

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE II AND ARTICLE III, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSON, MISSOURI, RELATIVE TO DANGEROUS AND DILAPIDATED BUILDINGS; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF JACKSON, MISSOURI, AS FOLLOWS:

Section 1. That Chapter 11, Article II, Division 2, Section 11-10, of the Code of Ordinances of the City of Jackson, Missouri, is hereby amended to read as follows:

“Sec. 11-10. Office established; powers generally; powers of other offices enumerated.

There is hereby established the office of building official. The office of building official shall include the power, authority, and responsibility of the following offices: zoning administrator, mobile home inspector, building official, building inspector, plumbing official, plumbing inspector, mechanical official, electrical official, and electrical inspector. The building official shall be appointed by the city administrator.”

Section 2. That Chapter 11, Article III, Section 11-32, of the Code of Ordinances of the City of Jackson, Missouri, is hereby amended to read as follows:

“Sec. 11-32. Defined.

In order to exercise the powers granted to the City by Section 67.400, RSMo (2016), this section is enacted. All buildings or structures which have any or all of the following defects shall be deemed ‘dangerous buildings’ and shall constitute conditions which are detrimental to the health, safety, and welfare of the residents of the city:

- (1) Those whose interior walls or other vertical structure members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) Those which, exclusive of the foundation, show a total of thirty-three (33) percent or more damage or deterioration of the supporting member or members so as to affect the function of

such member or members, or fifty (50) percent of damage or deterioration of the nonsupporting enclosing or outside walls or coverings so as to affect the function of such walls or covering.

- (3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose being used or intended to be used.
- (4) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the city.
- (5) Any building, shed, fence, or other manmade structure which, because of faulty construction, age, lack of proper repair, or any cause, is especially liable to fire and constitutes or creates a fire hazard.
- (6) Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety, or general welfare of those living there or to the citizens of the city.
- (7) Those buildings existing in violation of any provision of the building code of this city or any provision of the fire prevention code or other ordinances of this city.
- (8) Those which are uninhabited and are open at door, window, wall, or roof.
- (9) Those containing therein substantial accumulations of trash, garbage, or other materials susceptible to fire or constituting or providing a harboring place for vermin or other obnoxious animals or insects or in any way threatening the health of the occupants thereof or the health of the persons in the vicinity thereof.
- (10) Those condemned as unfit for human habitation and upon which no substantial work has been performed for a period of ninety (90) days to remedy the conditions causing the condemnation thereof.

- (11) Those which have parts thereof which are so attached or deteriorated that they may fall upon public ways or upon the property of others or may injure members of the public or the occupants thereof.
- (12) Those whose plumbing systems or any part thereof, existing or under construction, are unsanitary, unsafe, dangerous, or pose a threat or menace to life, health, or property.”

Section 3. That Chapter 11, Article III, Section 11-36, of the Code of Ordinances of the City of Jackson, Missouri, is hereby amended to read as follows:

“Sec. 11-36. Designation of building inspector, building commission, and building supervisor.

The city administrator shall designate one or more dangerous building inspectors who shall have such duties as provided for in this chapter. The Board of Adjustment shall perform the duties of the building supervisor. All appeals from the Board of Adjustment shall be to the Circuit Court of Cape Girardeau County as set forth in Section 536.100, et seq., RSMo (2016).”

Section 4. That Chapter 11, Article III, Section 11-37, of the Code of Ordinances of the City of Jackson, Missouri, is hereby amended to read as follows:

“Sec. 11-37. Duties of building inspector generally.

The building inspector shall:

- (1) Inspect or cause to be inspected all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places ‘dangerous buildings’ within the terms of section 11-32.
- (2) Inspect any building, wall, or structure about which complaints are filed by any person or reported by a city employee to the effect that a building, wall, or structure is or may be existing in violation of this chapter and determine if a ‘dangerous building’ exists within the terms of section 11-32.
- (3) Whenever the building inspector shall deem it advisable, the building inspector may also request that inspections be made by the fire department, the health department, or by any other

department of the city, or by any person who might have knowledge and information useful in the determination of whether a building or structure is a public nuisance or, if so, how it might be alleviated. In addition, the building inspector, if the building inspector deems it advisable, may request such an inspection be made by an architect or engineer specially employed by the city for the purpose of that inspection.

- (4) Notify the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in such building as shown by the land records of the recorder of deeds of the county of any building found by the building inspector to be a 'dangerous building' within the standards set forth in section 11-32 by declaring such to be a public nuisance so that:

- a. The owner must vacate, repair, or demolish such building in accordance with the terms of the notice and this chapter;
- b. The occupant or lessee must vacate such building or may have it repaired in accordance with the notice and remain in possession;
- c. The mortgagee, agent, or other persons having an interest in such building as shown by the land records of the recorder of deeds of the county may at his own risk repair, vacate, or demolish such building or have such work or act done;

provided that any person notified under this subsection to repair, vacate, or demolish any building shall be given a reasonable time to commence the work of vacating, repairing, or demolition not to exceed twenty (20) days.

- (5) Set forth in the notice provided for in subsection (4) hereof a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a 'dangerous building,' and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time as is reasonable, not to exceed thirty (30) days, unless, in the judgment of the building inspector, it is determined to be necessary to extend such time to do or have the work done as required by the notice. Additional extensions of time may be granted in writing by the building inspector where it

appears that the interested party is making reasonable progress in complying with the order of the building inspector.

- (6) Report to the Board of Adjustment (acting as the building supervisor) any noncompliance with the notice provided for in subsections (4) and (5) hereof or failure to proceed with the work without unnecessary delay. The report from the city employee, the written report of the building inspector, and a copy of the notice sent in accordance with subsection (4) hereof may be also submitted. Additionally, if the building inspector finds the building to be inherently dangerous and, in his opinion, constitutes a nuisance per se, he may place a notice on such building forthwith reading as follows:

‘This building has been found to be a dangerous building by the building inspector. This notice is to remain on the building until it is repaired, vacated and repaired, or vacated and demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building as shown by the land records of the recorder of deeds of Cape Girardeau County. It is unlawful to remove this notice until such notice is complied with.’

- (7) When requested, appear at all hearings conducted by the Board of Adjustment (acting as the building supervisor) and testify as to the condition of ‘dangerous buildings.’”

Section 5. That Chapter 11, Article III, Section 11-40, of the Code of Ordinances of the City of Jackson, Missouri, is hereby amended to read as follows:

“Sec. 11-40. Right to appeal.

There shall be a right to appeal any decision or order of the Board of Adjustment (acting as the building supervisor). Any interested party or person who is an owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the building or structure, as shown by the land records of the recorder of deeds of the county, who is aggrieved by the decision of the Board of Adjustment (acting as the building supervisor) may appeal the order of the Board of Adjustment (acting as the building supervisor) to the Circuit Court of Cape Girardeau County. The procedure for appeal shall be governed by Section 536.100, et seq., RSMo (2016). For purposes of the appeal set forth in Section 536.100, et seq., RSMo (2016), the order of the Board of Adjustment shall be a final appealable order.”

Section 6. That Chapter 11, Article III, Section 11-42, of the Code of Ordinances of the City of Jackson, Missouri, is hereby amended to read as follows:

“Sec. 11-42. Duties of city attorney and assistant city attorney.

The city attorney or the assistant city attorney shall:

- (1) Prosecute all persons failing to comply with the terms of the orders provided for herein in section 11-38.
- (2) Appear, when requested, at all hearings before the Board of Adjustment (acting as the building supervisor) in regard to ‘dangerous buildings.’
- (3) Bring suit to collect all municipal liens, assessments, or costs incurred by the Board of Adjustment (acting as the building supervisor) in repairing or causing to be vacated or demolished ‘dangerous buildings.’
- (4) Take such other legal action and provide such assistance as is necessary to carry out the terms and provisions of this chapter.”

Section 7. That Chapter 11, Article III, of the Code of Ordinances of the City of Jackson, Missouri, is hereby amended by adding Section 11-44 to read as follows:

“Sec. 11-44. Insurance proceeds.

If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, the insurance company shall deposit with the city up to twenty-five (25) percent of the insurance proceeds. As set forth in Section 67.410, RSMo (2016), this requirement shall apply only to a covered claim payment which is in excess of fifty (50) percent of the face value of the policy covering the building or other structure:

- (1) The insurer shall withhold from the covered claim payment up to twenty-five (25) percent of the covered claim payment and shall pay such monies to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation to the city set forth in this section.
- (2) The city shall release the proceeds and any interest which has accrued on such proceeds received under subsection (1) of this

section to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance monies unless the city has instituted legal proceedings under the provisions of this section. If the city has proceeded under the provisions of this section, all monies in excess of that necessary to comply with the provisions of this section for the removal, securing, repair, and cleanup of the building or structure, and the lot on which it is located, less salvage value, shall be paid to the insured. That amount shall be determined by the city subject to modification by the Circuit Court of Cape Girardeau County.

- (3) If there are no proceeds of any insurance policy as set forth in this section, then the bill to the city shall be a tax bill secured by the real estate and may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property until paid.
- (4) This section shall apply to fire, explosion, or other casualty loss claims arising on all buildings and structures.
- (5) This section does not make the city a party to any insurance contract and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under the insurance policy.”

Section 8. It is the intent of the Mayor and Board of Aldermen and it is hereby ordained that this ordinance shall become and be made a part of the Code of Ordinances of the City of Jackson, Missouri, and that sections of this ordinance may be renumbered to accomplish such intention.

Section 9. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 10. That this ordinance shall take effect and be in force from and after its passage and approval.

Section 11. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

FIRST READING: October 2, 2017.

SECOND READING: October 2, 2017.

PASSED AND APPROVED this 2nd day of October, 2017, by a vote of 6 ayes, 0 nays, 0 abstentions and 2 absent.

CITY OF JACKSON, MISSOURI

(SEAL)

ATTEST:

BY: Dwain L. Hahs (signed)
Mayor

Liza Walker (signed)
City Clerk