

THE CITY OF FREDERICK  
MAYOR AND BOARD OF ALDERMEN

ORDINANCE NO: G-13-20

AN ORDINANCE concerning

Receivership of blighted buildings

FOR the purpose of creating procedures under which the City may petition the District Court for appointment of a receiver to rehabilitate blighted structures, to demolish blighted structures, or to sell blighted structures and associated real property to qualified buyers.

BY renaming

Chapter 12.5, "Housing"  
The Code of the City of Frederick

to be

Chapter 12.5, "Real Property: Maintenance and Sale"  
The Code of the City of Frederick

BY adding

Chapter 12.5  
Article II  
The Code of the City of Frederick, 1966 (as amended)

**WHEREAS**, the Board of Aldermen desires to reduce the incidence of nuisances within the City related to blighted structures;

**WHEREAS**, the Board of Aldermen desires to reduce the incidence of fire hazards within the City related to such structures;

**WHEREAS**, the Board of Aldermen believes that the creation of a procedure under which a receiver will be appointed to rehabilitate, demolish, or sell blighted structures and associated real property is beneficial to promoting public safety and promotes community welfare.

**SECTION I. NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that Chapter 12.5 of The Code of the City of Frederick is renamed to be "Real Property: Maintenance and Sale".

**SECTION II. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that Chapter 12.5, Article II of The Code of the City of Frederick, 1966 (as amended) is hereby added to read as follows:

## ARTICLE II. RECEIVERSHIP.

### § 12.5-1. Scope.

This article applies to a blighted structure, as defined in § 12.5-2 of this article, for which there is an outstanding notice of violation or court order under which the property owner has been ordered to abate one or more violations of the City's Property Maintenance Code or Building Code.

### § 12.5-2. Definitions.

For purposes of this article, the following terms have the meanings indicated:

- (a) **"Blighted"** means an unoccupied structure that is a serious or immediate danger to the health, safety, or general welfare of the community, as determined by the Director. Every blighted structure is declared to be a nuisance per se. The Director may determine that a structure is blighted if the structure:
  - (1) is unsecured against unauthorized entry;
  - (2) is attracting illegal activity and calls for police service;
  - (3) is a fire hazard;
  - (4) creates a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of the surrounding area; or
  - (5) has windows, doors, roof, floors, siding, or foundation that are seriously damaged, missing, or structurally unsound.
- (b) **"Court"** means the District Court of Maryland for Frederick County.
- (c) **"Director"** means the City's Director of Public works or the Director's designee.
- (d) **"Property"** means the land on which a blighted structure is located.

### § 12.5-3. Petition.

- (a) **In general.** The Director may petition the Court for appointment of a receiver to rehabilitate a blighted structure, to demolish it, or to sell the blighted structure and the property to a qualified buyer.
- (b) **Contents.** The petition for appointment of a receiver must include:
  - (1) a copy of the each outstanding notice of violation or court order; and
  - (2) a verified pleading that:
    - (A) avers that the code violations on the property have not been abated as required;

- (B) identifies and states the qualifications of the proposed receiver, if other than the Director.
- (c) **Respondents.** The petition for appointment of receiver must name as respondents:
  - (1) the owner of the property;
  - (2) any mortgagee or lienholder; and
  - (3) the plaintiff in any proceeding that was timely filed under the Annotated Code of Maryland, Tax-Property Article, § 14-833, and for which the time for securing a decree of foreclosure has not yet expired.
- (d) **Failure to name respondents.** Failure to name a person described in subsection (c) of this section does not prevent the action from going forward, but does prevent the receiver's lien for expenses incurred in rehabilitating the blighted structure, demolishing the blighted structure, or selling the blighted structure, and prevents the receiver's lien from having priority over that person's lien interest.

**§ 12.5-4. Judgment creditors and lien holders.**

- (a) **Notice.** Within 10 days after filing the petition, the Director must give notice of the pendency and nature of the proceedings by regular and certified mail to the last-known addresses of all judgment creditors and lien holders with a recorded interest in the blighted structure or the property.
- (b) **Intervention.** Within 30 days of the date on which the notice was mailed, a judgment creditor or lien holder may apply to intervene in the proceeding and request to be appointed under § 12.5-6 of this article.

**§ 12.5-5. Effect of failure to give notice.**

Failure to give any required notice to any interested person under this chapter does not prevent the action from going forward, but does prevent the receiver's lien for expenses incurred in rehabilitating the blighted structure, demolishing the blighted structure, or selling the blighted structure, and prevents the receiver's lien from having priority over that person's lien interest.

**§ 12.5-6. Appointment of owner, etc. instead of receiver.**

- (a) **Appointment of owner.** Instead of appointing a receiver to rehabilitate a blighted structure or to sell the property, the court may permit an owner, mortgagee, or other person with a legal ownership interest in the structure to rehabilitate or demolish it, if that person:
  - (1) demonstrates ability to complete the rehabilitation or demolition within a reasonable time, as specified by the Court;
  - (2) agrees to comply with a specified schedule for rehabilitation or demolition; and

(3) posts bond, in an amount determined by the court, as security for performance of the required work in compliance with the specified schedule.

(b) **Application to dismiss owner.** If it appears to the petitioner that the person appointed is not proceeding with due diligence or in compliance with the court-ordered schedule, the petitioner may apply to the court for immediate revocation of that person's appointment and for appointment of a receiver. The bond posted under this section must then be applied to the subsequently appointed receiver's expenses in rehabilitating the blighted structure, demolishing the blighted structure, or selling the property.

**§ 12.5-7. Appointment of receiver.**

(a) **Appointment.** If no qualified person with a legal ownership interest requests appointment to rehabilitate or demolish the blighted structure, or to sell the property, or if an appointee is dismissed, the Court shall appoint a receiver of the property for the purpose of rehabilitating and managing the blighted structure, demolishing the blighted structure, or selling the property to a qualified buyer.

(b) **Parties divested of authority.** On appointment of a receiver to rehabilitate the blighted structure, demolish the blighted structure, or sell the property, all parties to the receivership petition are divested of any authority to act in furtherance of those goals. Any party who takes any step to rehabilitate the blighted structure, demolish the blighted structure, or sell the property is subject to the penalties for contempt.

**§ 12.5-8. Powers of receiver appointed to rehabilitate or demolish.**

(a) A receiver appointed to rehabilitate or demolish a blighted structure, in addition to all necessary and customary powers, has the right of possession with authority to:

- (1) contract for necessary labor and supplies for rehabilitation or demolition;
- (2) borrow money for rehabilitation or demolition from an approved lending institution or through a government agency or program, using the receiver's lien against the property as security;
- (3) manage the property after rehabilitation, with all the powers of a landlord, for a period of up to 2 years and apply the rent received to current operating expenses and to repayment of outstanding rehabilitation expenses; and
- (4) foreclose on the receiver's lien or accept a deed in lieu of foreclosure.

**§ 12.5-9. Powers of receiver appointed to sell.**

(a) **Method of sale.** A receiver appointed to sell a blighted structure, in addition to all necessary and customary powers, has authority, to sell the property the high bidder at public auction, following the provisions that apply to a receiver appointed under Rule 3-722 and Title 14, Chapter 300 of the Maryland Rules.

(b) **Notice of auction.** In the notice of public auction, it is sufficient to describe the property by a street address and by reference to the liber and folio number of the title deed recorded in the Land Records of Frederick County.

- (c) **Buyer qualifications.** Before any sale, the applicants to bid in a public sale or the proposed buyer in a private sale must demonstrate the ability and experience needed to rehabilitate the blighted structure within a reasonable time.
- (d) **Application of sale proceeds.** After deducting the expenses of the sale, the amount of outstanding taxes and other government assessments, and the amount of the receiver's lien, the receiver must apply any remaining proceeds of the sale, first to the petitioner's costs and expenses, including reasonable attorney's fees, and then to the liens against the property in order of priority. Any remaining proceeds will be paid to the person or persons who owned the property prior to the sale.

**§ 12.5-10. Tenure of receiver appointed to rehabilitate.**

The tenure of a receiver appointed to rehabilitate a blighted structure may extend no longer than 2 years after rehabilitation. Any time after rehabilitation, any party to the receivership may file a motion to dismiss the receiver on payment of the receiver's outstanding costs, fees, and expenses. At the end of the receiver's tenure, the receiver must file a final accounting with the court.

**§ 12.5-11. Receiver's lien for costs, etc.**

- (a) **Assessment.** Any costs or fees incurred by the receiver shall be assessed as a lien on the property and shall be entered on the tax records kept by the City and shall be collectible as are taxes. The lien has priority over all other liens and encumbrances, except taxes or other government assessments. The receiver must allow the petitioner's costs and expenses, including reasonable attorney's fees, to be paid to the extent that the proceeds of the sale permit.
- (b) **Foreclosure of lien.** A receiver may foreclose on the lien by a sale of the property at public auction, following public notice and notice to interested parties in the manner of a mortgage foreclosure. After deducting the expenses of the sale, the receiver must apply the proceeds of the sale to the liens against the property, in order of priority. In lieu of foreclosure, and only if the receiver has rehabilitated the structure, an owner may pay the receiver's costs, fees, including attorney's fees, and expenses or may transfer all ownership in the property to either the receiver or an agreed-on third party for an amount agreed to by all parties to the receivership as being the structure's and property's fair market value.

**§ 12.5-12. Transfer on sale.**

Following court ratification of a sale, the receiver must sign a deed conveying title to the buyer, free and clear of all encumbrances.

**§ 12.5-13. Dismissal.**

Following sale of the property, the receiver must file with the Court a final accounting and, at the same time, a motion to dismiss the action.

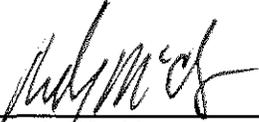
**SECTION III. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that in the event any provision, section, sentence, clause, or

part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

**SECTION IV. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that this ordinance shall take effect on the date it is approved by the Mayor and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

**PASSED: September 5, 2013**

**DATE: September 5, 2013**



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Randy McClement, President,  
Board of Aldermen

**APPROVED:**

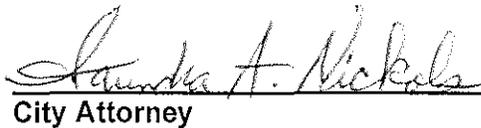
**DATE:**



\_\_\_\_\_  
Randy McClement, Mayor



**Approved for Legal Sufficiency:**



\_\_\_\_\_  
City Attorney