

ORDINANCE NO. 091010

Amending Chapter 56, Code of Ordinances, by repealing Section 56-572, Definitions, and enacting in lieu thereof a new section of like number and subject matter.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 56, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 56-572, Definitions, and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

**Sec. 56-572. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning, and any words not defined here but defined elsewhere in this chapter shall have the meaning ascribed to them previously:

*Beneficiary* means a lender under a note secured by a deed of trust.

*City* means the City of Kansas City, Missouri.

*Days* means consecutive calendar days.

*Deed of Trust* means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition includes any subsequent deeds of trust.

*Default* means the failure to fulfill a contractual obligation, monetary or conditional.

*Foreclosing* and *Foreclosure* have the same meaning, that being the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower (trustor) under a deed of trust defaults.

*Initiation of the foreclosure process* means taking any of the following actions: (i) publication of a notice of sale; or (ii) commencing a foreclosure action on a property in a court of law.

*Local* means within fifty (50) road/driving miles distance of the city

*Mortgagee* means the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

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*Notice of Default* means a notice, issued pursuant to the applicable real estate security document or section 408.554, RSMo, that a default has occurred under a deed of trust.

*Owner* means any person, mortgagee, or property trust trustee who alone or jointly or severally with others, with or without the right of possession, is entitled under any agreement to the control or direction of the management or disposition of the building or property or of any part of the building or property. Unless otherwise specifically provided, the owner, his agent for the purpose of managing, controlling or collecting rents and any other person managing or controlling a building or property in any part of which there is a violation of the provisions of this ordinance, shall be liable for any violation therein, existing or occurring, or which may have existed or occurred, at or during any time when such person is or was the person owning or managing, controlling, or acting as agent in regard to said buildings or property and is subject to injunctions, abatement orders or other remedial orders. The liabilities and obligations imposed on an owner shall attach to:

- (1) any mortgage company or any other person with or without an interest in the building or property who knowingly takes any action in any judicial or administrative proceeding that is intended to delay issuance or enforcement of any remedy for any violation of the Property Maintenance Code then in existence; provided that with respect to fines such person shall be liable only for fines which accrue on or after the date of such action; and further provided that no liability shall be imposed under this ordinance for any action taken in any proceeding, including a proceeding to foreclose on a lien, that does not delay or prevent the prosecution of any action brought by the city to enforce the city's Property Maintenance Code.
- (2) a property trust trustee under a property trust, unless said trustee in a proceeding under said provisions of this ordinance discloses in a verified pleading or in an affidavit filed with the court, the name and last known address of each person who was a beneficiary of the trust at the time of the alleged violation and of each person, if any, who was then acting as agent for the purpose of managing, controlling or collecting rents, as the same may appear on the records of the trust.

*Out of Area* means in excess of fifty (50) road/driving miles distance of the city.

*Property* means any improved real property, or portion thereof, located in the city, including buildings or structures situated on the property.

*Property Trust Trustee* means one who holds title to a building, structure or property under a property trust with or without the right of possession, management or control.

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*Registration Period* means June 1 of each year through May 31 of the subsequent year.

*Securing* means measures that assist in making the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/pad locking of gates, the repair or boarding of door, window or other openings.

*Trustee* means the person, firm or corporation holding a Deed of Trust on a property as security for the payment of a debt.

*Trustor* means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

*Vacant* means a property which is lacking habitual presence of human beings who have a legal right to be on the property, or at which substantially all lawful business operations or residential occupancy has ceased. In determining whether a property is vacant, it is relevant to consider, among other factors, the percentage of the overall square footage of any building on the property or floor to the occupied space, the condition and value of any items in the property and the presence of rental or for sale signs on the property; provided that multi-family residential property containing five (5) or more dwelling units shall be considered vacant when the majority of all of the dwelling units become unoccupied and a majority remain unoccupied. A property shall not be considered vacant which is being currently marketed by a licensed real estate professional hired by the former or current occupant of the property and to which water service has not been shut-off.

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Approved as to form and legality:

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Kathy Adams  
Assistant City Attorney