

CITY OF COLUMBIA, ILLINOIS

ORDINANCE NO. 2521

AN ORDINANCE TO AMEND THE RESIDENTIAL REAL PROPERTY MAINTENANCE CODE OF THE CITY OF COLUMBIA, ILLINOIS TO INCLUDE THE CITY'S BUILDING INSPECTOR AND POLICE OFFICERS OF THE CITY'S POLICE DEPARTMENT AS CODE ENFORCEMENT OFFICERS

**Adopted by the
City Council
of the
City of Columbia, Illinois
this 18th day of December, 2006.**

**Published in pamphlet form by
authority of the City Council
of the City of Columbia,
Illinois, this 19th day
of December, 2006.**

ORDINANCE NO. 2521

DEC 18 2006

AN ORDINANCE TO AMEND THE RESIDENTIAL REAL PROPERTY MAINTENANCE CODE OF THE CITY OF COLUMBIA, ILLINOIS TO INCLUDE THE CITY'S BUILDING INSPECTOR AND POLICE OFFICERS OF THE CITY'S POLICE DEPARTMENT AS CODE ENFORCEMENT OFFICERS

WHEREAS, the City of Columbia, Illinois (the "City") did enact a "Residential Property Maintenance Code" (sometimes hereinafter referred to as "Code") by City Ordinance No. 2381, on July 5, 2005, which Code provides that the enforcement officer of the Code is the City's Building Commissioner; and,

WHEREAS, the City Council of the City has found and determined that in addition to the Building Commissioner, the City's Building Inspector and the Commissioned Officers of the City's Police Department should be included as Code Enforcement Officers in order to implement enforcement of the requirements of the Code.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. Chapter 15.09 (RESIDENTIAL PROPERTY MAINTENANCE CODE) of Title 15 (BUILDING AND CONSTRUCTION) of the City of Columbia, Illinois Municipal Code is hereby changed and amended to include the City Building Inspector and the Commissioned Officers of the City's Police Department as Code Enforcement Officers, as follows:

(1) Section 15.09.060 (Inspections), Subparagraph "A. General" is changed and amended to read as follows:

"Section 15.09.060 Inspections.

A. General. In order to safeguard the safety, health and welfare of the public, the building commissioner, building inspector and the officers of the city's police department are authorized to enter any structure or premises at any reasonable time for the purpose of making inspections and performing their duties under this code."

(2) Section 15.09.060 (Inspections), Subparagraph "C. Coordination of Enforcement", is changed and amended to read as follows:

“C. Coordination of Enforcement. Inspection of property the issuance of notices and orders and enforcement thereof shall be the responsibility of the building commissioner, the building inspector and the Columbia police department. Whenever inspections are necessary by any other department in connection with this code, the building commissioner, building inspector and the city police officers shall make a reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with other inspectors for the purpose of eliminating conflicting orders before any are issued. An inspector shall not, however, delay the issuance of any emergency orders.”

(3) Section 15.09.070 (Violations), Subparagraph “A. Unlawful Acts”, is changed and amended to read as follows:

“A. Unlawful Acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, maintain, fail to maintain, provide, fail to provide, use or occupy, let to another for use or occupy or permit another person to use or occupy any structure or equipment regulated by this code, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code, or to fail to obey a lawful order of the building commissioner, the building inspector, or a city police officer, or to remove or deface a placard or notice posted under the provisions of this code.

Any person who shall violate or who shall maintain a violation of this code, or who shall contribute to a violation or to the maintenance of a violation of this code, shall be subject to prosecution and the penalty provisions of this code.”

(4) Section 15.09.070 (Violations), Subparagraph “B. Injunction”, is changed and amended to read as follows:

“B. Injunction. If the owner or owners, including lien holders of record, fail to bring a building, structure, premises, or part thereof, including equipment into conformity with the minimum standards for health and safety as set forth in this code within the time specified in a notice of violation, the building commissioner, the building inspector or a city police officer may request the city's attorney to make application to a court of competent jurisdiction for an injunction requiring right of entry for inspection or compliance with this code or for such other order as the court may deem necessary or appropriate to secure compliance including the appointment of a receiver to cause such building, structure or premises or part thereof to conform to the standards and requirements of this code. (65 ILCS 5/11-31-2)”

(5) Section 15.09.070 (Violations), Subparagraph "C. Prosecution for violation", is changed and amended to read as follows:

"C. Prosecution for Violation. In case of any unlawful acts (as described in subsection A of this section) the building commissioner, the building inspector or a police officer of the city shall institute an appropriate action or proceeding at law to exact the penalty provided by subsection D (entitled "Fine") of this section. Also the building commissioner, the building inspector or a city police officer shall request the city's attorney to proceed at law or in equity against the person responsible for the violation for the purpose of ordering that person:

1. To restrain, correct or remove the violation or refrain from any further execution of work;
2. To restrain or correct the erection, installation, maintenance, repair or alteration of such building or structure;
3. To require the removal of work in violation; or
4. To prevent the occupation or use of the structure which is not in compliance with the provisions of this code."

(6) Section 15.09.070 (Violations), Subparagraph "E. Notice of Violation", is changed and amended to read as follows:

"E. Notice of Violation. When the building commissioner, the building inspector or a city police officer determines that there has been a violation of this code or has reasonable grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefor in the following manner:

1. Such notice shall be in writing;
2. Include a description of the location of the real estate sufficient for identification;
3. Reference to the specific section of the code found violated;
4. Include an order allowing a reasonable time, not less than twenty (20) days, (except in a case of an emergency, including but not limited to, threat to health or physical safety) for the repairs and improvements required to bring the property or structure into compliance with the provisions of this code; and

5. Include a brief explanation of the owner's right to seek modification or withdrawal of the notice by petition to the property maintenance board of review."

(7) Section 15.09.070 (Violations), Subparagraph "G. Disclosure of Beneficiaries of Land Trusts and Owners of Property", is changed and amended to read as follows:

"G. Disclosure of Beneficiaries of Land Trusts and Owners of Property. The trustee who pursuant to a trust instrument has title to but no beneficial interest in real estate, after receipt (by such trustee) of the initial written notice or complaint of violation of this code shall disclose to the building commissioner, the building inspector or the city police officer who served the notice or complaint the identity and address of every beneficiary of the trust having a beneficial interest in the trust. (765 ILCS 405-Land Trust Beneficial Interest Disclosure Act)"

(8) Section 15.09.070 (Violations), Subparagraph "I. Placarding—Notice of Violation", is changed and amended to read as follows:

"I. Placarding--Notice of Violation. When the building commissioner, the building inspector or a city police officer determines a violation of this code exists he may cause a notice of such violation to be posted in a conspicuous place near the main entrance of such building or structure; and if no such entrance exists, then at a conspicuous place upon the premises.

The notice shall be at least nine (9) inches in height and fourteen (14) inches in width and at the top thereof in large letters shall state "Notice of Violation." The text of such notice shall contain a reference to the provision of the code violated and may contain such other information regarding the nature of the violation as the building commissioner, the building inspector or a Columbia police officer who posted the notice deems advisable."

(9) Section 15.09.070 (Violations), Subparagraph "J. Removal—Defacing--Penalty", is changed and amended to read as follows:

"J. Removal--Defacing--Penalty. Upon remedy of the cause of the violation for which notice is posted the building commissioner, the building inspector or a Columbia police officer shall forthwith remove the notice. Any other person removing any such notice or defacing such notice shall be guilty of a petty offense and shall be fined not to exceed one hundred dollars (\$100.00). (50 ILCS 810/0.01, et seq., the Building Code Violation Notice Posting Act)"

(10) Section 15.09.070 (Violations), Subparagraph "K. Transfer of Ownership", is changed and amended to read as follows:

"K. Transfer of Ownership. It shall be unlawful for the owner of any dwelling unit, structure, or premises upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of the property to another until the provisions of the notice of violation have been complied with; except as hereinafter provided in the next succeeding paragraph of this section.

Notwithstanding the prior paragraph of this section, the owner of the property may dispose of the same without curing the violation if such owner shall first furnish the grantee, transferee, mortgagee, and lessee of the property a true copy of any notice of violation issued by the building commissioner, the building inspector or a Columbia police officer and shall furnish to said building commissioner, building inspector or Columbia police officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the responsibility without condition for making the corrections or repairs required by such notice of violation. (Ord. 1686 § 1 (part), 1998)"

(11) Section 15.09.080 (Condemnation measures), Subparagraph "A. In General", is changed and amended to read as follows:

"A. In General. When a structure or part thereof is found by the building commissioner, the building inspector or a Columbia police officer to be unsafe, or when a structure or part thereof is found unfit for human occupancy or use, or is found unlawful, such structure may be closed from human use and occupancy by the building commissioner, the building inspector or a Columbia police officer pursuant to the condemnation provisions of this code and Illinois state law and shall be placarded, vacated and shall not be reoccupied without approval of the building commissioner, the building inspector or a Columbia police officer. Unsafe equipment shall be placarded and placed out of service."

(12) Section 15.09.080 (Condemnation measures), Subparagraph "D. Structure Unfit for Human Occupancy—Defined", is changed and amended to read as follows:

"D. Structure Unfit for Human Occupancy--Defined. A structure is unfit for human occupancy or use whenever the building commissioner, the building inspector or a Columbia police officer finds that such structure is unsafe, unlawful, or because of the degree in which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary

or heating facilities or other essential equipment required by the city codes and ordinances."

(13) Section 15.09.080 (Condemnation measures), Subparagraph "G. Placarding of Condemned Premises", is changed and amended to read as follows:

"G. Placarding of Condemned Premises. Upon the instance of the initiation of an injunction involving a condemnation action, the building commissioner, the building inspector or a Columbia police officer shall placard the subject premises of the condemnation action; the premises shall be posted at the location specified by subsection I of Section 15.09.070 of this code.

The notice of condemnation shall be at least nine inches in height and fourteen (14) inches in width and at the top thereof in large letters shall state "Notice of Violation, Condemned as Unfit for Human Occupancy or Use by Order of the Building Commissioner, Building Inspector or a Police Officer of the City of Columbia, Illinois" and may contain such other information or instructions as the building commissioner, building inspector or a Columbia police officer deems necessary in the interest of the public health, safety and welfare."

(14) Section 15.09.080 (Condemnation measures), Subparagraph "I. Service on Occupant", is changed and amended to read as follows:

"I. Service on Occupant. Upon the instance of the initiation of a condemnation action, the building commissioner, the building inspector or a Columbia police officer shall serve written notice of condemnation upon the occupant of the subject building or part thereof ordering the condemned premises to be vacated.

1. If the occupant is other than the owner or person responsible for remedying the objectionable condition, a reasonable time to vacate the premises after noncompliance shall be stated.

2. Owners or persons responsible for compliance shall vacate the premises at the time stated in the notice of violation for correction of the defects if there is failure to comply."

(15) Section 15.09.080 (Condemnation measures), Subparagraph "K. Closing of Vacant Structures—Temporary Measures", is changed and amended to read as follows:

"K. Closing of Vacant Structures--Temporary Measures. If a structure or a part thereof is vacant and unfit for human habitation, occupancy or use and is not in danger of structural collapse, upon the

instance of a condemnation action the building commissioner, the building inspector or a Columbia police officer shall proceed to placard the premises in the manner prescribed above and may order the structure closed up as a temporary measure so as not to be an attractive nuisance to youngsters. Upon failure of the owner to so close up the premises within the time specified in the order, the building commissioner, the building inspector or a Columbia police officer may cause the premises to be so closed through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate, which lien may be foreclosed in a manner similar to the foreclosure of real estate liens in real estate mortgage foreclosure actions or actions to foreclose mechanic's liens in the state of Illinois. (Ord. 1686 § 1 (part), 1998)"

(16) Section 15.09.110 (Right of appeal), Subparagraph "B. Property Maintenance Board of Review", is changed and amended to read as follows:

"B. Property Maintenance Board of Review. In order to protect existing structures in the jurisdiction by vigorous enforcement of the provisions of this code, the property maintenance board of review is charged with the jurisdiction to hear and the authority to decide all grievances from a decision, determination or action of the building commissioner, the building inspector, a Columbia police officer or the mayor for actions taken under Section 15.09.100 of this code and the implementation and administration of this code."

(17) Section 15.09.120 (Disclaimer of liability), Subparagraph "A", is changed and amended to read as follows:

"A. No officer, city council member, agent or employee of the city, (including the building commissioner, the building inspector, the mayor or a Columbia police officer or their duly authorized agents), shall render themselves personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of their duties under the Residential Property Maintenance Code. (See "Local Government and Governmental Employees Tort Immunity Act", 745 ILCS 10/1-101, et. seq.)"

(18) Section 15.09.120 (Disclaimer of liability), Subparagraph "B", is changed and amended to read as follows:

"B. Any suit brought against any officer, city council member, agent or employee of the city, (including the building commissioner, the building inspector, the mayor or a Columbia police officer or their duly authorized agents), as a result of any act required or permitted in the

discharge of their duties under this Residential Property Maintenance Code, shall be defended by the municipal attorney (or outside counsel of the city's choosing) until the final determination of the legal proceedings."

(19) Section 15.09.130 (Disclaimer of warranties) is changed and amended to read as follows:

"The issuance of a Certificate of Dwelling Maintenance and Occupancy Permit in accordance with the requirements of this Residential Property Maintenance Code (chapter 15.09 of the City of Columbia Municipal Code) shall not be and shall not be regarded or construed as any type of warranty to the owner(s) and occupant(s) of the property for which the permit is issued regarding the fitness or condition of the dwelling or other real estate improvements for which the permit is issued. No property owner or occupant shall have any claim or cause of action against the city or any officer, city council member, agent or employee, (including the city building commissioner, the building inspector, the mayor of a city police officer or their duly authorized agents) for defects or hazards existing in or connected to the property for which a Certificate of Residential Property Maintenance Permit is issued or for which there was a city inspection in connection with the issuance of such a permit."

(20) Section 15.09.140 (Indemnity) is changed and amended to read as follows:

"The city shall hold the city officers, city council members, agents and employees (including the building commissioner, the building inspector, the mayor and city police officers and their duly authorized agents) for acts required or permitted in the discharge of their duties under this Residential Property Maintenance Code (Chapter 15.09 of the City of Columbia Municipal Code) safe, free and fully indemnified from all claims and causes of action for property damage or personal injury to property owner(s), property occupant(s) and all others that occur as a result of any act required or permitted in the discharge of their duties under this Residential Property Maintenance Code, (including but not limited to the performance of property inspections and issuance of Certificate of Dwelling Maintenance and Occupancy Permits); except for acts involving gross negligence or wrongful willful acts or omissions. The indemnity shall include payment of, or reimbursement for, all attorneys' fees and court costs incurred in defending such claims or cause of action and reasonable attorneys' fees and court costs required to be incurred in enforcing the indemnity provided for herein."

Section 3. All resolutions or ordinances, or parts of resolutions or ordinances in conflict herewith, to the extent of such conflict, are hereby changed and amended to read in compliance with the provisions of this ordinance, including the above-mentioned

sections of Chapter 15.09 (RESIDENTIAL PROPERTY MAINTENANCE CODE) of the City of Columbia, Illinois Municipal Code.

Section 4. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law.

Alderman Agne moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Unnerstall, and the roll call vote was as follows:

YEAS: Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Koesterer, Row, Huch

and Mayor Hutchinson.

NAYS: None.

ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 18th day of December, 2006.


KEVIN B. HUTCHINSON, Mayor

ATTEST:


WESLEY J. HOEFFKEN, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF PUBLICATION

I, Wesley J. Hoeffken, certify that I am the duly elected and acting Municipal Clerk of the City of Columbia, Illinois.

I further certify that on the 18th day of December, 2006, the Corporate Authorities of the City of Columbia, Illinois passed and approved Ordinance No. 2521, entitled:

"AN ORDINANCE TO AMEND THE RESIDENTIAL REAL PROPERTY MAINTENANCE CODE OF THE CITY OF COLUMBIA, ILLINOIS TO INCLUDE THE CITY'S BUILDING INSPECTOR AND POLICE OFFICERS OF THE CITY'S POLICE DEPARTMENT AS CODE ENFORCEMENT OFFICERS"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2521, including the ordinance and a cover sheet thereof, was prepared and a copy of such ordinance will be posted in the Columbia City Hall, commencing on the 19th day of December, 2006 and continuing for at least ten (10) days thereafter. Copies of such ordinance were also available for public inspection upon request at the office of the City Clerk.

DATED at Columbia, Illinois this 18th day of December, 2006.


WESLEY J. HOEFFKEN, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF TRUE COPY

I, Wesley J. Hoeffken, hereby certify that I am the duly elected and acting City Clerk of the City of Columbia, Illinois and as such I am the keeper of the books, records, files and corporate seal of said City.

I do further certify that Ordinance No. 2521, entitled:

"AN ORDINANCE TO AMEND THE RESIDENTIAL REAL PROPERTY MAINTENANCE CODE OF THE CITY OF COLUMBIA, ILLINOIS TO INCLUDE THE CITY'S BUILDING INSPECTOR AND POLICE OFFICERS OF THE CITY'S POLICE DEPARTMENT AS CODE ENFORCEMENT OFFICERS"

to which this certificate is attached, is a true, perfect, complete and correct copy of said ordinance as adopted at a regular meeting of the Columbia, Illinois City Council held on the 18th day of December, 2006.

IN WITNESS WHEREOF, I have made and delivered this certificate for the uses and purposes hereinabove set forth this 18th day of December, 2006.


WESLEY J. HOEFFKEN, City Clerk

(SEAL)