, it is hereby found and determined that vacant, foreclosed properties pose a danger to the public health, safety and welfare. The proliferation of these vacant, foreclosed properties has caused blight to flourish, providing havens for criminal activity; destroying the safety of neighborhoods; posing dangerous risks to firefighters, police officers, and code enforcement officials; depleting already scarce city resources; diminishing property values throughout the city; undermining the city's ability to enforce its criminal laws; and interfering with the city's duty to protect its citizens from unsafe and harmful conditions; and

WHEREAS, the purpose of this Ordinance is to ensure that vacant, foreclosed properties are protected and maintained and that city officials are alerted to the location of these vulnerable properties. This Ordinance is enacted in order to address the problem of blighted properties that are a direct result of vacant, foreclosed properties and that pose a threat to the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HIGHLAND HEIGHTS, KENTUCKY AS FOLLOWS:

SECTION I

Definitions

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“City Attorney” shall mean the city attorney of the city of Highland Heights or his or her designee.

“Code Official” shall mean the Code Enforcement Officer of the city of Highland Heights or his designee.

“Foreclosed” shall mean a property upon which a Mortgagee has filed an action in foreclosure in order to recover monies pursuant to a mortgage agreement which has been secured by a lien on property.

“Mortgagee” shall mean any for-profit lender who is a party to a mortgage agreement and whose interest in that agreement is secured by a lien on residential property.

“Person In Control” shall mean the person, persons, or entity holding title to the freehold estate of the premises; a Mortgagee or vendee in possession; a receiver; an executor; a trustee; and any person, public or private entity, lessee or holder of a lesser estate in the premises, and/or its duly authorized agent(s), with the authority to bring a building or premises into compliance with the provisions of this ordinance, including, but not limited to any Mortgagee that has filed an action in foreclosure on the particular premises at issue, until title to the premises is transferred to a third party.

“Residential property” shall mean parcel of land which contains a dwelling or structure that provides living accommodations for persons.

“Vacant” shall mean unoccupied or without authorized human inhabitants.

“Vacant, Foreclosed Property Registration Form” shall mean a form publicly available from the City Clerk or Zoning Administrator that Mortgagees subject to the requirements of this ordinance must complete and submit as specified in this section.

SECTION II

Registration of Vacant Foreclosed Residential Property.

- A. Initial Filing.** Within ten (10) business days of filing a foreclosure action on residential property that is vacant at the time of filing, the Mortgagee shall submit a vacant, foreclosed property registration form for the City Clerk or Zoning Administrator.

A Mortgagee is not required to submit the vacant, foreclosed registration form if the residential property located within the city is not vacant on the date of the filing of a foreclosure action on the property. However, if the residential property becomes vacant at any point during the foreclosure process, the Mortgagee shall submit a vacant, foreclosed property registration form regarding the property to the city's Zoning Administrator and City Clerk within ten (10) business days of the vacancy.

The vacant, foreclosed property registration form shall contain the following information:

- (1) Description of the residential property, including, but not limited to, the street address and parcel identification number;
- (2) The name, street address, and telephone number of a natural person, 18 years of age or older, or a business entity registered with the Kentucky Secretary of State designated by the Mortgagee as an authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of the Mortgagee in connection with enforcement of this Ordinance, and this person or entity must maintain an office in Kentucky or must actually reside in Kentucky; and
- (3) The mortgagee shall pay the initial registration fee listed in section III.

- B. Change of Information.** The Mortgagee shall notify the city's Zoning Administrator and City Clerk within ten (10) business days of any change of information on the foreclosed property registration form. The vacant, foreclosed property registration form shall be maintained with accurate information until the property is sold at a judicial sale, transferred to a bona fide owner-occupant, or an unaffiliated third party. The Mortgagee shall notify the Zoning Administrator and City Clerk in writing when the property is transferred to a bona fide owner-occupant or an unaffiliated third party, the property is reoccupied, or the property is sold at a judicial sale, so the property may be promptly removed from the registry.
- C. Annual Requirements.** On an annual basis, the Mortgagee shall pay the annual registration fee listed in section III.

SECTION III

Fees.

Mortgagees shall pay any required fees until the foreclosure is dismissed or until the property is transferred to a third-party. The fees for the various requirements under this chapter are as follows:

Subsection	Title of fee	Fee amount
(1)	Initial registration fee	\$500
(2)	Annual registration fee	\$500

SECTION IV

Maintenance Obligations of Mortgagees.

During the period that the property is registered, the Mortgagee shall have the obligations set forth in this section.

- A. Obligations.** Vacant, foreclosed property shall be maintained free of all outward appearances of foreclosure and vacancy during the registration period including:
- that
- (1) No signs or placards on the exterior of the building or in the windows indicating the property is vacant or foreclosed;
 - (2) Grass shall be no higher than 8 inches at any time and all noxious weeds shall be removed;
 - (3) The premises shall be maintained free of debris and litter;

(4) The premises shall remain secure and locked. Broken windows and doors which are visible from the right-of-way may be covered with plywood or similar boarding material on an emergency basis, but for no more than ten (10) business days, while arrangements are being made to replace broken glass or broken parts of the existing windows and doors. Broken windows and doors on the rear or sides of the building may be boarded until the windows and doors are repaired for re-occupancy provided that the boarded openings are not visible from public right-of-way;

(5) Windows and doors which are visible from the right-of-way may not be boarded and shall be maintained in good repair;

(6) Handbills, circulars, and advertisements shall be removed from porches and yards in a timely manner; and

(7) Standing water on the premises, including but not limited to standing water in swimming pools, shall be eliminated.

B. Additional Requirements. The maintenance requirements and penalties in this Ordinance related to vacant, foreclosed residential properties are in addition to, and shall not be considered in conflict with, any and all other property maintenance requirements of the Highland Heights Code of Ordinances. Nothing within this Ordinance shall be construed to limit the responsibilities of persons in control to comply with and adhere to any and all building, housing, health, and zoning ordinances established by the city. Nothing within this ordinance shall be construed to limit or conflict with the responsibilities of persons in control to comply with and adhere to any and all state and federal laws.

SECTION V

Penalties.

A. Failure to Register Property. Failure to register a vacant, foreclosed property shall constitute a violation and shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for the first offense and succeeding offenses. Each day that such violation shall continue shall be deemed a separate and distinct offense.

B. Failure to Keep Information Accurate. Failure to maintain accurate information once having registered shall constitute a violation and shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for the first offense and succeeding offenses. Each day that such violation shall continue shall be deemed a separate and distinct offense.

C. Failure to Maintain Property. Failure to maintain the property in accordance with the maintenance provisions shall constitute a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) the first day, and having once been notified, each additional day that the property fails to meet the maintenance provisions shall constitute a separate, subsequent misdemeanor.

SECTION VI

Point of Sale Inspections on Vacant, Foreclosed Properties.

A. Inspections. Point of sale inspections are hereby authorized on all properties that are subject to the vacant, foreclosed property registration. Mortgagees shall arrange to have all properties subject to the requirements of this chapter inspected by the Code Official within five (5) business days of filing for the property to be sold at a judicial sale. If the Mortgagee fails to arrange an inspection, the property shall be inspected by the Code Official pursuant to Kentucky Revised Statute prior to the property being sold at a judicial sale or pursuant to a search warrant issued by a court of competent jurisdiction.

B. Failed Inspections. If, as a result of the above inspection, the Code Official determines that health code violations, housing code violations, hazards, or structural defects exist on the property, the Code Official shall notify the City Attorney of these conditions. The City Attorney shall provide written notice via certified mail to the Mortgagee or the Mortgagee's agent, as designated on the foreclosed vacant property registration form, the owner of record, and any equitable lien holders, informing the parties of the following:

(1) The need to repair and correct the violations, hazards, or structural defects prior to the judicial sale;

(2) If the property is not brought into compliance within thirty (30) calendar days of the issuance of the notice of violation, the Code Official may correct or repaired some or all of the violations;

(3) If the Code Official corrects or repairs some or all of the violations, the City Attorney shall promptly place a priority lien on the property for the total cost of abating the violations. The city Attorney shall collect the priority lien from the proceeds of the judicial sale of the property, or upon any subsequent sale of the property, or by the methods provided in Kentucky Revised Code. When notice is given as provided for in this section, the lien shall be a priority over liens of prior record and the lien will be effective on the date the city incurs the costs of repairs as provided in Kentucky Revised Code.

C. Bond. The Mortgagee may post a bond in an amount equal to the cost of abatement of the code violations which may include repair or demolition. The Mortgagee must submit to the Code Official written cost estimates by contractors registered with the city of Highland Heights for abating the violations. The Code Official will establish the bond amount based upon the submitted cost estimates. The Code Official may extend the compliance date up to 90 days if a bond is posted. An additional 90 days may be extended in writing by the Code Official if good cause or diligence in abating the violations is demonstrated. If the violations are not abated in conformance with the terms of this section, the bond will be forfeited and the Code Official shall cause the violations to be abated with the proceeds of the forfeiture.

SECTION VII

Joint and Several Liability.

Any owner of property, Person In Control of property, or subsequent owner of property for which a notice of violation to correct health or building code violations shall be jointly and severally liable for the costs incurred by the city for the abatement of violations on the property. Joint and several liability shall be attributed to each entity in the chain of title from the date of issuance of orders forward.

SECTION VIII

Severability.

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

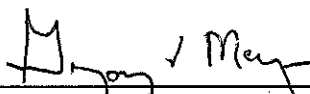
SECTION IX

Ordinance Enactment.

That this Ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer, recorded and published. Same shall be in effect at the earliest time provided by law.

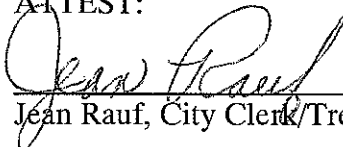
First reading on this 2nd day of April, 2013.

Second reading on this 16th day of April, 2013.



Mayor Gregory V. Meyers

ATTEST:



Jean Rauf, City Clerk/Treasurer

Ord13.03