

THE CITY OF FREDERICK
MAYOR AND BOARD OF ALDERMEN

ORDINANCE NO: G-19-23

AN ORDINANCE concerning

Receivership of blighted structures

FOR the purpose of adding and revising certain definitions; establishing time for filing a petition for receivership; revising and adding certain criteria for filing such a petition; and generally relating to the receivership of blighted structures within The City of Frederick.

BY repealing and reenacting, with amendments,

Section 12.5-3
The Code of the City of Frederick, 1966 (as amended)

BY repealing and reenacting, with amendments,

Section 12.5-4
The Code of the City of Frederick, 1966 (as amended)

SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That Section 12.5-3 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed and reenacted, with amendments, as follows:

§ 12.5-3. Definitions.

- (a) **In general.** For purposes of this article, the following terms have the meanings indicated:
- (b) **Blighted.** "Blighted" means [an unoccupied structure that:] a structure that is unoccupied as defined in subsection (f) of this section and:
- (1) has been and remains condemned under the City's Property Maintenance Code or Building [Code; or] Code;
 - (2) for which a court order to abate one or more violations of the City Code is [outstanding.] outstanding;
 - (3) has been unoccupied (as defined in subsection (f) of this section) for a continuous period of at least 4 years and is therefore deemed "habitually vacant";
or
 - (4) within a 2-year period is the subject of at least two court orders or judgments finding that there has been a violation of the City's Property Maintenance Code or Building Code.
- (c) **Court.** "Court" means the District Court of Maryland for Frederick County.

- (d) **Director.** "Director" means the City's Director of Public Works or the Director's designee.
- (e) **Property.** "Property" means the land on which a blighted structure is located.
- (f) **Unoccupied.**
 - (1) With respect to a nonresidential or mixed use structure, "unoccupied" means a structure:
 - (A) that is not occupied by its owner, lessee or other person in lawful possession; or
 - (B) at which substantially all lawful use, consistent with zoning regulations, has ceased.
 - (2) With respect to a residential structure, "unoccupied" means a structure that is not currently being lived in by a resident who is in lawful possession.
 - (3) This paragraph applies only to a structure that meets the definition of "blighted" stated in Sec. 12.5-3(b)(3) of this article. With respect to a structure on a single parcel comprised of multiple units, including but not limited to a multiple family dwelling or a shopping center, (as those terms are defined in the City's Land Management Code), the structure will be deemed "unoccupied" if more than 70% of the net occupiable square footage of that structure meets the definition of paragraph (1) or paragraph (2) of this section, as applicable.
 - (4) In determining whether a structure is unoccupied, the Director may consider whether:
 - (A) water, electric, and gas service are being supplied to the property and if so, the amount of water, electric, and gas being used;
 - (B) there is an accumulation of mail on the property;
 - (C) the windows and doorways are covered or boarded; and
 - (D) the exterior of the property is being maintained in accordance with the Property Maintenance Code and any other applicable regulations.

SECTION II. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That Section 12.5-4 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed and reenacted, with amendments, as follows:

§ 12.5-4. Petition.

- (a) **In general.** [The] At any time after determining a structure is blighted, the Director may petition the Court for appointment of a receiver to rehabilitate [a blighted] the structure, to demolish it, or to sell the [blighted structure and the] property to a qualified buyer.

(b) Criteria for filing. In deciding whether to file a petition, the Director shall consider factors relating to any efforts taken by the property owner to eliminate the conditions rendering the property blighted, including but not limited to:

- (1)** whether the property has been recently transferred;
- (2)** the status of any development review or permit applications; and
- (3)** the pendency of any legal actions relating to the property that would have the effect of making transfer or occupancy impractical.

[(b)](c) Contents. The petition for appointment of a receiver must [include:] include a verified pleading that:

[(1)] [a copy of any outstanding notice of condemnation or court order; and]

[(2)] [a verified pleading that:]

[(A)](1) avers that the property [has been condemned or that the work required by the abatement order has not been completed; and] is blighted as defined in Sec. 12.5-3 of this article;

(2) includes copies of any notices of condemnation, citations, court orders, or other relevant documentation; and

[(B)](3) identifies and states the qualifications of the proposed receiver, if other than the Director.

[(c)](d) 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)](e) Failure to name respondents. Failure to name a person described in subsection **[(c)](d)** 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.

SECTION III. AND BE IT FURTHER ENACTED AND ORDAINED, That this ordinance shall take effect on the date it is signed 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:

DATE:



Michael C. O'Connor, President,
Board of Aldermen

August 15, 2019

APPROVED:

DATE:



Michael C. O'Connor, Mayor

August 15, 2019

Approved for Legal Sufficiency:



Sandra A. Nickels
City Attorney